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Senate

The Senate met at 1:01 p.m. and was called to order by the Honorable LAMAR ALEXANDER, a Senator from the State of Tennessee.

PRAYER

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

Let us pray.

Eternal God, who hears and answers prayers, teach us to pray. We confess that we don't know how to pray as we ought. Our desires are deep and our language too shallow. Lord, look beyond our words and see our hearts and souls. Hear our thoughts as we wait patiently for Your providence.

Inspire our lawmakers today with Your presence. As they labor for liberty, help them to find their highest joy in Your purpose and will.

Bless the staff members who provide the wind for the wings of our legislators. Surround these often unsung heroes and heroines with Your peace.

We pray in Your wonderful Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable LAMAR ALEXANDER 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, DC, June 25, 2005.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable LAMAR ALEXANDER, a Senator from the State of Tennessee, to perform the duties of the Chair.

TED STEVENS,
President pro tempore.

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

RESERVATION OF LEADER TIME

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

In my capacity as a Senator from Tennessee, I suggest the absence of a quorum.

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 President, I ask unanimous consent that the order for the quorum call be rescinded.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 ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECOGNIZING THE 15TH ANNIVERSARY OF THE AMERICANS WITH DISABILITIES ACT

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will proceed to the consideration of S. Res. 207, the Americans with Disabilities Act resolution, which the clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 207) recognizing and honoring the 15th anniversary of the enactment of the Americans with Disabilities Act of 1990.

The ACTING PRESIDENT pro tempore. Under the previous order, there will be 30 minutes of debate equally divided between the majority leader and the Senator from Iowa or their designees.

The Senator from Iowa.

Mr. HARKIN. Mr. President, I ask unanimous consent that Senators KENNEDY, HATCH, REID, CLINTON, MCCAIN, DEWINE, JEFFORDS, MIKULSKI, LAUTENBERG, DOLE, DURBIN, LEVIN, LIEBERMAN, BOXER, REED, CHAFEE, SMITH, COLLINS, STABENOW, OBAMA, AKAKA, SALAZAR, DAYTON, BINGAMAN, WYDEN, BIDEN, ISAKSON, FEINGOLD, JOHNSON, NELSON of Florida, BROWNBACK, BURR, SNOWE, and PRYOR be added as cosponsors of the resolution.

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

Mr. HARKIN. Mr. President, tomorrow, July 26, marks the 15th anniversary of the signing of the Americans with Disabilities Act. Observances and celebrations are being held and will be held all across the country. In fact, I attended three in Iowa over the weekend. There will be a big celebration tonight at the Kennedy Center where I look forward to introducing former President George Bush, the signer of the Americans with Disabilities Act, who will give the keynote address.

On this 15th anniversary, we celebrate one of the great landmark civil rights laws of the 20th century, a long overdue emancipation proclamation for people with disabilities. We also celebrate the men and women from all across America whose daily acts of heroism and protest and persistence and courage moved this law forward to passage 15 years ago.

In 1964, this country passed a civil rights bill. After much struggle, after the freedom riders and the marches in places such as Selma, AL, that are burned in our memories, we passed the Civil Rights Act of 1964 which closed a long, disgraceful chapter of segregation and discrimination, lack of equality of opportunity for Americans just based on race, mostly, sex, creed, and national origin.

I can remember coming home on leave from the military some time after that. I was with my brother Frank who had been totally deaf since early childhood. I had seen how he had been discriminated against all of his

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

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lifetime. I remember we were talking about different things, and he mentioned the civil rights bill. He thought it was all well and good. But then he asked the question: What about us? I didn't really know what he was talking about.

I said: Are you talking about us, me?

He said: What about us deaf people? We are discriminated against every day in terms of where we can work, can go, how we get news, how we go to school.

I began to think about it as I finished my career in the military and through law school and coming here to Congress. I thought, as I watched the struggle of people with disabilities to proclaim their involvement, that they should also be covered by the Civil Rights Act. So there were some minor steps taken. We had section 504 of the Rehab Act in 1973 before I got here. Then after coming to the House in 1974, we had the Education of Handicapped Children Act, 94–142, which my good friend, now Senator JEFFORDS, then Congressman JEFFORDS, was very much involved in getting passed in the House at that time. It later became known as IDEA, the Individuals with Disabilities Education Act. That is how it is known today.

Then there began a long struggle by people with disabilities to gain their full participation in our society.

This started in the late 1970s and early 1980s. Then when I came to the Senate in 1984, 1985, it had been picking up steam and momentum. Various drafts of bills have been presented about disability and this and that.

Finally, it fell to me as chairman of the Disability Policy Subcommittee at that time to pull together the final draft. Here I will pay my great respect and admiration to former Senator Lowell Weicker of Connecticut, who led the charge before I got here to change the law to provide for an overarching law to cover people with disabilities in our country. But then Senator KENNEDY asked me to join his committee and take over the chairmanship of the disability subcommittee, which I did, with the great help of wonderful staff, including Bobby Silverstein and others. We were able to get the words on paper, put it together. It was a pretty long struggle.

It was not a foregone conclusion that we could ever pass it. But there were acts of heroism. I can remember when people with disabilities started coming to Washington to protest. Sometimes they would plug the corridors in the Dirksen Office Building, and the police would have to clear them out. Many got arrested. I remember a man named Dwayne French, who came from Alaska to demonstrate, protest, and demand equal rights under the law. He got arrested and thrown into jail.

I tend to think the one thing that really crystalized what we were trying to do in terms of full participation, accessibility, of nondiscrimination and breaking down barriers—the one event was when Bob Kofka and the group ADAP rolled their wheelchairs up to the Capitol steps, and there were about between 50 and 75 people. I don't know the exact number. They got out of their wheelchairs and crawled up the steps of the Capitol; they crawled up the steps. That hit the evening news, all the newspapers, and the news magazines, and then we heard from the American public that this should not be allowed to happen, that people with disabilities ought to have accessibility; they ought to be able to participate in all aspects of our American life. And then we hammered out the bill and got it passed in the Senate and the House.

As I said, on July 26, 1990, in a wonderful ceremony, the biggest gathering for the signing of a bill in our Nation's history, people gathered on the lawn of the White House for the signing of the Americans with Disabilities Act by President George Bush. It was a great and joyous occasion.

For all these years, after 1964, we thought we had torn down the walls of segregation. But there was a group of Americans for whom segregation was a daily occurrence, even after the Civil Rights Act, for whom daily discrimination was a fact of life, for whom equal opportunity was just some words on paper. There was a group of Americans for whom access to the American dream was basically closed because of their lack of participation in economic opportunity and accessibility. These were Americans with disabilities.

I often put it this way: On July 25, 1990, if you were a person of color, say, and you went down to apply for a job for which you were qualified and the prospective employer looked at you and said, I am not hiring African Americans, or Black people, or probably, in the contextual framework of that time, I am not hiring colored people, if he said that to you, you could have gone right down to the courthouse. The doors were open there, and you could have filed suit for discrimination based on the Civil Rights Act of 1964. If, however, on July 25, 1990, you were a person with a disability and you went to a prospective employer for a job for which you were qualified—say you rode a wheelchair in there and the employer looked at you and said, We don't hire cripples, get out of here, and you rolled your wheelchair down to the same courthouse door. The doors were locked; they were closed. You had no cause of action. It was not illegal to discriminate on the basis of disability on July 25, 1990. On July 26, after President Bush signed it into law, the courthouse doors were opened. No longer would it be legal to discriminate on the basis of disability in our society.

So for the last 15 years, we have seen what I call a quiet revolution taking place in America. Look around you. You see the curb cuts, ramps, widened doors, elevators that are accessible, and people with disabilities can get on and off buses. I was in Iowa this weekend and went to an ATM machine to get some money, and the ATM machine is a talking one with brail so that a blind person can use the ATM machine. So we now see people with seeing-eye dogs going into restaurants to have a meal. Fifteen years ago, a restaurant could say, Get that dog out of here, we don't allow it. Now they have to allow it.

Now we see people with disabilities working jobs, traveling, enjoying life, going to movies. Yesterday, I went to a Cedar Rapids Colonels baseball game. It was disability day. They have a new baseball stadium there; it is 4 years old. It is one of the most accessible stadiums I have ever seen in my life. All kinds of people with disabilities can come there and enjoy baseball games. That would not have been true before. The old diamond had one place set aside down on the first base line with people walking in front of them all the time. Now they are up high, and they have great seats in this stadium. So we see this all around us.

For those of us who are able-bodied, we kind of take it for granted. It is not a big deal out there that you have curb cuts or access to buildings. I walked into a hotel downtown a week or so ago, where the National Commission on Independent Living, NCIL, was having their national meeting. Four or five people with disabilities coming into the Hyatt pushed a button at the door, and they could get their wheelchairs in and out. We don't even think about that. So it is a quiet revolution.

My nephew, who is an architect, told me a few years ago that now we are designing buildings the way they should be designed—fully accessible to all. We also have closed captioning on television for the deaf and hard of hearing. We can pick up our remote for the TV and punch the mute and see the words come up, and we take it for granted. But it has transformed lives in America. It has made us a better, richer, more fair society. Now the American family is much more complete than it was before.

So on this, the 15th anniversary, I say thank you to the disabled community of America for their long years of struggle and protest, for the hardships they went through just to make sure they were treated equally in our society. I always point out that in the ADA, there is not one nickel given to a person with a disability. It is not any kind of giveaway program. All it does is break down the barriers. People with disabilities now can apply their God-given talents and their abilities and contribute to our society. So it is quite a step forward for America. We have a lot to be proud of and a lot to be thankful for. But I must say that we are not totally to where we wanted to be.

We had four goals when we passed the ADA. One was economic self-sufficiency. Fifteen years later, over 60 percent of Americans with disabilities are still unemployed, without a job. That is still a national disgrace. So I hope we use this occasion of this 15th anniversary, yes, to look at the great

strides we have made and how far we have come but also to recommit ourselves to make the ADA really complete. We have to do more in terms of job training, personal assistance services, and accessibility so that people with disabilities can have more jobs. Sixty percent unemployment is not right. So I hope we will redouble our commitment to getting this next step passed.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Mr. HARKIN. Mr. President, I ask unanimous consent that the Senator from Vermont be given 10 minutes to make his statement at this point.

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

The Senator from Vermont is recognized.

Mr. JEFFORDS. Mr. President, tomorrow marks a milestone for the Americans with Disabilities Act, ADA. July 26 is the 15th anniversary of the ADA's enactment into law.

The ADA is one of the most significant initiatives to become law during my 30 years in the Congress.

As a Member of the House I was an original cosponsor the first time the ADA bill was introduced in 1988.

Although ADA did not pass during that Congress, action on the ADA legislation would not have to wait much longer.

Under the extraordinary citizen leadership of the late Justin Dart, former Representative Tony Coehlo, Representative STENY HOYER, former Senate Majority Leader Bob Dole, my colleague Senator TOM HARKIN, and then President George H.W. Bush, the ADA became law in 1990.

Another important factor that led to the passage of the ADA was the staunch commitment of many diverse organizations.

The ADA is an excellent illustration as to how bipartisanship, combined with the outstanding efforts of our Nation's citizenry, can lead to a landmark change that can positively impact people's lives for centuries to come.

The ADA has literally opened doors that were closed prior to 1990, which has reaped great benefits for all of us.

In 1990, the largest Vermont employment agency successfully placed 505 disabled individuals with employers. As of last year, that successful placement rate had increased almost threefold.

Individual and economic empowerment is the ongoing legacy of the ADA.

Although many great transformations have occurred since ADA's birth 15 years ago, there is room for improvement.

The ADA needs to be protected and its spirit of inclusion and opportunity should be extended.

I thank Senator HARKIN for bringing the ADA birthday resolution to the full Senate. I am proud to join him in wishing the ADA a very happy birthday.

Mr. President, I hope we have others come to speak who are as excited as I am.

Mr. SMITH. Mr. President, in Oregon it is estimated that there are 433,000 people living with disabilities, and I am pleased to be here today to represent them by recognizing and honoring the 15th anniversary of the Americans with Disabilities Act.

The Americans with Disabilities Act will turn 15 years old tomorrow. This act stands as one of the most successful civil rights laws in our history. This law has opened the doors of schools, polling places, and countless other public facilities to our Nation's disabled population. The law is and will continue to be the platform for millions of Americans to realize our Nation's goals of equality of opportunity, economic self-sufficiency, full participation, and independent living.

Fifteen years ago it was often a dream for the 54 million Americans with disabilities to participate in our Nation's daily life. However, the ADA helped these people by removing barriers in employment, transportation, public services, telecommunications, and public accommodations. The act stands as a tribute to the hard work of all of the individuals who brought light to the plight of the disabled before and after this legislation was passed.

For years, people with disabilities were viewed as people in need of help rather than contributors to our country. The passage of the ADA finally moved us to change our attitudes and open doors for people with disabilities.

In Oregon one of the people who has been truly touched by this act is Vail B. Horton. Vail is the founder and CEO of a company called Keen Mobility. Using his disability as motivation, Vail created his company, Keen Mobility, which develops, produces, and distributes innovative, functional and attractive assistive devices that empower individuals by enhancing mobility, bringing greater independence and providing new opportunities.

Vail is also a board member for Providence Child Center for the Medically Fragile Children Foundation and Board member for YMCA of Columbia-Willamette. I have personally recognized him as an Oregon health care hero. As founder and CEO of Keen Mobility, Vail built the company from inception into a team of 16, with three product lines focused on safety and mobility for the disability community.

Vail is a true hero and I am happy to say that the 250,000 families with members who have a disability in Oregon, like his, can see the many signs of our progress. However, we must continue our ongoing efforts to see that persons with disabilities are allowed to be active in our society. Whether they are friends, neighbors or family, persons with disabilities are no longer considered second class citizens. Every day persons with disabilities are demonstrating their abilities and making real contributions. People with disabilities are no longer excluded, and because of that America is a stronger country.

Tomorrow we should all be reminded that equal opportunity is not a privilege, but a fundamental right of every American.

I hope my colleagues will join me in support of this resolution.

Mr. KERRY. Mr. President, 15 years ago a Democratic Congress and a Republican President passed the Americans with Disabilities Act, a critical step in our journey toward civil rights for all.

The ADA represented Washington at its best—both parties coming together, ignoring the special interests, and passing groundbreaking legislation to help people in dire need. Differences were set aside as we united in common respect for all Americans, regardless of physical, cognitive, or emotional abilities. We made a strong statement of our collective belief that in America, all citizens have the right to look at the future with infinite possibility. And I think we can all agree the ADA has been a remarkable success.

On this anniversary, I think it is appropriate to recognize those leaders who took the momentum from decades of struggle that had only led to small legislative advances, and turned it into one of the crowning achievements in civil rights law. My distinguished colleagues Senators HARKIN and KENNEDY, my former colleague Senator Dole and former President Bush, and organizations like DREDF, CCD, NICL and ADAPT, among others, showed such incredible leadership. And we would not have gotten anywhere if the members of the disabilities community had not set all disparate opinions aside to speak with one voice.

Fifteen years after passage of the ADA, we find that the challenge of high unemployment, poverty, poor housing, and limited educational opportunities still plagues people with disabilities in America. If should not be this way. I hope that all of us, who 15 years ago believed that to exclude persons with disabilities from our schools, restaurants, or job force was un-American, are reminded as we celebrate this anniversary that there is still much work left to be done.

Today, we must go beyond congratulating all the pioneers in this movement for this extraordinarily special anniversary. We must also reaffirm that the Congress stands ready to be the leading force in protecting and strengthening this law—never undermining it. Let us all commit to redoubling our efforts to serve this important community and this crucial cause.

Mr. AKAKA. Mr. President, I join my colleagues in commemorating the 15th anniversary of the Americans with Disabilities Act. I thank my friend from Iowa, Senator HARKIN, for sponsoring a resolution recounting the history and accomplishments under this landmark act for countless individuals in the United States. I am pleased to be a cosponsor of this resolution.

The enactment of the Americans with Disabilities Act, ADA, on July 26,

1990, was a milestone and continues to serve the more than 54 million individuals with disabilities in our country today. These individuals are now able to better participate in society thanks to the removal of barriers in areas such as employment, transportation, public services, telecommunications, and public accommodations under the ADA. Prior to the passage of the act, it was much more common for disabled Americans to encounter prejudice, discrimination, and physical exclusion in their everyday lives. The Americans with Disabilities Act marks the culmination of a civil rights movement that keeps faith with the spirit of our forefathers, who believed in the unalienable rights of all individuals.

Under the ADA, my home State has become a leader in providing new and updated facilities for individuals with disabilities. An estimated 148,000 people in Hawaii are living with a disability, and an estimated 22,000 people have difficulty performing self-care activities, such as dressing, bathing, or mobility inside the home according to the 2003 American Community Survey.

Since the passage of the ADA, Hawaii has modified more than 5,000 curb ramps and built 3,000 new curb ramps for better accessibility throughout the State. No one should be denied access to buses, sidewalks, or parks, and I am pleased to say that Hawaii is one of the leaders in ensuring that everyone has an equal opportunity to participate in society. By next year, Hawaii's public sector will be almost 100-percent accessible and, as of today, 70 percent of the private sector has addressed or is addressing the needs of the disabled, according to a nationally recognized ADA consultant.

I join the more than 40 million disabled Americans who have been helped by the ADA in saying mahalo to those who championed this historic piece of legislation. In particular, the tireless efforts of Justin Dart, Jr. His courage and dedication as a disability rights advocate is exemplary in protecting the civil rights of disabled Americans. Mr. Dart has inspired future generations of disabled Americans to reach their full potential as active and engaged members of society.

The work of my fellow Senators HARKIN and KENNEDY in the Senate, as well as Representative HOYER in the House, must also be recognized in addition to everyone else who pushed for this legislation. It was my great privilege to vote in favor of the conference report when it passed in the Senate on July 13, 1990. Our collaborative work in Congress to push the ADA through to passage showed a strong commitment to civil rights and equality. Millions of Americans are forever grateful for the chance they now have to live a better life.

Mr. LAUTENBERG. Mr. President, I rise to commemorate the 15th anniversary of the Americans with Disabilities Act. I am proud to be a cosponsor of this landmark legislation which guarantees equal opportunity for people with disabilities in employment, transportation, public services, telecommunications, and public accommodations.

Over the past 15 years, the ADA has provided opportunity and access for the 54 million Americans with disabilities. The passage of ADA resulted from a long struggle by Americans with disabilities to bring an end to their inferior status and unequal protection under law. Prior to passage of this landmark civil rights legislation, these Americans routinely faced prejudice, discrimination, and exclusion—not to mention physical barriers in their everyday lives. Now these Americans have an opportunity to participate more fully in our national life.

We recognize, however, our work is not finished. We still need to do more for people with disabilities. In addition to removing the physical barriers, we must also change attitudes. People with disabilities—like all people—have unique abilities, talents, and aptitudes. And America is better, fairer, and richer when we make full use of those gifts.

As we celebrate this historic accomplishment, I encourage all Americans to work towards increased recognition and understanding of the manner in which the physical and social environment can pose discriminatory barriers to people with disabilities.

Ms. LANDRIEU. Mr. President, I rise today to commemorate the 15th anniversary of the Americans with Disabilities Act. On this day in 1990, President George H.W. Bush signed this monumental piece of legislation into law guaranteeing equal opportunity for people with disabilities in public accommodations, commercial facilities, employment, transportation, State and local government services, and telecommunications.

One out of every five Americans today suffers from a disability. In the national workforce, there are currently 4 million men and 3½ million women with disabilities employed. We have made noteworthy strides in granting equal rights to those with disabilities. However, we still have tremendous work to do to decrease the 70 percent unemployment rate for people with significant disabilities.

In my own State of Louisiana, 710,000 people over the age of 5 were reported to have a disability. This means that 14.8 percent of the population in Louisiana suffers from some form of disability.

There are thousands of stories that capture the significance of this measure to people around this country, but I want to highlight just one. Shirley Adams is a constituent of mine, and she typifies the impact that the ADA can have on a person's life.

Shirley's road to inclusion into her community was long and filled with obstacles. She is a woman with many labels—profound mental retardation, visual impairment, a history of seizures, a rare bone ailment, and nonverbal. However, with great determination and courage, Shirley has established a life full of meaning surrounded by people who love and care for her. She would have it no other way.

At age 3, Shirley moved to Pinecrest Developmental Center in central Louisiana. She received care while living at Pinecrest, but she never learned to take care of herself. In 1997, at age 31, Shirley received an MR/DD waiver which enabled her to move from Pinecrest into her own apartment in the New Orleans area where she continues to receive 24-hour support.

Shirley is now able to attend church where she has made lifelong friends. In addition, she volunteers at another church where she assists staff in passing out lunches to children enrolled in vacation Bible study, sending mail out to parishioners, and welcoming people to the services each Sunday. She helps her neighborhood association by watering the flowers to the entrance to her apartment complex on a regular basis.

Living on her own has enabled Shirley to travel, which is something that she was unable to do while living in an institution. She loves to vacation in Biloxi and on the beaches of Florida. She is constantly looking for new places to go and for new adventures. If Shirley has it her way, she will continue to soak up the Sun on the gulf coast and explore new frontiers for years to come.

In sum, Shirley is known and loved by hundreds in her community now. She has a sense of belonging and security that she has never experienced before. Her life is full of people who care for her, and she continues to make wonderful progress in living in her own home to this day. Shirley Adams is clearly an inspiration to anyone who wants to explore their surroundings and lead a very happy life surrounded by loved ones in their community.

Shirley and thousands of others in Louisiana now live a full and complete life. The ADA gives people with disabilities such as Shirley a vehicle to request and secure the accommodations they need for both physical and programmatic access to life in Louisiana.

In 1990, when the ADA was passed, Louisiana spent nothing on home and community-based services for people with disabilities such as Shirley. In 2003 alone, Louisiana spent $157,447,900. These services, inspired by the spirit of equality established by the ADA, allow thousands of Louisiana's citizens with disabilities the opportunity to live their lives as contributing, participating members of our society.

In addition, there are now 3,170 aging or elderly individuals receiving home and community-based services that allow them to remain in their own homes.

The ADA impacts the daily lives of my constituents living with disabilities and for that reason I want to applaud the honorable work being done due to the enactment of this legislation while not losing sight of the fact that we

must work harder to help all disabled persons have equal civil rights and the job opportunities they deserve.

Mr. KYL. Mr. President, I express support for the Senate resolution honoring the 15th anniversary of the Americans with Disabilities Act. This piece of legislation is a celebration of the uniquely American notion that all of our citizens can contribute to society if we provide them with the tools and opportunities they need. Since the law was enacted in 1990, some 54 million disabled Americans have had better opportunities for employment and education. Our public spaces and transportation systems have been improved to ensure access to everyone. The Americans with Disabilities Act gives all people the opportunity to enjoy what American society has to offer, and it has changed public attitudes. The perception of helplessness and dependency has been largely replaced by a recognition that, with the aid of appropriate accommodations, disabled Americans can participate fully in all fields of civic life.

In commending all those involved in the passage of this legislation, we should take time to single out then Senate Majority leader Bob Dole. Senator Dole's sacrifice for his country and service in the Congress prove that disability need not be debilitating.

I admire the courage and perseverance of the millions of Americans who live with disabilities every day. This resolution celebrates not only the passage of the ADA, but also the positive contributions that all Americans make to our society.

Mr. HATCH. Mr. President, I rise, in support of S. Res. 207, the Americans with Disabilities Act resolution commemorating the 15th anniversary of the signing of the law.

As one of the original authors of the Americans with Disabilities, ADA, I am a proud cosponsor of this important resolution. I am pleased that the Senate took the time today to remember the passage of landmark legislation which changed the lives of disabled individuals across the country. I am also pleased to stand with my colleague, Senator HARKIN, who did so much to advance this legislation in 1990, and indeed, to nurture its implementation ever since.

When this legislation was being debated on the Senate floor back in 1990, I told my colleagues that I believed that the Americans with Disabilities Act would be good for all America. And 15 years later, I feel the same way.

The Americans with Disabilities Act has done so much for the disabled community throughout our country—due to this law, the lives of disabled individuals have improved dramatically.

When Congress passed the Americans with Disabilities Act in 1990, we knew that this bill would make a difference. As a result of the passage of this bill, valuable resources were dedicated to improving the lives of the disabled through employment, in public accommodations, in transportation, and in communications services.

I credit the passage of this legislation to the millions of disabled Americans, all of whom benefit from the ADA. It was their dedication, determination and courage that made the difference. They took the time to educate their members of Congress about why the Americans With Disabilities Act was necessary. And they made a convincing case to many of us. That dedication is why we are celebrating the 15th anniversary of the passage of this law today.

In Utah, I have a disabilities advisory committee that keeps me abreast of all issues of interest to the disability community. I must pay great tribute to the members of this committee as well, for it is their insights that have helped me to reach a better understanding of the partnership our Government must undertake to promote initiatives benefitting the disabled.

I am pleased to be a supporter of the resolution before the Senate today and urge colleagues to support the passage of this resolution.

Mr. DURBIN. Mr. President, earlier this month, America celebrated the 41st anniversary of the Civil Rights Act of 1964. Next month, we will celebrate the 40th anniversary of the Voting Rights Act, one of the most important civil rights victories in our Nation's history. Those are two of the most important achievements in civil rights in our Nation since the ratification of the Bill of Rights. Today, I want to reflect for a few minutes on another critically important achievement in civil rights: the enactment 15 years ago this week of the Americans with Disabilities Act.

I recently saw a young man wearing a T-shirt. In large letters on the front of his shirt were the words: ''The ADA . . .'' On the back, the shirt read, ''. . . boldly going where everyone else has already been.'' I think that young man's T-shirt sums up the ADA pretty well.

The Americans with Disabilities Act does not grant people with disabilities any special status or position. To the contrary, it simply removes certain barriers that for too long had made it difficult—if not impossible—for people with disabilities to make the most of their God-given skills and abilities, and to participate fully in their communities and in the workplace.

Before the ADA, if you needed a haircut, if you needed to see a doctor, if you just wanted to meet a friend for a cup of coffee, you probably had to rely on family, friends, or a social service agency. Very few transit systems in this country had buses or trains that were accessible to people using wheelchairs. Today, thanks to the ADA, that has changed. If you need go somewhere, you can go to a comer, catch a bus, and be on your way.

Let me tell you another story about the difference the ADA has made. Ann Ford lives near my hometown, Springfield, IL. She is a grandmother now. She had polio as a child. She uses a motorized scooter now, but for many years, Ann walked with crutches. As anyone who has ever used crutches knows, they can wear you out pretty quickly.

Before the ADA, when Ann Ford needed to go to the grocery store, she would first make a very careful list, then plot out her shopping as efficiently as possible so that she could buy what she needed in 20 minutes and be back home before she ran out of energy.

Shortly after the ADA was enacted, the manager of the grocery store where she shopped pointed out a new electric-powered scooter the store had purchased, and asked Ann if she would like to use it. Well, Ann Ford shopped for an hour and half that day. She went up and down every aisle in that store. She said later she had no idea how many things you could buy in a grocery store.

By removing physical barriers, the ADA is helping to reduce some of the isolation and prejudice that people with disabilities too often have to battle. It provides people with disabilities a degree of autonomy and dignity that everyone deserves. That is progress, and that is worth celebrating.

But we still have a long way to go. The physical barriers are disappearing, but there are other, subtler barriers that continue to prevent far too many Americans with disabilities from participating fully in their communities and in the workplace.

As Senator HARKIN noted, the unemployment rate for people with disabilities is still 60 to 70 percent—the same place it was a decade ago. That has to change. Most people with disabilities want to work, and have to work. ADA mandates access but we can't legislate attitudes. And it is the lingering prejudice or ignorance about disabilities that contributes to this stubbornly high unemployment rate.

Congress can mandate access. With the stroke of his pan, the President can outlaw overt acts of discrimination. But the next step in this civil rights struggle—integrating people with disabilities into our workplaces—is a step we must choose.

Failure to make the greatest possible use of the skills and talents of people with disabilities hurts them. It hurts their families. It hurts all of us. Think for a moment. Where would America be today had we not had Franklin Delano Roosevelt to help pull us through the Great Depression? Dorothea Lange, the great photojournalist, walked with a limp as a result of childhood polio. How much less we might know about our own national history had she not captured it on film for us? How much poorer would the world be without the brilliant insights of Stephen Hawking? How much poorer we would all be artistically and emotionally if we had never heard Ray Charles sing ''America the Beautiful?''

We need to tear down the subtler barriers that prevent far too many people

with disabilities from participating fully in our economy. Not just because it is the right thing to do, but because it is the smart thing to do.

I want to make one final point. I mentioned that the Americans with Disabilities Act is part of a tradition of important civil rights achievements. But there is one fundamental way in which the ADA differs from some of those other milestone laws.

The Civil Rights Act was enacted primarily to combat legal, institutionalized racism against African Americans. Title IX of the education amendments of 1972 was passed to prevent discrimination against women and girls in education. Those laws and others protect people from discrimination based on certain fundamental, unchangeable characteristics. If you are not born black, you are not going to become black. But any of us can become disabled—in an instant.

Today, you may think the ADA is for other people and other families, but you may think differently by the time we celebrate the 16th anniversary of the ADA a year from now. In fact, one in three 20-year-olds today will become disabled before the reach retirement age.

This past year, I have had the privilege of getting to know an extraordinary American who became disabled doing her job. Her name is Tammy Duckworth. She is major in the U.S. Army National Guard. Her job was piloting a Black Hawk helicopter in Iraq. Last November, just before Thanksgiving, her Black Hawk was shot down by a rocket-propelled grenade and she lost both of her legs. Although now a double amputee, she is determined to both walk and fly helicopters again.

Thanks to advances in medicine, we are able to save more people who—15 years ago—would not have survived a car crash, or bone cancer, or even military combat. Thank goodness for that.

As we celebrate the 15th anniversary of the Americans with Disabilities Act, I hope we will commit ourselves as a Nation to work to close the gap between our medical abilities, and our mental attitudes. Let us agree that men and women like Tammy Duckworth, who suffered permanent disabilities, will not be forced to fight in this country for basic rights and gainful employment that is worthy of their skills and talents. Let us commit to work across party lines—as Congress did when it passed the Americans with Disabilities Act 15 years ago—to fulfill not just the letter but the spirit of this important law.

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. 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.

SCHEDULE

Mr. McCONNELL. Mr. President, I welcome everyone back for the remaining time of this work period. This will be the last week before the August recess, we expect.

It will be a busy week. Today we begin with a resolution regarding the anniversary of the ADA, the Americans with Disabilities Act, which Senator HARKIN was just discussing. We will be voting on the adoption of that resolution at 5:30 p.m. today.

Also, we resume debate on the Defense authorization bill. As a reminder, a cloture motion was filed on the Defense bill, and under the consent agreement all first-degree amendments should be filed at the desk no later than 2 p.m. today.

Tomorrow we will have a very busy morning. Under the agreement reached last week, we have a series of votes lined up for Tuesday morning. There could be as many as five votes starting early tomorrow morning, and Senators should adjust their schedules to be on or close to the floor tomorrow morning.

Having said that, this will certainly, as I indicated earlier, be a busy week as we consider the Defense authorization bill, the gun manufacturers liability bill, as well as a number of conference reports that may become available during the week. We certainly hope they will become available. With the cooperation of all Senators, we can finish our work in a timely way and adjourn at the end of the week.

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

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

The legislative clerk proceded to call the roll.

Mr. WARNER. 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. WARNER. Mr. President, will the Chair advise the Senate as to the pending business?

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2006

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of S. 1042, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 1042) to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

Pending:

Frist modified amendment No. 1342, to support certain youth organizations, including the Boy Scouts of America and Girl Scouts of America.

Inhofe amendment No. 1311, to protect the economic and energy security of the United States.

Inhofe-Collins amendment No. 1312, to express the sense of Congress that the President should take immediate steps to establish a plan to implement the recommendations of the 2004 Report to Congress of the United States-China Economic and Security Review Commission.

Inhofe-Kyl amendment No. 1313, to require an annual report on the use of United States funds with respect to the activities and management of the International Committee of the Red Cross.

Lautenberg amendment No. 1351, to stop corporations from financing terrorism.

Ensign amendment No. 1374, to require a report on the use of riot control agents.

Ensign amendment No. 1375, to require a report on the costs incurred by the Department of Defense in implementing or supporting resolutions of the United Nations Security Council.

Collins amendment No. 1377 (to amendment No. 1351), to ensure that certain persons do not evade or avoid the prohibition imposed under the International Emergency Economic Powers Act.

Durbin amendment No. 1379, to require certain dietary supplement manufacturers to report certain serious adverse events.

Hutchison-Nelson of Florida amendment No. 1357, to express the sense of the Senate with regard to manned space flight.

Thune amendment No. 1389, to postpone the 2005 round of defense base closure and realignment.

Kennedy amendment No. 1415, to transfer funds authorized to be appropriated to the Department of Energy for the National Nuclear Security Administration for weapons activities and available for the robust nuclear earth penetrator to the Army National Guard, Washington, District of Columbia, chapter.

Allard-McConnell amendment No. 1418, to require life cycle cost estimates for the destruction of lethal chemical munitions under the Assembled Chemical Weapons Alternatives program.

Allard-Salazar amendment No. 1419, to authorize a program to provide health, medical, and life insurance benefits to workers at the Rocky Flats Environmental Technology Site, Colorado, who would otherwise fail to qualify for such benefits because of an early physical completion date.

Dorgan amendment No. 1426, to express the sense of the Senate on the declassification and release to the public of certain portions of the Report of the Joint Inquiry into the Terrorist Attacks of September 11, 2001, and to urge the President to release information regarding sources of foreign support for the hijackers involved in the terrorist attacks of September 11, 2001.

Dorgan amendment No. 1429, to establish a special committee of the Senate to investigate the awarding and carrying out of contracts to conduct activities in Afghanistan and Iraq and to fight the war on terrorism.

Salazar amendment No. 1421, to rename the death gratuity payable for deaths of members of the Armed Forces as fallen hero compensation.

Salazar amendment No. 1422, to provide that certain local educational agencies shall be eligible to receive a fiscal year 2005 payment under section 8002 or 8003 of the Elementary and Secondary Education Act of 1965.

Salazar-Reed amendment No. 1423, to provide for Department of Defense support of certain Paralympic sporting events.

Mr. WARNER. Mr. President, I am very pleased the Senate has turned to this important legislation. It was first brought up Wednesday night with activity on Thursday and again on Friday. I thank all those who participated.

I am reminded that at 2 o'clock today, all first-degree amendments need to be filed in view of the pending cloture motion. This is a motion which the distinguished leader, Mr. FRIST, and I will discuss, together with others. It ripens tomorrow morning. So as a protection, I ask Senators to consider their own interests in the context that it could be ripened, but that decision has not yet been made.

At this time, even though the distinguished ranking member is not with me, there is a matter by the Senator from Maine about which I hope she will find the opportunity at this time to address the Senate. I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Maine.

AMENDMENTS NOS. 1489, 1490, AND 1491, EN BLOC

Ms. COLLINS. Mr. President, I thank the distinguished chairman of the committee for his courtesy. I ask that the pending amendment be set aside, and on behalf of the Senator from South Dakota, Mr. THUNE, I call up three amendments that are at the desk.

The ACTING PRESIDENT pro tempore. The clerk will report the amendments en bloc.

The legislative clerk read as follows:

The Senator from Maine [Ms. COLLINS], for Mr. THUNE, proposes amendments numbers 1489, 1490, and 1491, en bloc.

The amendments are as follows:

AMENDMENT NO. 1489

(Purpose: To postpone the 2005 round of defense base closure and realignment)

On page 371, between lines 8 and 9, insert the following:

SEC. 2887. POSTPONEMENT OF 2005 ROUND OF DEFENSE BASE CLOSURE AND REALIGNMENT.

The Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) is amended—

(1) by adding at the end the following:

"SEC. 2915. POSTPONEMENT OF 2005 ROUND OF DEFENSE BASE CLOSURE AND REALIGNMENT.

"(a) IN GENERAL.—Notwithstanding any other provision of this part, the round of defense base closure and realignment otherwise scheduled to occur under this part in 2005 by reasons of sections 2912, 2913, and 2914 shall occur instead in the year following the year in which the last of the actions described in subsection (b) occurs (in this section referred to as the 'postponed closure round year').

"(b) ACTIONS REQUIRED BEFORE BASE CLOSURE ROUND.—(1) The actions referred to in subsection (a) are the following actions:

"(A) The complete analysis, consideration, and, where appropriate, implementation by the Secretary of Defense of the recommendations of the Commission on Review of Overseas Military Facility Structure of the United States.

"(B) The return from deployment in the Iraq theater of operations of substantially all (as determined by the Secretary of Defense) major combat units and assets of the Armed Forces.

"(C) The receipt by the Committees on Armed Services of the Senate and the House of Representatives of the report on the quadrennial defense review required to be submitted in 2006 by the Secretary of Defense under section 118(d) of title 10, United States Code.

"(D) The complete development and implementation by the Secretary of Defense and the Secretary of Homeland Security of the National Maritime Security Strategy.

"(E) The complete development and implementation by the Secretary of Defense of the Homeland Defense and Civil Support directive.

"(F) The receipt by the Committees on Armed Services of the Senate and the House of Representatives of a report submitted by the Secretary of Defense that assesses military installation needs taking into account—

"(i) relevant factors identified through the recommendations of the Commission on Review of Overseas Military Facility Structure of the United States;

"(ii) the return of the major combat units and assets described in subparagraph (B);

"(iii) relevant factors identified in the report on the 2005 quadrennial defense review;

"(iv) the National Maritime Security Strategy; and

"(v) the Homeland Defense and Civil Support directive.

"(2) The report required under subparagraph (F) of paragraph (1) shall be submitted not later than one year after the occurrence of the last action described in subparagraphs (A) through (E) of such paragraph.

"(c) ADMINISTRATION.—For purposes of sections 2912, 2913, and 2914, each date in a year that is specified in such sections shall be deemed to be the same date in the postponed closure round year, and each reference to a fiscal year in such sections shall be deemed to be a reference to the fiscal year that is the number of years after the original fiscal year that is equal to the number of years that the postponed closure round year is after 2005."; and

(2) in section 2904(b)—

(A) in the heading, by striking "CONGRESSIONAL DISAPPROVAL" and inserting "CONGRESSIONAL ACTION";

(B) in paragraph (1)—

(i) in subparagraph (A), by striking "the date on which the President transmits such report" and inserting "the date by which the President is required to transmit such report"; and

(ii) in subparagraph (B), by striking "such report is transmitted" and inserting "such report is required to be transmitted";

(C) by redesignating paragraph (2) as paragraph (3);

(D) by inserting after paragraph (1) the following new paragraph:

"(2) The Secretary may not carry out any closure or realignment recommended by the Commission in a report transmitted from the President pursuant to section 2903(e) if a recommendation for such closure or realignment is specified as disapproved by Congress in a joint resolution partially disapproving the recommendations of the Commission that is enacted before the earlier of—

"(A) the end of the 45-day period beginning on the date by which the President is required to transmit such report; or

"(B) the adjournment of Congress sine die for the session during which such report is required to be transmitted."; and

(E) in paragraph (3), as redsignated by subparagraph (C), by striking "paragraph (1)" and inserting "paragraphs (1) and (2)".

AMENDMENT NO. 1490

(Purpose: To require the Secretary of the Air Force to develop and implement a national space radar system capable of employing at least two frequencies)

At the end of subtitle B of title IX, add the following:

SEC. 912. NATIONAL SPACE RADAR SYSTEM.

The Secretary of the Air Force shall proceed with the development and implementation of a national space radar system that employs at least two frequencies.

AMENDMENT NO. 1491

(Purpose: To prevent retaliation against a member of the Armed Forces for providing testimony about the military value of a military installation)

On page 371, between lines 8 and 9, insert the following:

SEC. 2887. TESTIMONY BY MEMBERS OF THE ARMED FORCES IN CONNECTION WITH THE 2005 ROUND OF DEFENSE BASE CLOSURE AND REALIGNMENT.

(a) SENSE OF THE SENATE.—It is the sense of the Senate that the Secretary of Defense should permit any member of the Armed Forces to provide to the Defense Base Closure and Realignment Commission testimony on the military value of a military installation inside the United States for purposes of the consideration by the Commission of the Secretary's recommendations for the 2005 round of defense base closure and realignment under section 2914(d) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note).

(b) PROTECTION AGAINST RETALIATION.—No member of the Armed Forces may be discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against because such member provided or caused to be provided testimony under subsection (a).

Ms. COLLINS. Mr. President, I ask unanimous consent that the amendments now be set aside.

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

Ms. COLLINS. I thank the Chair.

Mr. WARNER. Mr. President, before my distinguished colleague leaves the floor, she had the courtesy, as she always does, to show me the amendments. One of them relates to BRAC. The distinguished Senator from South Dakota offered a BRAC amendment the other night. I glanced at this one. It seems to be similar in form, but I have not had a chance to examine it.

The purpose of my colloquy with the Senator would be to encourage Senators who are concerned about the important issues on BRAC to take note that we had an extensive colloquy between myself and the distinguished Senator from South Dakota, with the Senator from Michigan, the ranking member joining in, the other evening on the subject. I hope that other Senators who may be cosponsors or otherwise interested in this issue will find the opportunity to examine the original amendment and this amendment and that we hopefully today can have a continuation of this important debate on the issues relating to BRAC which are of great concern to a number of colleagues.

Ms. COLLINS. Mr. President, I would accept the comments of the distinguished chairman of the committee. This is a very important issue to many of us. I understand the chairman and the ranking member did debate this issue at some length last week. I am sure the chairman is correct in saying we would all benefit from reading that colloquy as we prepare to debate these issues further and ultimately cast our votes.

Mr. WARNER. I thank my distinguished colleague. I do bring to the attention of colleagues that today is a

good opportunity for debate such that we can have a vote on it as quickly as the proposers and others think it is appropriate.

Ms. COLLINS. Mr. President, I yield the floor.

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

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

AMENDMENT NO. 1492

Mr. REED. Mr. President, I call up an amendment that Senator LEVIN has offered, which is at the desk.

The PRESIDING OFFICER. Without objection, the pending amendments are set aside.

The clerk will report.

The legislative clerk read as follows:

The Senator from Rhode Island [Mr. REED], for Mr. LEVIN, for himself, and Mr. REED proposes an amendment numbered 1492.

Mr. REED. 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 make available, with an offset, an additional $50,000,000 for Operation and Maintenance for Cooperative Threat Reduction)

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

SEC. 330. ADDITIONAL AMOUNT FOR COOPERATIVE THREAT REDUCTION PROGRAMS.

(a) INCREASED AMOUNT FOR OPERATION AND MAINTENANCE, COOPERATIVE THREAT REDUCTION PROGRAMS.—The amount authorized to be appropriated by section 301(19) for the Cooperative Threat Reduction programs is hereby increased by $50,000,000.

(b) OFFSET.—Of the amount authorized to be appropriated by section 201(4) for research, development, test, and evaluation, Defense-wide activities, is hereby reduced by $50,000,000, with the amount of the reduction to be allocated as follows:

(1) The amount available in Program Element 0603882C for long lead procurement of Ground-Based Interceptors is hereby reduced by $30,000,000.

(2) The amount available for initial construction of associated silos is hereby reduced by $20,000,000.

Mr. REED. Mr. President, this amendment was offered by Senator LEVIN and myself would do several very critical and important things. First, the amendment would increase funding for the Cooperative Threat Reduction Program by $50 million. The offset would be twofold: $30 million would be taken from the long lead procurement of ground-based interceptors as part of the National Missile Defense Program and another $20 million would be taken from the funding for initial construction for silos to house these interceptors.

Essentially what Senator LEVIN is doing with this provision is to recognize the fact that a more immediate threat to the United States rests with literally thousands of locations where nuclear material might be housed from the breakup of the old Soviet Union, and other locations that need attention with respect to the reduction of these materials. I believe the greatest threat we face in this country is the fact that—hopefully not, but the situation where a terrorist might gain control of these materials, bring them into this country and use them with devastating effect.

So this amendment recognizes the most immediate threat comes from these materials and therefore is putting additional resources from the National Missile Defense Program, modest changes, to approach this major effort with respect to cooperative threat reduction.

The funds would come from our ground-based midcourse defense system. The interceptors and silos where the offsets occur are now currently being deployed at Fort Greely, AK, and Vandenberg Air Force Base in California. Because of recent developments, we have an opportunity to address the critical issue of loose nukes by transferring these funds. I would argue this is a most worthy cause. The offset will not affect the missile defense system at all. In fact, as we understand it, in the last several months the missile defense system has been reevaluating itself, looking at whether the technical issues are challenging, in fact, and have not conducted tests as they thought they could over the last several months. So I think now is the opportune time to put more resources in cooperative threat reduction.

We are all aware, as I have mentioned before, that the greatest threat to us today is the possibility that terrorists will acquire nuclear weapons or nuclear material and use it with devastating effect against us. Of course, one country with enormous amounts of this nuclear material is Russia.

It is estimated that Russia has approximately 16,000 nuclear weapons stored at between 150 and 210 sites. While that is a significant reduction from the 40,000 weapons at the end of the Cold War, it is still a huge number of weapons and also a large number of storage sites.

Indeed, there is some imprecision about where all the sites might be. Of course, we have also heard reports of potential sites for, if not nuclear material, other dangerous material in former components of the Soviet Union, the newly independent states. So this is a challenging issue we have to face.

Only about 25 percent of the total number of weapons sites have received any upgrades in the past five years. Many of them still lack adequate security and safeguards. At the rate planned for in the fiscal year 2006 budget request, it would be around 2011 or 2012 before the work at only a portion of the sites would be completed to bring them up to levels of security and safety that we would feel confident this nuclear material would not be stolen, misplaced or somehow find itself in the world community.

The Defense Department only expected work to be scheduled on one or two sites in fiscal year 2006 so they budgeted approximately $60 million in the process. But then in February, when President Bush and President Putin met at the summit in Bratislava, Slovakia, the two agreed on a way to address security upgrades at 15 key nuclear weapons sites. With this agreement, we have the opportunity to accomplish in 2 years what we thought would take 10.

The issue, of course, is funding. The total cost of these upgrades is approximately $350 million. With this amendment, we are adding $50 million to this project, which is not the total needed but will allow for a good start. Again, this is a huge breakthrough that occurred after the President's budget submission. It is a major opportunity we simply must take advantage of.

As I have indicated before, the proposal of Senator LEVIN is to move this $50 million into cooperative threat reduction from the National Missile Defense Program. I think it is useful to look at this program to indicate where these transfers are possible, available, and even desirable.

When President Bush first took office in 2001, he made missile defense one of his highest priorities. In May 2000, President Bush said America must build effective missile defense based on the best available options at the earliest possible date. Missile defense must be designed to protect all 50 States, our friends, allies, and deployed forces overseas from missile attacks by rogue nations or accidental launches. President Bush's first major action was to significantly increase funding for missile defense.

Since fiscal year 2002, approximately $45 billion, including fiscal year 2006 requests, has been provided for missile defense. That is $45 billion and here we are talking about a transfer of $50 million from that huge program. This amount is half of what has been spent on missile defense since President Reagan launched the Strategic Defense Initiative in 1984. We have seen a huge acceleration of funding with respect to missile defense. Another aspect of President Bush's plan for missile defense was that the systems would be developed and acquired under an approach called spiral development. As the Congressional Research Service succinctly summarizes: A major consequence of the administration's proposed evolutionary acquisition strategy is that the Missile Defense Program would not feature the familiar phases and milestones of the traditional DOD acquisition system. Another consequence is the Missile Defense Agency cannot provide Congress with a description of its final missile defense architecture, the capabilities

on any near or longer term system, the specific dates by which most elements of the emerging architecture are to be tested and deployed, or an estimate of the eventual costs of the Missile Defense Program.

So President Bush's plan was to spend an enormous amount of money in a short period of time with little plan and no traditional checks and balances with respect to traditional procurement programs.

This program has, in fact, come under self-generated pressures. Tests that were proposed to be conducted over the last several months have been postponed and cancelled. There is a hard relook at the technology. There is potential here, but certainly there is not the kind of progress that would justify the robust spending to date and certainly not indicate that they need an additional $50 million to keep doing what they are doing.

In the past, we have looked very carefully at this program of national defense. Like so many others, I believe if we can produce—and I think we can ultimately—a workable system to protect this country, protect its allies, our troops in the field, we have to do that, but we have to do it with deliberate speed, and I would emphasize deliberate speed, not all-out haste, which generally means waste.

I believe we should pursue this system, but I also believe we should take the time to determine that the technology, which is extraordinarily complex, is mature and effective. So beginning in 2002, I offered amendments which I felt would improve the Missile Defense Program. In the fiscal year 2003 bill, I introduced an amendment requiring a report on flight testing of the ground-based midcourse defense, or the GMD, system. In fiscal year 2004, I offered an amendment which would direct that the Missile Defense Agency provide information on procurement, performance criteria, and operational test plans for ballistic missile defense programs. In fiscal year 2005, I introduced an amendment requiring operationally realistic testing and independent evaluation of the ballistic missile defense system.

All of these amendments were modified by the majority. Then they were passed. Indeed, it is unclear if they were not modified whether they would have passed.

Furthermore, when the Missile Defense Agency met these requirements, in many instances details and quality of reporting were lacking. For the most part, the Missile Defense Agency has been doing what it wants to do with very little detailed supervision by the Congress and it has led to a situation now where the program is being seriously looked at. We certainly have not made the kind of technological breakthrough which was anticipated. One thing is certain, we have spent a great deal of money in this pursuit.

Now, where we are today, interceptor tests are the critical tests which involve a real missile defense interceptor hitting a real target missile. These tests are the only means to truly assess whether a missile defense system has the chance of working against a real enemy missile. There is nothing elaborate or sensational in this proposition. In order to see if a system works, one has to take it out and use it. One missile has to be fired against another missile and knock down the intruding missile. If that is done with enough frequency and enough confidence, then the system is ready to go.

The first intercept flight test of the system was conducted in December 2002 and it failed. Six days after that test failure, President Bush announced the United States would deploy the missile defense system. Usually such announcements are reserved for success, not failure. In effect, it is almost like looking at a new, expensive jet fighter prototype going down the way, malfunctioning and then turning around and saying let us buy a lot of them, let us put them in the sky. That is not what most people believe is the appropriate criteria for being operational.

Over the next 2 years, seven other planned tests were cancelled. Yet, in September 2004, the system was declared nearly operational, with six interceptors at Fort Greely, AK, and two interceptors at Vandenberg Air Force Base. Three months later, in December 2004, the Missile Defense Agency then conducted the only second integrated flight test on a multibillion system. It too failed, and the system was now described as operational in the near future.

On February 14, there was another integrated flight test and it too failed. After these three consecutive failures, Lieutenant General Obering, director of the Missile Defense Agency, established an independent review team to examine test failures and recommend steps for improving the test program. The team made some very interesting observations.

First, I believe they confirmed suspicions that there was a rush to deployment, a rush not justified by the technology, its maturity, and by the operational techniques that were necessary to deploy it, but simply to get it deployed. The team report states:

> There were several issues that led to the flight test failures of the Integrated Flight Tests . . . With the focus on rapid deployment of the Ground-based Midcourse Defense system, there was not always adequate opportunity to fully ground test the system prior to each flight attempt. Again, skipping over critical steps to rush to a deployment.

The team also found:

> Schedule has been the key challenge that drives daily decision making and planning in the program.

Not the technological maturity of the system, not technical issues, but schedule was driving the technology, not the other way around.

The independent review team also took issue with the spiral development and lack of testing. Again, in their words:

> Due to the lack of application of a few well-known verification specification and standards by the GMD program, failure evidence suggests that some problems might have been during the launch. The team feels that considerable opportunity exists to improve the confidence in the reliability of hardware and software by adopting industry best practices that exist as specification and standards.

In effect saying, we have to have requirements, we have to have standards, we have to have specifications, we have to be able to measure this program and its components before we rush to deploy it, much of it echoing comments made on this floor by myself and many others.

The team report further states:

> There are not enough ground tests available to verify/validate system operational performance and reliability. The Joint Program office should consider redirecting some production assets for ground tests to gain a higher confidence in the GMD system performance.

The GMD review team would again recommend, in their words:

> The Ground-based Midcourse Defense Program enter a new phase focused on Performance and Reliability Verification, in which Missile Defense Agencies make tests and mission success the primary objective. The new phase should validate the technical baseline and should be event driven rather than schedule driven.

In effect, build on success, don't build based on schedule.

> General Obering also requested Rear Admiral Kate Paige to direct a Mission Readiness Task Force to study the review team's recommendations and put the program on a path to flight test and management success.

The Mission readiness task force, under the Admiral, made the following recommendation: Four interceptors previously planned for near-term operational deployment will be diverted to serve as ground test missiles. There will be a significant increase in ground testing of all systems, components, and processes before resuming flight testing. Contractors will be held accountable for their performance. The first flight test will not be an intercept test and the first intercept test will not take place for more than a year.

Let me commend General Obering and the Missile Defense Agency for implementing these recommendations. I believe they will go a long way toward improving the missile defense system, an objective we all share. However, I note these recommendations sound very familiar and one could only contemplate how much effort and money would have been saved if we had approached the system this way from the beginning—not rushing to failure, but building for success.

There are presently six ground-based interceptors in silos at Fort Greely and two in silos at Vandenberg Air Force base. The administration also requested, and the Congress has already approved, most of the funding for these 30 interceptors. As I have noted, there has yet to be a successful flight test of these interceptors, so we are already buying an additional 30 interceptors when we do not know how to make the first 6 work. I think a responsible approach is to slow the allocation of

funds for the procurement of these interceptors until they are proven operational and to use that funding for more pressing needs. This amendment does that.

The President's budget request seeks long-lead funding for 10 operational interceptors and 8 flight test interceptors, 18 missiles in all. However, the actual production rate capacity for the interceptors is 1 per month, or 12 per year. That means the Defense Department is seeking funds for more missiles than they can build in 1 year. There is no need to pay for more interceptors than can be built in 1 year.

Instead, we can provide 1 year's worth of funding for 1 year's worth of missiles—12 instead of 18. This amendment will not cause a break in the production line.

I also note the House Armed Services Committee, in its fiscal year 2006 Defense authorization bill, reduced the long-lead funding for five of the operational interceptors. The administration has not indicated that the proposed reduction would cause any serious problems for the program.

I also want to state that the President's budget request includes $53 million in long-lead funding for eight test missiles. It is essential to produce missiles for testing. This amendment would not reduce that funding for the test missiles at all. We realize we are in the test phase. The problem becomes we are attempting to buy operational missiles before we are sure the test missiles will really work. That, I think, is at the heart of much of the criticism.

Our missile defense systems are robustly funded in this bill with about $7 billion. What this amendment does is take money that cannot even be spent this year and allocate it to a new opportunity to prevent loose nukes, which is truly an imminent threat, an existential threat to this country. This amendment, which enhances security by funding one program without causing any harm to another program, is a win-win situation, and I urge my colleagues to support this amendment.

We are trying to exploit a diplomatic breakthrough that was engineered by President Bush in his meeting with President Putin that allows the expansion, rapidly, of inspection and securing of sites in the former Soviet Union and Russia. We are taking a truly modest amount of money, given about $6 or $7 billion for overall missile defense, and using that to try to prevent the proliferation of nuclear weapons and nuclear materials across the globe, which is the most serious threat that we face as a nation.

Mr. WARNER. Mr. President, if I might ask my distinguished colleague a question or two. We are all good, strong supporters of the CTR program. But I am informed that you are taking $50 million from the missiles. I will address that question momentarily. But I think the Senate should know this—and I ask if I am in error, if the Senator would correct me, if not now, perhaps one of your staff members, in due course, could assist. The Senate should know there is $500 million of unspent 2005 money in the CTR program. The amendment would take this program, which as you point out has some test problems, and to give it the body blow this amendment would render, for $50 million will virtually cause a very severe perturbation in the production line. The Senator is familiar with how the production lines work. There are estimates of cost up to as much as $270 million to restart the line at some point in the future. But with $500 million for 2005 unexpended in CTR, I hope, if colleagues look at this amendment fairly and practically, maybe judge it on the merits—the use of these funds, to me, is not a justification for supporting the amendment.

Mr. REED. I thank the Chairman for the question. My understanding is that the production cycle for the system, these interceptors, is 12 per year. Yet the budget is asking for more than that. So I don't think taking $50 million—as I understand the amendment, $30 million taken from long-lead, ground-based interceptors—taking $30 million away I do not think would upset the production line schedule. There is no intent to do that, and I think the effect would not be to do that also.

With respect to your point, which I think is well taken, about the buildup in funds in the comprehensive threat reduction, some of that—we will check more dutifully—but some of that to my knowledge is the result of the inability to agree on a way to deal with some of these sites. We hope that difficulty has been substantially reduced by President Bush and President Putin's discussion in Bratislava. Now that they have agreed on a framework, they can start applying this money.

Also, again, I think this money would be well spent, would not disrupt the production of the missile systems, and just the sheer scale—this is $50 million total, $30 million from the ground-based interceptors, $20 million for initial construction of silos and housing for the interceptors—again, this is truly long-lead procurement. We have, in my view, and I believe that of Senator LEVIN, much more of a problem in the site in Russia that contains the nuclear materials.

We have all heard the horror stories of people being able to walk in, walk around, and walk out of these sites without anybody interfering with them—no electronic equipment or sensors that would detect or report their presence to anyone's attention. So our view—my view, speaking for myself—is that this money could be much better spent, without disrupting the missile defense program, by applying it to comprehensive threat reduction.

Frankly, $500 million is an impressive amount of money that has not yet been spent, but we all recognize, if any of this material made its way outside these sites and got into the hands of irresponsible people, it would be serious.

Mr. WARNER. I agree with the Senator's premise but I wouldn't want Senators to believe that, if I am correct, the shortage of money is in CTR. I am informed there is, in the bank, $500 million of 2005 unexpended funds. Does the Senator want to address that now?

Mr. REED. I could say, Mr. President, we will try to determine this, but unexpended does not mean that it is not committed. Some of these funds could in fact be committed to specific sites already so that money can't be spent again elsewhere. We will try to get a number on that.

But the scale of the problem, the number of sites—it is in the order, just within Russia, of 200 sites.

Mr. WARNER. I am a big supporter of CTR. I happened to be in the room on the day CTR was born—by Sam Nunn. I will never forget it. I have followed the program. I have been a supporter. I think there is quite a bit of funding in this budget for CTR right now. I point out, if the Senator is persuaded by the fact that CTR needs the money more than the missile program—and I will argue the point strenuously that is not the case—there is quite a bit of money. We are way into the 2005 cycle. As a matter of fact, September is on the horizon.

So I hope the Senator could carefully research that point, come back, and if I am in error, I would certainly like to hear his views.

I point out the current bill is consistent with the President's program that allocated $50 million toward this next tranche of the long-lead, cumulative money for ground-based interceptors. If you take $30 million out of the $50 million, I assure you, that does considerable disruption to the production line.

Then I point out the amount available for construction of associated silos, reduced by $20 million. I wonder if you might take the chance to check on the fact that the President's budget in this bill only allocates $13.5 million to the initial construction of the associated silos, and therefore your $20 million is considerably in excess of the $13.5 million.

Mr. REED. Mr. President, my information indicates the fiscal year 2006 budget for expansion, there is $20.682 million. I will ask my staff to coordinate with your staff.

Mr. WARNER. We will have our staffs check those figures. I thank the Senator.

Mr. President, I would like to vigorously oppose this amendment for the following reasons. The impact of the amendment would be, first and foremost, to send a message that we are not supporting, as a nation, wholeheartedly the ballistic missile defense capabilities to defend ourselves. It is clear North Korea has capabilities. This program was engendered in large measure, and accelerated in large

measure because of the threat posed by North Korea.

I noted here recently that Japan is now building its missile defense system. So it is not that the United States alone, in the world of nations, considers it a threat; other nations consider the North Korean capabilities a threat. It is correct we have had these test bans, but the failures that more or less have been in the mechanical phase—somehow the missile is adjusted in its launch pad as opposed to the actual failure of the missile itself. And then I will address this question of the break in production which could result—assuming the program is restarted in its full measure—maybe up to $270 million is one estimate I have been given to restart it.

Again, I agree with the sponsors of the amendment that the Cooperative Threat Reduction Program is an important national security issue for the defense of our homeland against the growing threats. But asking us to choose between missile protection and CTR is a false choice. We need both. This bill funds the President's requested amount fully for both programs.

The bill before the Senate authorizes the requested amount of $415.5 million for CTR programs within the Department of Defense and $1.6 billion for other nonproliferation efforts in the Department of Energy. There is a very strong recognition in this bill before the Senate, the authorization bill, of the importance of CTR. There is no current need for extra CTR funds. That is our basic proposition. They have in the bank very substantial amounts from 2005. They are unexpended. Whether they have been committed, I will have that checked. With a backlog that large and only roughly 70 days left in the fiscal year—that is an awful lot of money if someone is going to try to commit it and expend it in that period of time.

The President's budget for missile defense, on the other hand, has already taken a considerable amount of cuts. Due to last-minute decisions made at the Department of Defense as the fiscal year 2006 budget was being finalized, the missile defense budget request was reduced by $1 billion in 2006 and $5 billion overall between 2006 and 2011.

The sponsors of this amendment argue we should not provide long-lead funding for the GBI missiles 31 to 40 because of test failures. I am mindful of the recent difficulties encountered by the GMD system test program, but it is my view and that of the Department—and, indeed, independent authorities have looked at this problem—that these difficulties do not represent serious technological hurdles by the GMD program. Indeed, such problems are to be expected during the R&D and development phase of complicated weapons systems.

To get at the root cause of the testing problems, the Director of the Missile Defense Agency, to his great credit, commissioned the Independent Review Team, called the IRT, to examine the recent GMD test failures. The IRT found, one, that no fundamental GMD system design flaws are related to the recent test failures. Moreover, this independent panel found no evidence that major modifications of the current system hardware or software will be required. In other words, it is unlikely that future testing will find some major fault in the system that will require costly retrofit to the already fielded and those in production line of the GBIs.

For those of my colleagues concerned about testing, I point out that this bill before you contains a provision—developed in a bipartisan fashion during the committee's markup—which requires the Missile Defense Agency, the service operational test agencies, and the Director of Operational Test and Evaluation to plan and conduct tests that demonstrate the operational capability of the ballistic missile defense system. The bill also reallocates $100 million from longer-term development efforts to GMD testing, consistent with the recommendations of the Independent Review Team.

The current and growing threat posed to our country by long-range ballistic missiles argues for proceeding without delay with the Department's approach of concurrent testing and fielding of ballistic missile defense capabilities for the homeland.

Some of my colleagues suggest that because the current system is not fully proven, we should not procure additional missile interceptors. To this I would respond that General Cartwright, Commander of U.S. Strategic Command—the senior military official charged with advising the Secretary of Defense and the President on missile defense matters—has testified, with respect to the current GMD system, that "in an emergency, we are in fact in the position that we are confident that we can operate and employ it."

In addition, the Pentagon's chief independent weapons tester, the Director for Operational Test and Evaluation, noted in his most recent Annual Report to Congress that "the test bed architecture is now in place and should have some limited capability to defend against a threat missile from North Korea."

In my view, it is a good thing that we have some capability—albeit limited—to defend the homeland against long-range missiles. For as General Cartwright testified before the Senate Armed Services Committee in April, "we have a realistic threat here; we have an imperative."

General Cartwright is referring to CIA and DIA estimates that the North Korean Taepo-Dong 2 ballistic missile is capable of reaching the United States with a nuclear warhead—and that North Korea could resume flight testing of the Taepo-Dong 2 at any time. The Defense Intelligence Agency also estimates that Iran will have the capability to develop an intercontinental ballistic missile, ICBM, by 2015.

We simply can't wait until the threat is upon us to deploy missile defenses; we can't wait until the GMD system is fully and completely tested before we start providing some measure of protection against this threat. It is our responsibility to field what capabilities currently exist, even while we continue to test and improve the system. By continuing to field missile defenses today, we send a message to potential adversaries that we will not be deterred or coerced by their possession of long-range ballistic missiles.

In summary, I ask my colleagues to reject the amendment offered by Senator LEVIN. This amendment would needlessly delay the fielding of a ballistic missile defense capability to protect the homeland. As the Commander of STRATCOM warns, the threat is real. We must continue on the current path of fielding available capabilities—even while testing continues to improve the system over time.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President I express my gratitude to the distinguished chairman and other members of the Senate Committee on Armed Services for the work they do. The chairman has worked long and hard to try to bring this bill to the Senate floor and do things in the best interest of our country, and others have worked with him. I appreciate that.

Mr. HATCH. Mr. President, I rise today as an ardent supporter of the F/A–22 Raptor. I am pleased that the Armed Services Committee has agreed to authorize appropriations for 24 F/A–22 Raptors. However, I am deeply troubled that the Department of Defense has made the decision to only purchase this extraordinary aircraft through fiscal year 2008, in effect, limiting the number of Raptors to 180. This is far below the 381 aircraft that the Air Force has repeatedly stated are required for that service to meet its responsibilities as outlined in the National Defense Strategy.

Over the past year and half, I have made two trips, to be briefed on the capabilities of this extraordinary aircraft. The first was to Tyndall Air Force Base, FL, where our pilots are learning to fly the Raptor and second to Langley Air Force, VA, where the first operational F/A–22 units will be based. As a result of these meetings and discussions with the pilots who are training to fly the aircraft and the ground personnel who are learning to maintain the Raptor, I have come to conclusion that purchasing sufficient numbers of Raptors is absolutely vital to our national security.

Over the past 30 years, the United States has been able to maintain air superiority in every conflict largely due to the F–15C. However, with the great advancements in technology over the past several years, the F–15 has struggled to keep pace. For example,

the F–15 is not a stealth aircraft and its computer systems are based on obsolete technology. My colleagues should remember that the F–15 first flew in the early 1970s. During the ensuing years, nations have been consistently developing new aircraft and missile systems to defeat this fighter.

Realizing that the F–15 would need a replacement, the Air Force developed the F/A–22 Raptor. The result is a truly remarkable aircraft.

The F/A–22 has greater stealth capabilities than the F–117 Nighthawk. This is a powerful attribute when one remembers that it was the Nighthawk's stealth characteristics that enabled that aircraft to penetrate the integrated air defenses of Baghdad during the first night of the 1991 gulf war.

The Raptor is also equipped with super-cruise engines. These engines do not need to go to after-burner in order to achieve supersonic flight. This provides the F/A–22 with a strategic advantage by enabling supersonic speeds to be maintained for a far greater length of time. By comparison, all other fighters require their engines and these are foreign fighters, as well—to go to after-burner to achieve supersonic speeds. This consumes a tremendous amount of fuel and greatly limits an aircraft's range.

The F/A–22 is also the most maneuverable fighter flying today. This is of particular importance when encountering newer Russian-made aircraft which boast a highly impressive maneuver capability.

Yet a further advantage resides in the F/A–22's radar and avionics. When entering hostile airspace, one F/A–22 can energize its radar system, enabling it to detect and engage enemy fighters far before an enemy's system effective range.

However, one of the most important capabilities of the Raptor is often the most misunderstood. Many critics of the program state that, since much of the design work for this aircraft was performed during the Cold War, it does not meet the requirements of the future, I believe that this criticism is misplaced. The F/A–22 is more than just a fighter, it is also a bomber. In its existing configuration it is able to carry two 1,000 pound GPS-guided JDAM bombs and the aircraft will also be able to carry the Small Diameter Bomb. In 2008, the F/A–22's radar system will be enhanced with a ''look-down'' mode enabling the Raptor to independently hunt for targets on the ground.

All of these capabilities are necessary to fight what is quickly emerging as ''the'' threat of the future—the anti-access integrated air defense system. Integrated air defenses include both surface to air missiles and fighters deployed in such a fashion as to leverage the strengths of both systems. Such a system could pose a very real possibility of denying U.S. aircraft access to strategically important regions during future conflicts.

It should also be noted that—for a comparably cheap price—an adversary can purchase the Russian SA–20 surface-to-air missile. This system has an effective range of approximately 120 nautical miles and can engage targets at greater then 100,000 feet, much higher then the service ceiling of any existing American fighter or bomber. The Russians have also developed a family of highly maneuverable fighters, the Su–30 and 35s, which have been sold to such nations as China. Of further import, 59 other nations have fourth generation fighters.

It has also been widely reported in the aviation media that the F–15C, our current air superiority fighter, is not as maneuverable as newer Russian aircraft, especially the Su–35. However, the F/A–22 is designed to defeat an integrated air defense system. By utilizing its stealth capability, the F/A–22 can penetrate an enemy's airspace undetected and, when modified, independently hunt for mobile surface-to-air missile systems. Once detected, the F/A–22 would then be able to drop bombs on those targets. Some, correctly state that the B–2 bomber and the F–117 could handle these assignments. However, the F/A–22 offers the additional capability of being able to engage an enemy's air superiority fighters such as the widely proficient Su–35. Therefore, the Raptor will be able to defeat, almost simultaneously, two very different threats that until now have been handled by two different types of aircraft.

I should like point out that these potential threats are not just future concerns, but they are here today. For example, last year the Air Force conducted an exercise called Cope India, as part of our effort to strengthen relations with India. The Indian Air Force has a number of Su-30 MKKs, an aircraft which is very similar to a version of aircraft sold in large quantities to the People's Republic of China. During this exercise, it has been widely reported in the aviation and defense media that the Indian Air Force's Su-30s won a number of engagements when training against our Air Force's F–15s.

So let me be clear on this point: a developing nation's air force was able to defeat the F–15. This was a stunning event and one that requires our immediate attention.

Despite the obvious advantages, and now necessity, of this aircraft, the Department of Defense has made the decision to purchase only 180 F/A–22s.

Some argue that the cost of this aircraft is too high.

In response, the supporters of the F/A–22 devised a new procurement strategy called ''Buy to Budget.'' This strategy capped the total cost for the procurement of the aircraft and forced the Air Force and the Raptor's primary contractor, Lockheed Martin, to cut the cost of plane. These efforts have so far been successful, and two years ago an additional F/A–22 was procured solely based upon savings.

I am also pleased to state that recent articles in the media report that the ''fly-away'' price for an F/A–22 is now approximately $130 million, down from $185 million an aircraft. Officials of the manufacturer are quoted as saying that each new lot of Raptors costs on average 13 percent less than its predecessor. The manufacturer also believes that this price can be further brought down to the $110 million range. Now, of course, this is still a lot of money. However, when compared to similar aircraft such as the nonstealth Eurofighter, which cost approximately $110 million an aircraft, coupled with the estimated cost, as high as $90 million, for a new F–15, one easily conclude that the F/A–22 is much better deal then its critics contend.

I wish to reiterate a point that is deeply troubling. I have always listened very closely when our servicemembers have outlined their equipment requirements based upon the national security goals that our Government has outlined. As I have studied this issue, I have been struck by the unanimous opinion of all the members of the Air Force to whom I have spoken.

What is their expert opinion? That if the Air Force is to succeed in the tasks outlined in our National Defense Strategy that they require additional F/A–22 aircraft.

I should also add that this is not just the opinion of those stationed here in Washington but the opinion of the pilots and ground crew in the field such as those of Tyndall Air Force Base and Langley Air Force Base. They were truly excited about the F/A–22 Raptor's potential.

They understand that this aircraft will ensure American dominance of the skies for the next half century.

These young men and women stand ready to sacrifice so much for us, we owe them the best that our country has to offer. Therefore, I respectfully urge my friends in the Department of Defense to rethink their plans for this aircraft and provide our warfighters sufficient numbers of this remarkable fighter/bomber.

I ask that the pending amendment be set aside so I can call up another amendment.

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

AMENDMENT NO. 1516

Mr. HATCH. I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Utah [Mr. HATCH], for himself, Mr. INHOFE, Mr. BENNETT, and Mr. CHAMBLISS, proposes an amendment numbered 1516.

Mr. HATCH. 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 express the sense of the Senate regarding the investment of funds as called for in the Depot Maintenance Strategy and Master Plan of the Air Force)

On page 66, after line 22, insert the following:

SEC. 330. SENSE OF THE SENATE REGARDING DEPOT MAINTENANCE.

(a) FINDINGS.—The Senate finds that—

(1) the Depot Maintenance Strategy and Master Plan of the Air Force reflects the essential requirements for the Air Force to maintain a ready and controlled source of organic technical competence, thereby ensuring an effective and timely response to national defense contingencies and emergency requirements;

(2) since the publication of the Depot Maintenance Strategy and Master Plan of the Air Force in 2002, the service has made great progress toward modernizing all 3 of its Depots, in order to maintain their status as ''world class'' maintenance repair and overhaul operations;

(3) one of the indispensable components of the Depot Maintenance Strategy and Master Plan of the Air Force is the commitment of the Air Force to allocate $150,000,000 a year over 6 years, beginning in fiscal year 2004, for recapitalization and investment, including the procurement of technologically advanced facilities and equipment, of our Nation's 3 Air Force depots; and

(4) the funds expended to date have ensured that transformation projects, such as the initial implementation of ''Lean'' and ''Six Sigma'' production techniques, have achieved great success in reducing the time necessary to perform depot maintenance on aircraft.

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

(1) the Air Force should be commended for the implementation of its Depot Maintenance Strategy and Master Plan and, in particular, meeting its commitment to invest $150,000,000 a year over 6 years, since fiscal year 2004, in the Nation's 3 Air Force Depots; and

(2) the Air Force should continue to fully fund its commitment of $150,000,000 a year through fiscal year 2009 in investments and recapitalization projects pursuant to the Depot Maintenance Strategy and Master Plan.

Mr. HATCH. Today I rise to propose an amendment that is cosponsored by fellow members of the Senate Air Force Depot Caucus, specifically Senators INHOFE, BENNETT and CHAMBLISS. Before I proceed to discuss the merits of my amendment, I thank publicly my colleagues, and their staffs, of the depot caucus, not only for their assistance in supporting this amendment, but for the tireless work that we have all performed over the past several years to modernize and recapitalize our Nation's Air Force Depots.

Why is that important? Why do we need our Air Force Depots? Simply put, today the United States boasts the most formidable military that the world has ever known. However, history has shown, that a technologically superior force can be defeated if the weapons systems being utilized by that force cannot be maintained or repaired in a timely fashion.

Mindful of this lesson, the Department of Defense and Congress have created an infrastructure designed to meet the unique sustainment challenges faced by a nation that harnesses the advantages of technology on the battlefield. It bears remembering that one of our Nation's primary means of maintaining this advantage is through the integrated sustainment support provided by the Air Force's depots. This is true for the maintenance of tactical aircraft, such as the F–16 and A–10, which is performed in my home State of Utah at Hill Air Force Base. Tactical aircraft require this level of maintenance due to the stress caused by supersonic flight and high-g turns. Our tanker and airlift fleets also require this level of service due to corrosion and metal fatigue.

Equally impressive, this support is accomplished while simultaneously providing supply chain management for millions of components and pieces of equipment. However, what makes our depots truly vital to national security is their ability to provide immediate support during periods of conflict or urgent need. In fact, no one matches our Nation's depots in meeting the critical ''surge'' requirements of our Nation.

Unfortunately, during the 1990s, our Nation did not make the necessary investments in our depots to build and procure technologically advanced facilities and equipment technologies. Therefore, the depots were not meeting their full potential. Congress and the Air Force identified this problem and, I am proud to say, worked together to find a solution. That solution was the Air Force Depot Maintenance Strategy and Master Plan. This strategy reaffirmed our Nation's commitment to the ''essential requirement for the Air Force to maintain a ready and controlled source of organic technical competence to ensure an effective and timely response to national defense contingencies and emergency requirements.''

But more than just a piece of paper articulating lofty goals, this strategy committed the Air Force to allocating $150 million a year for 6 years in order to achieve the objectives of maintaining the depots status as ''world class'' maintenance repair and overhaul operations.

One of the most clear examples of how this money has been constructively allocated can be found in the success of the initial implementation of revolutionary lean production techniques at our Nation's depots. Lean manufacturing principles, first developed by the Toyota Corporation, aim to eliminate waste in every area of production. In practice, workers are no longer just responsible for a specific section of production. Workers are challenged to develop new skills and trades so they are responsible for more portions of the production process.

The results have been outstanding. Workflow days, the days it takes to provide maintenance to a part or system, are down. At Hill Air Force Base, the C–130 and F–16 aircraft maintenance lines have achieved and sustained 100-percent on-time delivery rates, a large extent due to the efficiencies created by lean techniques. When you tour our depots, you can sense the excitement and renewed pride the workers have, in part, because of the lean processes and the new tools and infrastructure provided by the funds allocated by the Depot Strategy which make lean possible. This has truly been a successful investment.

Another example of how the funds allocated under the Depot Strategy are assisting the war fighter while providing value to the taxpayer can be found in a project in this year's Defense authorization bill. Hill Air Force Base is home to one of only two Carnegie Mellon-rated capable maturity model level 5 software centers in the Department of Defense. A level 5 designation facility indicates that the facility is in the top 2 percent of all software development centers. In addition, Hill's Software Engineering Division affords the Air Force a $40-per-hour labor rate savings over its major industry competitors.

For these reasons, the Air Force decided to increase the amount of work performed by the division by 176,000 direct product standard hours. However, the existing building is full and unable to support the increase in personnel necessary to accomplish this new workload. The funding allocated under the Depot Maintenance Strategy provides the solution, and this bill authorizes appropriations to build a new extension to the facility. Not too bad when it has been determined that this project will pay for itself in 8.75 years.

We are only halfway through the 6-year investment plan as called for by the Depot Maintenance Strategy. I rise with my colleagues to say to the Air Force: Well done. But I must add—and this is the essential point of my amendment—the Air Force must keep going. The depots have made enormous progress in even further efficiently supporting the war fighter, which now is more important than ever. However, if we are to support our war fighters in the manner in which they deserve, this investment must continue. The first steps have been made. Completing the full 6 years of Depot Strategy modernization funding is an essential component to ensure we will always provide the best to the men and women who risk so much to keep us free.

Mr. President, I also desire at this time to thank three individuals who have been steadfast supporters of the Depot Maintenance Strategy.

First, I must recognize retiring Assistant Secretary of the Air Force Nelson Gibbs, who is one of the authors of Depot Strategy. We would not be where we are today without his support and guidance. I wish him well in his well-deserved retirement. I also wish to thank the implementers of the Strategy, GEN Lester Lyles, the former commander of Air Force Materiel Command and its present commander, and

my good friend, GEN Gregory Martin. You will not find two finer officers who have ever served. To them I say: Thank you for your leadership and guidance in modernizing our infrastructure so we can most efficiently and effectively support the war fighter. I thank them.

I thank my colleagues, all of whom support this as well.

Mr. President, I yield the floor to my colleague.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, I will first make a comment or two.

Mr. WARNER. Mr. President, may the manager of the bill address the Senate for a moment?

The PRESIDING OFFICER. Will the Senator from Oklahoma yield?

Mr. WARNER. Mr. President, the way we run is the managers usually try to get recognition.

What we would now like to do, Mr. President, is to have the Senator from Oklahoma address his amendments—for what period of time?

Mr. INHOFE. Mr. Chairman, I would like to have a few minutes to respond to some of the substance of the two subjects discussed by the Senator from Utah. Then I would like to describe the amendments I have offered. It will probably take me 20 minutes.

Mr. WARNER. I thank the Senator from Oklahoma.

The Senator from Florida desires recognition, so I would ask the Senator from Florida if he could give a rough estimate of the time he would like following the Senator from Oklahoma.

Fifteen minutes. Mr. President, I ask unanimous consent that the Senator from Oklahoma now be recognized for a period not to exceed 20 minutes, to be followed by the Senator from Florida.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. WARNER. Could we act on the UC request, Mr. President?

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

The Senator from Oklahoma.

Mr. INHOFE. Mr. President, first of all, let me say I was listening intently while the senior Senator from Utah talked about the F/A–22. I would like to add one thing that perhaps he assumes everyone is aware of, but I keep finding people are not aware of it, and that is the Chief of the Air Force now, General Jumper, not too long ago, I think 1997, made a very courageous observation. He called to the attention of the American people that the Russians were making—at that time he was referring to the Su–30, a strike vehicle, that it was actually better than anything we had in our inventory, our F–15 or F–16.

I think a lot of people assumed automatically that when we go onto the battlefield America has the very best of equipment. That is not true. It is kind of scary when you think about a strike vehicle that is out there that has greater capability than our very best and the fact that the American people expect the United States to have the best of everything.

I have talked on this floor many times about the fact that our artillery piece is not as good as one that is made in five different countries. The old Paladin technology is World War II technology. That is something we are going to correct with our future combat system.

But I commend the Senator from Utah for his comments about the F/A–22. When we get the joint strike fighter and the F/A–22, we will be back in a position where we will be sending our young people out there with the best of equipment. We need to get there as rapidly as possible.

I also want to make a comment about the depot funding plan amendment that is offered by Senator HATCH. It supports the important and vital work being performed by our aircraft depot facilities.

Since the Bush administration came into office, we have seen a renewed interest in the Air Force's depots. To kind of fill us in where we are right now with that, I can remember when the last Secretary of the Air Force came in, his first trip was to Tinker Air Force Base to see how creative they were, to kind of personally examine the kind of work they were doing. He recognized we have to handle the problem that has been there for many, many years; that is, we need to have an in-house capability for depot maintenance on core issues.

The problem has always been: How do you define the core issue? The core issue is not an easy thing to describe and define. But until it is properly defined, we have been using the ratio of 50–50; in other words, to have the in-house capability to handle 50 percent of the functions in the case of a war so we would not be held hostage to a single source contractor.

The key to this overall reinvigoration has been the Air Force's Depot Maintenance Strategy and Master Plan that will ensure America's air and space assets are ready to rapidly respond to any national security threat. Because of this plan we have begun a restoration and modernization of our Air Force's three depot facilities located in Oklahoma, Utah, and Georgia, which will ensure the United States is able to maintain world-class aircraft repair and overall facilities.

If we are to realize the end result of this Maintenance Strategy and Master Plan, it is incumbent upon Congress to fulfill the Air Force's commitment for allocating $150 million a year, over a 6-year period, for recapitalizing, investing, and procuring advanced facilities, equipment, and operation. This funding began in fiscal year 2004, and significant in-roads have already been made.

In one year alone, with this funding support, the Air Mobility Command reported that the rate of aircraft grounded due to parts issues decreased by 37.6 percent. It bettered its flying hour goal by 922,000 hours. The rate of aircraft incidents due to parts issues decreased by 23.4 percent. Logistics response time increased by 20.4 percent. And the level of spare parts in stock improved by 5.5 percent. Such improvements are an indication of the impact of this funding, and this was only a single 1-year period.

We have spoken frequently in this body about the advanced age and challenges of some of our most critical low-density, high-demand aircraft, such as the C–130 tactical airlifter, and the KC–135 refueling tanker. The average age of the C–130 E and H models flying today is 40 years. The average age of the KC–135 E and R models flying today is 44 years. We went through some arduous times, several years ago—about 15 years ago—getting the C–17 on line. It was a recognition that we have to modernize this fleet. I am very thankful we have increased the numbers as the years have gone by. No one would have ever believed, prior to Bosnia, Kosovo, Afghanistan, and Iraq, the need we would have on these heavy-lift vehicles.

We could go on and on, but the point we want to make is, if we are going to keep our aging fleet of aircraft flying, we must not only maintain them but we must also modify them and give them the latest technology, avionics and things, so we will provide our young people with the same advantage that some of our prospective opponents would have.

At our Air Force depots today, we require engineers and fabrication technicians to solve ever-challenging design and structural problems due to aircraft stress and fatigue that were never anticipated when the aircraft were manufactured. But because of age, we are seeing such flaws. The civilian aviation industry recapitalizes, buying new aircraft when their planes are no longer feasible to fly. Unfortunately, our Air Force does not have such a luxury. The effort the Air Force has started with the Depot Maintenance Strategy and Master Plan must be sustained, and Congress must provide the necessary resources.

In light of this, I applaud the sense of the Senate being offered by Senator HATCH. This has been a problem we have seen coming. We know it is there. We have been able to now give our depots some of the same resources, some of the same modernization. They have, on a competitive basis, proven they can do a very good job.

AMENDMENT NO. 1313

Mr. INHOFE. Mr. President, I have two amendments I have already filed. The second amendment is going to require a new number. The two I am going to be discussing are the ICRC amendment. I have several cosponsors of the amendment, including Senator KYL. I ask unanimous consent that Senator ENZI be added as a cosponsor to amendment No. 1313.

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

Mr. INHOFE. The other amendment has a new number. We have talked about it before. It is the U.S.-China

Commission amendment. It is now No. 1476. It is my intention to make a few comments about these two and then to ask for the yeas and nays. We would like to get to a vote on these amendments by tonight.

First, the amendment concerning the ICRC. I simply want to clarify some people's thinking that the ICRC is not the American Red Cross. This is the International Committee on the Red Cross. It has no relationship to the American Red Cross.

My first concern is for American troops. The ICRC has been around since 1863 and has been there for American soldiers, sailors, airmen, and marines throughout two world wars. I thank them for that work. Likewise and moreover, I thank all Americans for military service to America. I did have occasion to be in the U.S. Army. It was the best thing that ever happened in my life. In my continuing preeminent concern for American troops, however, I am compelled to note some concerns and pose some questions about a drift in focus of the ICRC away from its core principles in its mission statement. Indeed, I fear the ICRC may be harming the morale of our American troops by unjustified allegations that detainees and prisoners are not being properly treated.

For example, an ICRC official visited Camp Bucca, a theater internment facility for enemy prisoners that is, as of January 2005, being operated by the 18th Military Police Brigade and Task Force 134, near Umm Qasr in southern Iraq. As of late January 2005, the facility had a holding capacity of 6,000 prisoners but only held 5,000. These prisoners were being supervised by 1,200 Army MPs and Air Force airmen. According to the Wall Street Journal, citing a Defense Department source, the ICRC official told U.S. authorities:

> You people are no better than and no different than the Nazi concentration camp guards.

I ask unanimous consent that this entire article be printed in the RECORD at the conclusion of my remarks about the ICRC.

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

(See exhibit 1.)

The Senate Armed Services Committee has now held 13 hearings on the topic of prisoner treatment.

Sometimes we get bogged down in all the detail and we forget about the overall picture, the big picture. And I'm shocked when I found, only last Tuesday, from the Pentagon's report, that after 3 years and 24,000 interrogations, there were only three acts of violation of the approved interrogation techniques authorized by Field Manual 3452 and DOD guidelines.

The small infractions found were found by our own government, corrected and now reported. In all the cases no further incidents occurred. We have nothing to be ashamed of. What other country attacked as we were would exercise the same degree of self-criticism and restraint. Again, keep in mind, 24,000 interrogations, and they only found three. And they were found by us, not somebody else snooping around.

Most, if not all, of these incidents are at least a year old. I am very impressed with the way the military, the FBI, and other agencies conducted themselves. The report shows me that an incredible amount of restraint and discipline was present at Gitmo.

Having heard a lot about the Field Manual 3452, I asked, ''Are the DOD guidelines, as currently published in that manual, appropriate to allow interrogators to get valuable information, intelligence information, while not crossing the line from interrogation to abuse?'' The answer from Gen. Bantz J. Craddock, Commander of U.S. Southern Command was, ''I think, because that manual was written for enemy prisoners of war, we have a translation problem, in that enemy prisoners are to be treated in accordance with the Geneva Conventions—that doesn't apply. That's why the recommendation was made and I affirmed it. We need a further look here on this new phenomenon of enemy combatants. It's different, and we're trying to use, I think, a manual that was written for one reason in another environment.''

Lt. Gen. Randall M. Schmidt, the senior investigating officer said, ''Sir, I agree. It's critical that we come to grips with not hanging on a Cold War relic of Field Manual 3452, which addressed an entirely different population. If we are, in fact, going to get intelligence to stay ahead of this type of threat, we need to understand what else we can do and still stay in our lane of humane treatment.''

Brig. Gen. John T. Furlow, the investigating officer, stated, ''Sir, in echoing that, F.M. 3452 was originally written in 1987, further updated and refined in 1992, which is dealing with the Geneva question as well as an ordered battle enemy, not the enemy that we're facing currently. I'm aware that Fort Huachuca's currently in a rewrite of the next 3452, and it's in a draft form right now.''

It is clear that our military has humane treatment placed at the forefront of their concerns.

At the same time I want to ask: What other country would freely discuss interrogation techniques used against high-value intelligence detainees during a time of war when suicide bombers are killing our fellow citizens?

That was disturbing to me. The last of the many hearings we had was one where they were describing in detail our interrogation techniques, knowing full well that the terrorists are watching on live TV and training their people on how to handle those. I think it is something on which we have gone far enough. That is another subject we will be discussing in a few minutes.

In the past 15 years, the United States has provided more than $1.5 billion in funding to the ICRC. I ask for some accountability for the use of this money and a modicum of oversight. For example, I think it is fair to ask: How is our money being spent? What are the activities of the ICRC to determine the status of American POWs/MIAs, unaccounted for since World War II? What were the efforts of the ICRC to assist America's POWs held in captivity during the Korean war, the Vietnam war, and other subsequent conflicts? Has the ICRC exceeded its mandate, violated established practices or principles, or engaged in advocacy work that exceeds the ICRC's mandate as provided under the Geneva Convention? That essentially is what this amendment does.

At this point I will read the very last paragraph of the Wall Street Journal article. It says:

> We are trying to understand how a representative of an organization pledged to neutrality and the honest investigation of detainee practices could compare American soldiers to Nazi SS. And considering the timing and content of several ICRC confidentiality breaches concerning the U.S. war on terror, it's fair to ask if similar views aren't held by a substantial number in the organization.
>
> The world needs a truly neutral humanitarian body of the sort the ICRC is supposed to be. But the Camp Bucca incident—in addition to leaked Gitmo and Abu Ghraib reports—is evidence it isn't currently up to the task.

EXHIBIT 1

[From the Wall Street Journal, May 23, 2005]

AS BAD AS THE NAZIS?

The International Committee of the Red Cross is granted a privileged status to inspect the conditions of prisoners of war and other detainees in return for confidentiality. But in recent years it has demonstrated a habit of selective media leaks damaging to American purposes. This is the backdrop for two recent incidents that make us think the U.S. should reconsider the ICRC's role.

The first concerns a story we heard first from a U.S. source that an ICRC representative visiting America's largest detention facility in Iraq last month had compared the U.S. to Nazi Germany. According to a Defense Department source citing internal Pentagon documents, the ICRC team leader told U.S. authorities at Camp Bucca: ''You people are no better than and no different than the Nazi concentration camp guards.'' She was upset about not being granted immediate access shortly after a prison riot, when U.S. commanders may have been thinking of her own safety, among other considerations.

A second, senior Defense Department source we asked about the episode confirmed that the quote above is accurate. And a third, very well-placed American source we contacted separately told us that some kind of reference was made by the Red Cross representative ''to either Nazis or the Third Reich''—which understandably offended the American soldiers present.

The world needs a truly neutral humanitarian body of the sort the ICRC is supposed to be. But the Camp Bucca incident—in addition to the leaked Gitmo and Abu Ghraib reports—is evidence it isn't currently up to the task.

Mr. INHOFE. Mr. President, I have been informed I will be asking for the yeas and nays for two different amendments. I will do that after explaining the second amendment.

I know the Senator from Florida, under UC, now has 15 minutes. My time is about to expire. I would ask unanimous consent that at the conclusion of the remarks of the Senator from Florida, I be recognized to present what was amendment 1312 and now is No. 1476. And at the conclusion, I will be asking for the yeas and nays.

The PRESIDING OFFICER. Is there objection?

Mr. DORGAN. I ask unanimous consent to be recognized following the Senator from Oklahoma.

Mr. INHOFE. I ask unanimous consent that I be recognized for 15 minutes, followed by the Senator from North Dakota.

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

The Senator from Florida.

Mr. NELSON of Florida. Mr. President, I want to speak on the Defense bill to point out a major national asset with regard to our military preparation. What I am about to say actually involves some subterranean negotiations that are going on outside of the light of day on another bill, on the Energy conference bill, but it relates directly to what we are doing here. I want to point it out.

One of the great national assets we have is off the coast of Florida called restricted airspace. As you can see, off the northeast coast of Florida from Cape Canaveral north all the way to Savannah, GA is a considerable bit of restricted airspace. You will also notice on this map of the peninsula of Florida and the Gulf of Mexico that almost the entire area of the Gulf of Mexico off of the State of Florida is restricted airspace. It is not any puzzle to understand when the Atlantic fleet, U.S. Navy training, was shut down on the island of Vieques off of Puerto Rico, that most of that training came here to northwest Florida. Not only because of the major military facilities at Pensacola, Whiting, Eglin Air Force Base, Tindale Air Force Base, where, by the way, we have been talking about the FA–22, the training for the pilots is at Tindale Air Force Base right here. The training for the pilots for all branches of Government for the new F–135, the joint fighter, is done at Eglin Air Force Base. Why? Because we have the restricted airspace in which that training can occur and where land, sea, and air exercises can be coordinated. That is a major national asset.

Alas, people, certain interests, want to come out here and drill for oil in the eastern Gulf of Mexico. You can't be conducting these military maneuvers, this training that is so essential to our mission in the Department of Defense, you can't be doing that if you have to worry about oil rigs on the surface of the Gulf of Mexico below. That is the same right over here on the east coast, a battle I had to wage 15, 20 years ago when it was proposed to drill from Cape Hatteras, NC all the way south to Fort Pierce, FL. Ultimately, we won that battle with the recognition by the DOD and NASA that you can't have oil rigs where you are dropping the solid rocket boosters from the space shuttle and where we are dropping the first stages of the expendable booster rockets coming out of the Cape Canaveral Air Force station.

We took on this fight a month or so ago when the Energy bill was here and we won this fight, thanks to the agreement of the chairman and the ranking member of the Energy Committee that they would not support any amendments that would allow drilling out here in the eastern gulf.

Speaking of that, just so you can see how dramatic it is that the eastern gulf does not have this drilling, I want you to look at this particular map of the gulf coast—Texas, Louisiana, Mississippi, Alabama, Florida. You will notice the drilling, as represented by the green, is where the oil is. The geology shows that there is no drilling in the eastern gulf. There is no oil there. But there is another reason there are not rigs there, besides the dry holes they came up with, and it is all of that area is restricted air space. Now, all well and good.

Mr. President, we have just intercepted an e-mail from the White House, and it is an e-mail sent to energy conference conferees—something that has some significance to the occupant of the chair. Attached is the administration's proposal. The proposal would allow for new leasing activities in the eastern gulf. They define it in Louisiana waters as defined by the use of seaward lateral boundaries. They go on in this White House e-mail to say:

> Interior and the Office of Management and Budget have signed off on this language.

Well, let's sound the alarms because here is what they plan to do. We went through this drill a couple months ago when the Energy bill was here. Why? We got the chairman of the Energy Committee and the ranking member to agree to oppose these amendments—this is in the CONGRESSIONAL RECORD—because this line, which is the Florida-Alabama line, beyond which there is no leasing in any of the waters of the gulf, well, suddenly, they are going to draw the line of the State of Louisiana, which is over here, to be a line that comes out here and goes into the eastern Gulf of Mexico, under the fiction that that line would be the waters of Louisiana and, thus, giving a pretext to invade the waters off of Florida, including the waters underneath the restricted airspace, to allow oil and gas drilling.

The administration is pushing a proposal in the conference between the House and the Senate that does not have such a provision in either bill. To the contrary. The House took a position against drilling in the eastern gulf, and the Senate did likewise in the agreement of the chairman and the ranking member.

So I want to alert the Senate. I hope this is not going to be the case because we are down to a week before everybody wants to go home for the August recess and do all of their town hall meetings, and so forth. I know there is the interest in passing an energy conference bill, if they reach agreement. Clearly, I don't want to slow up the energy conference bill if they reach agreement. But, of course, if the representations and the agreements that were made in good faith are broken—in fact, that were made on the floor of the Senate and are part of the CONGRESSIONAL RECORD—if those agreements are broken, this Senator from Florida will have no choice.

This would represent a reversal of administration policy because this administration has pledged to uphold the moratorium on the Outer Continental Shelf from drilling until the year 2012. Although a portion right there is not included within the moratorium, nevertheless, the line they have drawn clearly includes other portions of the moratorium. It is a reversal of administration policy.

It would also give this area, called lease-sale 181, to the State of Louisiana. If lease-sale 181 is part of the State of Louisiana, off of the coast of Florida, then why did the administration negotiate in 2001 to cut back lease-sale 181 from 6 million acres to a million and a half acres, so it would not go over the Florida-Alabama line? There are all kinds of inconsistencies here. It is purely—call it what it is; it is an intent to drill for oil and gas off of the coast of Florida.

I can tell you that 18 million people in Florida don't want oil rigs off their shores. In the first place, the geology shows, along with many dry holes, that there is not much oil and gas. In the second place, we have an extraordinary $50 billion a year tourism industry that depends on what? It depends on what is depicted in this picture. This other picture is not what we want. This is a photograph from a month and a half ago when we had the Energy bill on this floor of 100 pelicans that were killed as a result of an oil spill off of Louisiana—that is a recent photograph—and another 400 were severely damaged. We don't want that. We want the other.

The third reason is one I had explained at the outset. This is what we want for the defense of our country. We want to continue to do our training. We want all of that training that has come from Puerto Rico to go unhampered off of the coast of Florida, where land, sea, and air military exercises can be coordinated without the threat of interference from oil rigs below.

The fourth reason is the coast of Florida has something besides our natural beauty and beaches. It has some of the most pristine and ecologically sensitive estuaries, rivers, and bays that come into the gulf. That is a very important place to keep so that the balance of nature can occur with the oceans.

For all of these reasons, I wanted to share with the Senate that I hope I don't have to be out here later this

week making these speeches again because I took it at face value and in good faith that the representations that were made here were going to stick. If they do not, then the Senator from Florida will have to judge accordingly.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

AMENDMENT NO. 1313

Mr. INHOFE. Mr. President, so we can get procedurally back where we should be, I ask unanimous consent that the current amendment be set aside for the consideration of amendment No. 1313.

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

Mr. WARNER. Mr. President, before the Senator brings up this matter—and he has the floor—I wonder if I can clarify this among my colleagues, to try to accommodate others. We have Senator DORGAN to be recognized under the previous unanimous consent. I understand 10 minutes would be sufficient there.

Mr. REED. Fifteen minutes, I believe.

Mr. WARNER. We are anxious to get going, but we will do 15 minutes. I see the Senator from Colorado here. I know the Senator from Arizona and the Senator from South Carolina called within the hour. They need time. Can the Senator advise me as to what his desires might be?

Mr. ALLARD. Mr. President, I think 10 minutes would be fine. I was going to make an argument on an amendment that will be presented. I don't know where it is before us. I do have a couple of amendments I would like to propose. I think for the debate on those two amendments and a floor statement, I probably need 10 minutes.

Mr. WARNER. If the Senator from Colorado could be recognized following Senator DORGAN, I would like to reserve an hour for myself and Senator MCCAIN and Senator LINDSEY GRAHAM.

Mr. REED. Senator LEVIN will need some time, also.

Mr. WARNER. He will certainly get that time. I ask unanimous consent for that.

The PRESIDING OFFICER. Is there objection?

Mr. REED. Would the Senator restate the UC?

Mr. WARNER. I ask unanimous consent that the Senator from Oklahoma continue for about 10 minutes; Senator DORGAN for 15 minutes; the Senator from Colorado for 10 minutes; and 1 hour equally divided between Senators WARNER, MCCAIN, and GRAHAM.

The PRESIDING OFFICER. Is there objection?

Mr. REED. Reserving the right to object, I just want to protect the ability for Senator LEVIN to have time.

Mr. WARNER. He can be recognized following the hour of three of us.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from Oklahoma is recognized.

Mr. INHOFE. Mr. President, I ask for the yeas and nays on amendment No. 1313.

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

The yeas and nays were ordered.

AMENDMENT NO. 1476

Mr. INHOFE. Mr. President, I ask that amendment No. 1313 be set aside for the consideration of amendment No. 1476, which I send to the desk.

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

The clerk will report.

The legislative clerk read as follows:

The Senator from Oklahoma [Mr. INHOFE] proposes an amendment numbered 1476.

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

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

The amendment is as follows:

(Purpose: To express the sense of Congress that the President should take immediate steps to establish a plan to implement the recommendations of the 2004 Report to Congress of the United States-China Economic and Security Review Commission)

At the end of title XII, insert the following:

SEC. 1205. THE UNITED STATES-CHINA ECONOMIC AND SECURITY REVIEW COMMISSION.

(a) FINDINGS.—Congress finds the following:

(1) The 2004 Report to Congress of the United States-China Economic and Security Review Commission states that—

(A) China's State-Owned Enterprises (SOEs) lack adequate disclosure standards, which creates the potential for United States investors to unwittingly contribute to enterprises that are involved in activities harmful to United States security interests;

(B) United States influence and vital long-term interests in Asia are being challenged by China's robust regional economic engagement and diplomacy;

(C) the assistance of China and North Korea to global ballistic missile proliferation is extensive and ongoing;

(D) China's transfers of technology and components for weapons of mass destruction (WMD) and their delivery systems to countries of concern, including countries that support acts of international terrorism, has helped create a new tier of countries with the capability to produce WMD and ballistic missiles;

(E) the removal of the European Union arms embargo against China that is currently under consideration in the European Union would accelerate weapons modernization and dramatically enhance Chinese military capabilities;

(F) China's recent actions toward Taiwan call into question China's commitments to a peaceful resolution;

(G) China is developing a leading-edge military with the objective of intimidating Taiwan and deterring United States involvement in the Strait, and China's qualitative and quantitative military advancements have already resulted in a dramatic shift in the cross-Strait military balance toward China; and

(H) China's growing energy needs are driving China into bilateral arrangements that undermine multilateral efforts to stabilize oil supplies and prices, and in some cases may involve dangerous weapons transfers.

(2) On March 14, 2005, the National People's Congress approved a law that would authorize the use of force if Taiwan formally declares independence.

(b) SENSE OF CONGRESS.—

(1) PLAN.—The President is strongly urged to take immediate steps to establish a plan to implement the recommendations contained in the 2004 Report to Congress of the United States-China Economic and Security Review Commission in order to correct the negative implications that a number of current trends in United States-China relations have for United States long-term economic and national security interests.

(2) CONTENTS.—Such a plan should contain the following:

(A) Actions to address China's policy of undervaluing its currency, including—

(i) encouraging China to provide for a substantial upward revaluation of the Chinese yuan against the United States dollar;

(ii) allowing the yuan to float against a trade-weighted basket of currencies; and

(iii) concurrently encouraging United States trading partners with similar interests to join in these efforts.

(B) Actions to make better use of the World Trade Organization (WTO) dispute settlement mechanism and applicable United States trade laws to redress China's unfair trade practices, including China's exchange rate manipulation, denial of trading and distribution rights, lack of intellectual property rights protection, objectionable labor standards, subsidization of exports, and forced technology transfers as a condition of doing business. The United States Trade Representative should consult with our trading partners regarding any trade dispute with China.

(C) Actions to encourage United States diplomatic efforts to identify and pursue initiatives to revitalize United States engagement with China's Asian neighbors. The initiatives should have a regional focus and complement bilateral efforts. The Asia-Pacific Economic Cooperation forum (APEC) offers a ready mechanism for pursuit of such initiatives.

(D) Actions by the administration to hold China accountable for proliferation of prohibited technologies and to secure China's agreement to renew efforts to curtail North Korea's commercial export of ballistic missiles.

(E) Actions by the Secretaries of State and Energy to consult with the International Energy Agency with the objective of upgrading the current loose experience-sharing arrangement, whereby China engages in some limited exchanges with the organization, to a more structured arrangement whereby China would be obligated to develop a meaningful strategic oil reserve, and coordinate release of stocks in supply-disruption crises or speculator-driven price spikes.

(F) Actions by the administration to develop a coordinated, comprehensive national policy and strategy designed to meet China's challenge to maintaining United States scientific and technological leadership and competitiveness in the same way the administration is presently required to develop and publish a national security strategy.

(G) Actions to review laws and regulations governing the Committee on Foreign Investment in the United States (CFIUS), including exploring whether the definition of national security should include the potential impact on national economic security as a criterion to be reviewed, and whether the chairmanship of CFIUS should be transferred from the Secretary of the Treasury to a more appropriate executive branch agency.

(H) Actions by the President and the Secretaries of State and Defense to press strongly their European Union counterparts to maintain the EU arms embargo on China.

(I) Actions by the administration to discourage foreign defense contractors from selling sensitive military use technology or weapons systems to China. The administration should provide a comprehensive annual report to the appropriate committees of Congress on the nature and scope of foreign military sales to China, particularly sales by Russia and Israel.

(J) Any additional actions outlined in the 2004 Report to Congress of the United States-China Economic and Security Review Commission that affect the economic or national security of the United States.

Mr. INHOFE. Mr. President, this amendment is similar to one that I am not going to offer that was previously going to be offered, No. 1312. There have been several changes made, so a new number is assigned to it.

Mr. President, in October 2000, Congress established the United States-China Security Economic Review Commission to act as a bipartisan authority on how our relationship with China affects our economy, China's military and weapons proliferation, and our influence in Asia.

For the past 5 years, the Commission has been holding hearings and issuing annual reports to evaluate ''the national security implications of the bilateral trade and economic relationship with the United States and the People's Republic of China.'' Their job is to provide us in Congress with the necessary information to make decisions about the complex situation. However, I fear their reports have gone largely unnoticed.

This has been very disturbing. I have had occasion to give four rather lengthy speeches concerning the recommendations. I will not be redundant, and I certainly will not take the time I took previously, but it is something that is very significant. This was a bipartisan commission, made up of Democrats and Republicans, some Members of Congress, and some former Members of Congress. They came out with recommendations over a period of years.

I found the recommendations of the Commission's 2004 report—this is the most recent approach—objective, necessary, and urgent, and I am offering an amendment to express our support for these viable steps.

This amendment expresses the sense of the Senate that China should, first, reevaluate its manipulated currency level and allow it to float against other currencies. In the Treasury Department's recent report to Congress, China's monetary policies are described as ''highly distortionary and pose a risk to China's economy, its trading partners, and global economic growth.''

Second, the appropriate steps ought to be taken through the World Trade Organization to hold China accountable for its dubious trade practices. Major problem issues, such as intellectual property rights, have yet to be addressed.

Third, the United States should revitalize engagement in the Asian region, broaden our interaction with organizations such as ASEAN, which is the Association of Southeast Asian Nations. Our lack of influence has been demonstrated by the Shanghai Cooperation Organization recently demanding that we set a troop pullout deadline in Afghanistan. This clearly shows we do not have much influence there.

Fourth, the administration ought to hold China accountable for proliferating prohibited technologies. Chinese companies, such as NORINCO, have been sanctioned frequently and yet the Chinese Government refuses to enforce their own nonproliferation agreements.

Fifth, the U.N. should monitor nuclear, biological, and chemical treaties and either enforce these agreements or report them to the Security Council. The United States-China Commission has found that China has undercut the U.N. in many areas, undermining what pressures we have tried to apply on problematic states, such as Sudan and Zimbabwe.

Sixth, the administration ought to review the effectiveness of the one-China policy in relation to Taiwan to reflect the dynamic nature of the situation. The Defense Department's annual report to Congress, released 2 days ago, states that China's military ''sustained buildup affects the status quo in the Taiwan Strait.'' We have been watching this for a number of years. We have also been watching the growth and enhancement of China's conventional military capability. We have known about their nuclear capability for some time. Now we see, as the Senator from Utah was mentioning a few minutes ago, that countries are buying these superior strike vehicles from Russia, such as the SU–30s. China, in one purchase, I understand, bought some 240. One has to stop and think about this. It puts them in the position to have better strike vehicles than we do. Of course, we have seen the buildup, the effect on their relationship in the Taiwan Strait.

Seventh, various energy agencies should encourage China to develop its strategic oil reserve in order to avoid a disastrous economic crisis if oil availability becomes unstable. We have to understand that we have a serious problem in this country with the fact that we are relying upon foreign countries for some 65 percent of the oil we import. We are now starting to compete with China which has that great problem, too.

As one travels around and looks at countries such as Iran, Sudan, Nigeria, and other countries where they are establishing relationships—we have seen what they are doing in Venezuela right now—we have to recognize they are going to be our chief competition in becoming self-sufficient in our ability to fight a war without dependency upon foreign countries.

Eighth, the Committee on Foreign Investment in the United States, called CFIUS, should include national economic security as a criterion for evaluation and the chairmanship to be transferred to a more appropriate chair allowing for increased security precautions.

Right now CFIUS has actually reviewed some 1,500 cases of purchases by foreign countries, and they have only questioned 24. They relented on those and only stopped one. That is 1 out of 1,500. There is something wrong. We see some things that are going on right now, such as Unocal, that have received a lot of publicity. This is a very strong recommendation. In fact, I have a separate resolution that covers just this issue and this alone. It will recommend that the chairmanship be changed from the Secretary of Treasury to the Secretary of Defense.

Ninth, the administration should continue its pressure on the EU to maintain its arms embargo on China. The recent Defense Department report states the EU would not have the capability to monitor and enforce any limits if the arms embargo is lifted.

Tenth, penalties should be placed on foreign contractors who sell sensitive military use technology or weapons system to China from benefiting from U.S. defense-related research development in production programs. What is going on is sales are taking place to China on technology that has been subsidized by the United States. In other words, we are putting ourselves in a situation where our national security would be impaired by our own research for which we have paid.

Eleventh, the administration should also provide a report to Congress on the scope of foreign military sales to China.

Finally, Congress should support the recommendations of the Commission's 2004 report to Congress. Unless our relationship with China is backed up with strong action, they will never take us seriously. We will certainly see more violations of proliferation treaties. It is happening over and over. We are looking at it right now. They continue to manipulate regional global trade through currency undervaluation and other unhealthy practices. They will develop unreliable oil sources and energy alliances with countries that threaten international stability. They will continue to escalate the situation over Taiwan, raising the stakes in a game neither country can win.

In today's world, we see how the unpaid bills of the past come back to haunt us in full. Ignoring these problems is unacceptable.

The United States-China Commission was created to give us in Congress a clear picture about what is going on. They have done their job. It is time for us to do our job.

I repeat, this is a commission that has been working now for 4 years. It is a bipartisan commission. These are specific recommendations. This amendment is a sense of the Senate to follow these recommendations.

This is amendment No. 1476.

AMENDMENT NO. 1312 WITHDRAWN

Mr. INHOFE. Mr. President, I withdraw amendment No. 1312.

The PRESIDING OFFICER. Without objection, amendment No. 1312 is withdrawn.

AMENDMENT NO. 1476

Mr. INHOFE. We are considering amendment No. 1476. I ask for the yeas and nays on amendment No. 1476.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. INHOFE. I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, am I now recognized for 15 minutes?

The PRESIDING OFFICER. Yes.

Mr. DORGAN. Mr. President, my colleague has sought to have the yeas and nays on his amendment. Let me do the same. I have two amendments pending. Should there be cloture invoked on this underlying bill, as my colleague from Oklahoma has suggested, I would like my amendments to be considered prior to cloture. I have an amendment No. 1429, which is offered. I ask for the yeas and nays on both of my amendments. Then I will speak on the amendments ever so briefly.

I ask unanimous consent that the pending amendment be set aside.

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

AMENDMENTS NOS. 1426 AND 1429

Mr. DORGAN. Mr. President, I ask that we consider amendment 1429. I previously filed that amendment.

The PRESIDING OFFICER. The Senator has a right to make that the regular order. The amendment is now pending.

Mr. DORGAN. Mr. President, I ask for the yeas and nays on amendment No. 1429.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. DORGAN. I ask unanimous consent that the pending amendment be set aside.

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

Mr. DORGAN. Mr. President, I ask unanimous consent that we consider amendment No. 1426, which I previously filed.

The PRESIDING OFFICER. The Senator can make that the regular order. The amendment is now pending.

Mr. DORGAN. Mr. President, I ask for the yeas and nays on amendment No. 1426.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. DORGAN. Mr. President, I will briefly describe amendment No. 1426. I thank my colleagues for their cooperation. That amendment one that I described at some length on Friday. It has to do with the joint inquiry of the two Intelligence Committees into the terrorist attacks of September 11, 2001. It has to do with the 28 pages in this joint inquiry that have been redacted and classified as top secret. The American people should see these 28 pages. The chairman and the ranking member of the Intelligence Committee at the time said they believe the American people should see these 28 pages. The Government of Saudi Arabia said the American people deserve to see these 28 pages. This book went to the White House for publication. The White House redacted it and classified it as top secret.

I have read the 28 pages. My colleagues have had an opportunity to read them. My former colleague from Florida, who was chairman of the Senate Intelligence Committee, described the question of whether the hijackers on 9/11—and 15 of the 19 were Saudi citizens—whether the hijackers received support from foreign interests and, if so, what kind of support, which foreign interests. The American people have a right to see this.

I hope the Senate will finally vote on asking the President to declassify these pages and give the American people the right to understand what is in those 28 pages.

Again, the chairman of the Intelligence Committee and the ranking member, a Republican and a Democrat, believed at the time those 28 pages should not have been classified.

I will now turn to amendment No. 1429. It deals with waste, fraud, and abuse in contracting in Iraq, and it deals especially with Halliburton, but not exclusively with Halliburton. I have offered this amendment previously as well.

It is unbelievable to me the billions and billions of dollars being spent. A substantial portion of it is being wasted. We know that, and yet no one seems to care or do much about it.

Let me show some charts, if I may. This is a chart of someone who testified before a policy committee hearing I held. This fellow—you cannot see his face—this fellow in the blue striped shirt testified. He was in Iraq when this picture was taken. This is Saran-wrapped bundles of 100-dollar bills, some millions of dollars in 100-dollar bills. He said in this particular area they often played football with these Saran-wrapped bundles of 100-dollar bills.

What was he doing with bundles of 100-dollar bills? The area where this cash was stored, subcontractors in Iraq were told: Bring a bag because we pay in cash; bring a bag. Show up here and want to get paid for whatever you are doing? Bring a bag because we pay in cash.

Let me talk for a moment about the five hearings we held. We heard about cash transactions that were unrecorded, $9 billion that was unaccounted for. ''Uncle Sam Looks into Meal Bills: Halliburton Refunds $27 Million as Result.'' A company that was a Saudi subcontractor doing business through Halliburton billed the Government for 42,000 meals a day, but they only served 14,000 meals to our troops. Let me say that again. They were charging the Government for 42,000 meals served every day to our troops; they were only serving 14,000 meals.

This was not the first time Halliburton has been questioned about this. This was in February 2004.

Also in February 2004, ''Halliburton Faces Criminal Investigation.''

They focus on efforts to solicit bids that transport fuel to Baghdad. Prices Halliburton charged for that work were substantially higher than the cost of trucking in fuel from Turkey. Pentagon launches criminal investigation for possible fraud.

''Ex-Halliburton Workers Allege Rampant Waste.'' Said one employee: They did not control costs at all. Their motto was do not worry about costs. It is cost plus.

Henry Bunting—who testified, incidentally, before one of our Policy Committee hearings—said that they spent $7,500 a month to rent ordinary vehicles, cars and trucks, when the vehicles could have been rented for less than $2,000 a month through the Internet. He also held up some towels. He said they had purchased monogrammed towels for $7.50—these are hand towels for the troops—that should have cost $2.50. Why $7.50? Because Halliburton wanted their logo on the towels.

Now it is May. In February, they talked about overcharging 42,000 meals when they only served 14,000 meals. Now it is May of last year, 4 months later, and the Pentagon says: We are suspending $159 million in meal charges to Halliburton for feeding soldiers because the fact is they were charging for meals they were not serving.

They are still engaged in the same contract, still cheating, and nobody does a thing about it.

''Millions in U.S. Property Lost.'' Halliburton lost $18.6 million in Government property in Iraq. Auditors could not account for 6,975 items on the ledgers of Halliburton's unit.

''Halliburton is Unable to Prove $1.8 Billion in Work, Pentagon Says.'' This has gone on and on. Has Congress done a thing about it, any oversight hearings? None. Nobody seems to care much.

Let me read from a hearing we held in the Policy Committee, a hearing we held because the oversight committees do not hold these hearings. Let me read what the top civilian in the Corps of Engineers, who is engaged in these contracts and approves these contracts, said. This is a woman named Bunnatine Greenhouse. She rose to the highest level in the Corps of Engineers for civilian employees, and now she is losing her job because she was honest. Here is what she said: I can unequivocally state that the abuse related to

contracts awarded to Halliburton represents the most blatant and improper contract abuse I have witnessed during the course of my professional career.

This courageous lady comes forward to testify to say these things, and now her career pays a price for it because we do not want to upset the good old boy network around here. They want to give a sweetheart deal to a company, suspend the rules, and give a sweetheart deal. They cheat you, cheat you again and again, do not worry about it. Do a little investigation down at the Pentagon, but don't anybody in Congress call attention to it. It would be uncomfortable and embarrassing to somebody.

In 1941, Harry Truman, the Senator from Missouri, served in this Chamber. He was a flinty, tough independent. A member of his own party was in the White House, Franklin Delano Roosevelt. A Democrat in the Senate took on the task of identifying the waste, abuse, and fraud that was occurring in spending on our defense. They held hearing after hearing, and they unearthed a massive amount of fraud, waste, and abuse. I am sure that was uncomfortable for the Democrat in the White House, Franklin Delano Roosevelt, because a Democrat Senator was leading the fight. He did it through the Truman Committee that took a hard look at this kind of fraud and abuse.

My amendment would reestablish a Truman-type committee, with Members of both parties on it. When we are shoving tens of billions of dollars out the door to companies such as Halliburton in sole-source contracts, somebody has to watch the cash register.

We had a fellow named Rory testify recently at the Policy Committee. Again, we are holding hearings only because there are not aggressive oversight hearings held in the rest of the Congress because the majority party worries it would embarrass somebody. So Rory comes to testify. He is running a food service unit for Halliburton in Iraq and he says: We are getting food that is in some cases over a year expired on the date stamp for the food. What do they do? They are told: Feed it to the troops.

We get food that comes in on a convoy that has been attacked. What do they do? The supervisors say go into those trucks and remove the shrapnel and remove the bullets and save the bullets as souvenirs for the Halliburton supervisors and feed the food to the troops.

Yes, this fellow ran one of those agencies. Here is what he said: When I was an employee for Halliburton and they were doing this sort of thing, we were told if a Government auditor comes around, do not dare talk to the Government auditor. If you do, one of two things will happen: You will either be sent to a fire zone in Iraq, one under attack, one with significantly more danger than where you work now, or you will be fired summarily. Do not talk to Government auditors.

The question is: When will someone care enough to begin to take a hard look at the money we are spending? Nearly $200 billion has gone out of here, all of it emergency funding, none of it paid for. A substantial portion of that goes to contractors and much of it sole-source contractors, no-bid and cost-plus contracts. The American taxpayers, in my judgment, are paying the price for very substantial abuse and very substantial waste and fraud.

The moment someone comes to the Senate floor and mentions the word ''Halliburton,'' they say: You are attacking the Vice President. I am not. The Vice President used to run Halliburton Corporation. He does not and has not since the year 2000. None of the examples I have cited have happened prior to that time, they have happened since that time. This is not the Vice President's corporation. It is not on his watch as CEO of Halliburton. But these are sweetheart contracts, sole-source contracts.

Fifty thousand pounds of nails are ordered to the country of Iraq, and they are the wrong size. So if one wants some nails, they are laying on the ground somewhere there in the sand, just another piece of waste. Seventy-five hundred dollars to rent a vehicle for a month. Buy new trucks for $85,000, get a flat tire, leave them by the roadside to be trashed. Buy new trucks for $85,000 and have a fuel pump plugged, leave them by the roadside to be trashed and looted. All of that comes from testimony from people who used to work for Halliburton. They have come before our Policy Committee and told these stories that describe outrageous amounts of waste, fraud, and abuse. The question is: Why does no one in this Congress seem to care? My hope is that this Congress would agree to create a Truman-type committee, a committee of Republicans and Democrats that would take a hardnosed, flinty look at how money is being spent.

How much time remains?

The PRESIDING OFFICER. One minute.

Mr. DORGAN. Mr. President, some of my colleagues have said they would like a vote on their amendments prior to cloture. My hope is that we will not have a cloture vote, by the way. I think the best Defense authorization bills that we have had in the Congress have been those that have been debated on the Senate floor for a week or two where we have had a substantial opportunity to think through and debate significant and difficult issues. So I would hope we will not have a cloture vote tomorrow. If in fact we do, I will join my colleague from Oklahoma and others who suggest that I would like a vote prior to cloture because his amendments and mine would fall postcloture. That is one of the dilemmas of cloture.

Clearly, my amendment deals with something that is very important, that attends to the money we are spending on defense and the money we are going to authorize to be spent on defense, but because of the way it is written and the subject, it will fall postcloture. For that reason, I hope we will not invoke cloture tomorrow.

I thank my colleagues for the time and hope they will seriously consider both amendments I have described today.

Mr. WARNER. I thank our colleague. It will be given careful consideration. It relates to an important subject matter.

I understand the Senator from Colorado has about 10 minutes, followed by Senators McCAIN, GRAHAM, and WARNER for 1 hour.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ALLARD. I thank the chairman for yielding me 10 minutes.

There are three amendments that I have offered and I would like to ask for their consideration, and then I wish to make some comments relating to one of them and then finally some comments on the Levin missile defense amendment offered earlier today.

AMENDMENT NO. 1419

I ask unanimous consent that we set aside the pending amendment, and I ask for the consideration of amendment No. 1419.

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

Mr. ALLARD. I ask for the yeas and nays on that amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 1383

Mr. ALLARD. Mr. President, I would ask unanimous consent to lay aside that amendment, and I ask for the consideration of amendment No. 1383. That amendment has been previously filed.

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

The clerk will report.

The legislative clerk read as follows:

The Senator from Colorado [Mr. ALLARD] proposes an amendment numbered 1383.

Mr. ALLARD. 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 establish a program for the management of post-project completion retirement benefits for employees at Department of Energy project completion sites)

On page 378, between lines 10 and 11, insert the following:

SEC. 3114. MANAGEMENT OF POST-PROJECT COMPLETION RETIREMENT BENEFITS FOR EMPLOYEES AT DEPARTMENT OF ENERGY PROJECT COMPLETION SITES.

(a) PROGRAM AUTHORIZED.—

(1) IN GENERAL.—The Secretary of Energy shall carry out a program under which the Secretary shall use competitive procedures to enter into an agreement with a contractor for the plan sponsorship and program management of post-project completion retirement benefits for eligible employees at each

Department of Energy project completion site.

(2) REQUIREMENT OF NO REDUCTION IN TOTAL VALUE OF RETIREMENT BENEFITS.—The total value of post-project completion retirement benefits provided to eligible employees at a Department of Energy project completion site may not be reduced under the program required under paragraph (1) without the specific authorization of Congress.

(b) AGREEMENT FOR BENEFITS MANAGEMENT.—

(1) IN GENERAL.—The Secretary of Energy shall, in accordance with procurement rules and regulations applicable to the Department of Energy, enter into the agreement described in subsection (a) not later than 90 days after the date of the physical completion date for the Department of Energy project completion site covered by the agreement.

(2) TERMS OF AGREEMENT.—The agreement under this section shall—

(A) provide for the plan sponsorship and program management of post-project completion retirement benefits;

(B) fully describe the post-project completion retirement benefits to be provided to employees at the Department of Energy project completion site; and

(C) require that the Secretary reimburse the contractor for the costs of plan sponsorship and program management of post-project completion retirement benefits.

(3) RENEWAL OF AGREEMENT.—The agreement shall be subject to renewal every 5 years until all the benefit obligations have been met.

(c) REPORT.—

(1) IN GENERAL.—Not later than 30 days after signing of the agreement described in subsection (a), the Secretary of Energy shall submit to the congressional defense committees a report on the program established under such subsection.

(2) CONTENTS.—The report submitted under paragraph (1) shall describe—

(A) the costs of plan sponsorship and program management of post-project completion retirement benefits;

(B) the funding profile in the Department of Energy's future year budget for the plan sponsorship and program management of post-project completion retirement benefits under the agreement entered into under subsection (b);

(C) the amount of unfunded accrued liability for eligible workers at the Department of Energy project completion site; and

(D) the justification for awarding the agreement entered into under subsection (b) to the selected contractor.

(d) DEFINITIONS.—In this section:

(1) PHYSICAL COMPLETION DATE.—The term ''physical completion date'' means—

(A) the date of physical completion or achievement of a similar milestone defined by or calculated in accordance with the terms of the completion project contract; or

(B) if the completion project contract specifies no such date, the date declared by the site contractor and accepted by the Department of Energy that the site contractor has completed all services required by the project completion contract other than close-out tasks and any other tasks excluded from the contract.

(2) DEPARTMENT OF ENERGY PROJECT COMPLETION SITE.—The term ''Department of Energy project completion site'' means a site, or a project within a site, in the Department of Energy's nuclear weapons complex that has been designated by the Secretary of Energy for closure or completion without any identified successor contractor.

(3) POST-PROJECT COMPLETION RETIREMENT BENEFITS.—The term ''post-project completion retirement benefits'' means those benefits provided to eligible employees at a Department of Energy project completion site as of the physical completion date through collective bargaining agreements, projects, or contracts for work scope, including pension, health care, life insurance benefits, and other applicable welfare benefits.

(4) ELIGIBLE EMPLOYEES.—The term ''eligible employees'' includes—

(A) any employee who—

(i) was employed by the Department of energy or by contract or first or second tier subcontract to perform cleanup, security, or administrative duties or responsibilities at a Department of Energy project completion site; and

(ii) has met applicable eligibility requirements for post-project completion retirement benefits as of the physical completion date; and

(B) any eligible dependant of such an employee, as defined in the post-project completion retirement benefits plan documents.

(5) UNFUNDED ACCRUED LIABILITY.—The term ''unfunded accrued liability'' means, with respect to eligible employees, the accrued liability, as determined in accordance with an actuarial cost method, that exceeds the present value of the assets of a pension plan and the aggregate projected life-cycle health care costs.

(6) PLAN SPONSORSHIP AND PROGRAM MANAGEMENT OF POST-PROJECT COMPLETION RETIREMENT BENEFITS.—The term ''plan sponsorship and program management of post-project completion retirement benefits'' means those duties and responsibilities that are necessary to execute, and are consistent with, the terms and legal responsibilities of the instrument under which the post-project completion retirement benefits are provided to employees at a Department of Energy project completion site.

AMENDMENT NO. 1506

Mr. ALLARD. Mr. President, I ask unanimous consent to lay that amendment aside, and I ask for the consideration of amendment No. 1506.

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

The clerk will report.

The legislative clerk read as follows:

The Senator from Colorado [Mr. ALLARD], for himself and Mr. SALAZAR, proposes an amendment No. 1506.

Mr. ALLARD. 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 authorize the Secretary of Energy to purchase certain essential mineral rights and resolve natural resources damage liability claims)

On page 378, between lines 10 and 11, insert the following:

SEC. 3114. ROCKY FLATS ENVIRONMENTAL TECHNOLOGY SITE.

(a) DEFINITIONS.—In this section:

(1) ESSENTIAL MINERAL RIGHT.—The term ''essential mineral right'' means a right to mine sand and gravel at Rocky Flats, as depicted on the map.

(2) FAIR MARKET VALUE.—The term ''fair market value'' means the value of an essential mineral right, as determined by an appraisal performed by an independent, certified mineral appraiser under the Uniform Standards of Professional Appraisal Practice.

(3) MAP.—The term ''map'' means the map entitled ''Rocky Flats National Wildlife Refuge'', dated July 25, 2005, and available for inspection in appropriate offices of the United States Fish and Wildlife Service and the Department of Energy.

(4) NATURAL RESOURCE DAMAGE LIABILITY CLAIM.—The term ''natural resource damage liability claim'' means a natural resource damage liability claim under subsections (a)(4)(C) and (f) of section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607) arising from hazardous substances releases at or from Rocky Flats that, as of the date of enactment of this Act, are identified in the administrative record for Rocky Flats required by the National Oil and Hazardous Substances Pollution Contingency Plan prepared under section 105 of that Act (42 U.S.C. 9605).

(5) ROCKY FLATS.—The term ''Rocky Flats'' means the Department of Energy facility in the State of Colorado known as the ''Rocky Flats Environmental Technology Site''.

(6) SECRETARY.—The term ''Secretary'' means the Secretary of Energy.

(7) TRUSTEES.—The term ''Trustees'' means the Federal and State officials designated as trustees under section 107(f)(2) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607(f)(2)).

(b) PURCHASE OF ESSENTIAL MINERAL RIGHTS.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, such amounts authorized to be appropriated under subsection (c) shall be available to the Secretary to purchase essential mineral rights at Rocky Flats.

(2) CONDITIONS.—The Secretary shall not purchase an essential mineral right under paragraph (1) unless—

(A) the owner of the essential mineral right is a willing seller; and

(B) the Secretary purchases the essential mineral right for an amount that does not exceed fair market value.

(3) LIMITATION.—Only those funds authorized to be appropriated under subsection (c) shall be available for the Secretary to purchase essential mineral rights under paragraph (1).

(4) RELEASE FROM LIABILITY.—Notwithstanding any other law, any natural resource damage liability claim shall be considered to be satisfied by—

(A) the purchase by the Secretary of essential mineral rights under paragraph (1) for consideration in an amount equal to $10,000,000;

(B) the payment by the Secretary to the Trustees of $10,000,000; or

(C) the purchase by the Secretary of any portion of the mineral rights under paragraph (1) for—

(i) consideration in an amount less than $10,000,000; and

(ii) a payment by the Secretary to the Trustees of an amount equal to the difference between—

(I) $10,000,000; and

(II) the amount paid under clause (i).

(5) USE OF FUNDS.—

(A) IN GENERAL.—Any amounts received under paragraph (4) shall be used by the Trustees for the purposes described in section 107(f)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607(f)(1)), including—

(i) the purchase of additional mineral rights at Rocky Flats; and

(ii) the development of habitat restoration projects at Rocky Flats.

(B) CONDITION.—Any expenditure of funds under this paragraph shall be made jointly by the Trustees.

(C) ADDITIONAL FUNDS.—The Trustees may use the funds received under paragraph (4) in

conjunction with other private and public funds.

(6) EXEMPTION FROM NATIONAL ENVIRONMENTAL POLICY ACT.—Any purchases of mineral rights under this subsection shall be exempt from the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(7) ROCKY FLATS NATIONAL WILDLIFE REFUGE.—

(A) TRANSFER OF MANAGEMENT RESPONSIBILITIES.—The Rocky Flats National Wildlife Refuge Act of 2001 (16 U.S.C. 668dd note; Public Law 107–107) is amended—

(i) in section 3175—

(I) by striking subsections (b) and (f); and

(II) by redesignating subsections (c), (d), and (e) as subsections (b), (c), and (d), respectively; and

(ii) in section 3176(a)(1), by striking ''section 3175(d)'' and inserting ''section 3175(c)''.

(B) BOUNDARIES.—Section 3177 of the Rocky Flats National Wildlife Refuge Act of 2001 (16 U.S.C. 668dd note; Public Law 107–107) is amended by striking subsection (c) and inserting the following:

''(c) COMPOSITION.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the refuge shall consist of land within the boundaries of Rocky Flats, as depicted on the map—

''(A) entitled 'Rocky Flats National Wildlife Refuge';

''(B) dated July 25, 2005; and

''(C) available for inspection in the appropriate offices of the United States Fish and Wildlife Service and the Department of Energy.

''(2) EXCLUSIONS.—The refuge does not include—

''(A) any land retained by the Department of Energy for response actions under section 3175(c);

''(B) any land depicted on the map described in paragraph (1) that is subject to 1 or more essential mineral rights described in section 3114(a) of the National Defense Authorization Act for Fiscal Year 2006 over which the Secretary shall retain jurisdiction of the surface estate until the essential mineral rights—

''(i) are purchased under subsection (b) of that Act; or

''(ii) are mined and reclaimed by the mineral rights holders in accordance with requirements established by the State of Colorado; and

''(C) the land depicted on the map described in paragraph (1) on which essential mineral rights are being actively mined as of the date of enactment of the National Defense Authorization Act for Fiscal Year 2006 until—

''(i) the essential mineral rights are purchased; or

''(ii) the surface estate is reclaimed by the mineral rights holder in accordance with requirements established by the State of Colorado.

''(3) ACQUISITION OF ADDITIONAL LAND.—Notwithstanding paragraph (2), upon the purchase of the mineral rights or reclamation of the land depicted on the map described in paragraph (1), the Secretary shall—

''(A) transfer the land to the Secretary of the Interior for inclusion in the refuge; and

''(B) the Secretary of the Interior shall—

''(i) accept the transfer of the land; and

''(ii) manage the land as part of the refuge.''.

(c) FUNDING.—Of the amounts authorized to be appropriated to the Secretary for the Rocky Flats Environmental Technology Site for fiscal year 2006, $10,000,000 shall be made available to the Secretary for the purposes described in subsection (b).

Mr. ALLARD. Mr. President, No. 1506 deals with the mineral rights at Rocky Flats. This basically will provide for the Secretary to purchase these mineral rights. There is money that has been provided for this in previous legislation and that is pending. This allows for the transfer of those mineral rights on Rocky Flats. It is based on the owner of the mineral rights being willing to sell.

In 2001, I successfully inserted a provision in the National Defense authorization bill that authorized the creation of the Rocky Flats National Wildlife Refuge. Under this legislation, the Department of Energy was required to transfer most of the Rocky Flats Environmental Technology Site to the Department of Interior for the purposes of creating a wildlife refuge to preserve Colorado's rare Front Range habitat.

Earlier, 2 months ago, the Departments of Energy and Interior signed a memorandum of understanding that stipulated how and when the Department of Energy would transfer the management of most of the Rocky Flats Environmental Technology Site to the Department of Interior. However, this memorandum of understanding was incomplete. It completely deferred the issue of the disruptive surface mining of privately owned mineral rights that is occurring on the site until later this year. This deferral did not meet the legislation requirement under the Rocky Flats National Wildlife Refuge Act and represented a critical impediment to the closure of Rocky Flats.

The Department of Interior contended that surface mining such as that now occurring at Rocky Flats is fundamentally contrary to its refuge management goals, and makes the achievement of refuge purposes on those lands impossible.

To better understand this issue, I requested that the Department of Energy hire an independent contractor to conduct an appraisal on the value of the mineral rights. The independent contractor determined the owners and provided a preliminary cost estimate as to the fair market value of those mineral rights containing sand and gravel.

After the appraisal was completed, my staff personally contacted each mineral rights owner. I wanted to see if they would be interested in selling if they were offered money for the fair market value of the mineral rights. I also reassured them that the owners would not be forced to sell if they didn't want to.

Shortly thereafter, it was brought to my attention that the purchase of mineral rights could be included as part of a comprehensive natural resource damage settlement. I am pleased to announce that the State of Colorado, my colleague from Colorado, Senator SALAZAR, and I have worked out legislation providing for such an arrangement. I am confidant that this arrangement will be acceptable to the Department of Energy and the Department of Interior.

Under the amendment I am introducing today, the Secretary of Energy will be required to purchase essential mineral rights necessary to transition Rocky Flats to a national wildlife refuge.

The Secretary can only purchase these mineral rights once the following conditions are met: (1) The owner of the minieral right is a willing seller; (2) the Secretary purchases the mineral right at fair market value; and (3) the Trustees for Rocky Flats release the Department from its natural resource damage liabilities under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, CERCLA.

Also included in this legislation is a provision that states that if the owner of the mineral right refuses to sell, the Secretary of Energy may satisfy the Department's natural resource liability obligation by paying the trustees of the site an amount equal to the fair market value of the mineral right owned by the unwilling seller.

I believe this amendment makes too much sense for us to pass up. We have winners, winners, and winners. It is certainly a win for the State of Colorado—the State mechanism that would provide more dollars for Colorado than most likely would have been gained through the normal natural resources damages settlement process. The owners of the mineral rights win because they now have an opportunity to sell their mineral rights at fair market value, a possibility that never existed before. The Department of Energy wins because it is able to pay off its natural resource damage liabilities that would have arisen under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980. The Department of Interior wins because this legislation would remove the last impediment to the memorandum of understanding between Interior and the Department of Energy so that Interior can move forward with creating a wildlife refuge at Rocky Flats. Most importantly, the people of Colorado win because now they will be able to enjoy the pristine beauty and splendor of the Rocky Mountain's Front Range through the Rocky Flats National Wildlife Refuge. Hundreds of acres of rare xeric tallgrass prairie will be preserved. The natural wildlife in the refuge will be protected.

As I said, this is a win-win proposal. Everyone gains. I urge my colleagues to support my amendment.

AMENDMENT NO. 1492

I rise in opposition to the Levin missile defense amendment. This amendment eliminates $30 million—there has been $50 million requested—for long-lead funding for ground-based interceptor missiles 31–40 and $20 million for associated silo construction. The $50 million would be used to plus-up the Cooperative Threat Reduction Program which is already fully funded at $415.5 million, with an additional $1.6 billion for DOE nonproliferation programs.

The CTR currently has $500 million in unobligated funds for 2005. So I would hope we could keep these provisions in the current authorization bill.

DOD already directed a $1 billion reduction in MDA funding in fiscal year 2006 and $5 billion in 2006 through 2011. To add upon that an additional reduction in long-term funding puts this program in jeopardy. We need to have those long-term plans in place, funded, because they are very important to the security of this Nation.

This amendment would unnecessarily delay the fielding of ground-based interceptors in 2009 and 2010. We simply cannot afford such a delay because the threat is ''real and imminent,'' as General Cartwright has testified. The CIA and DIA assess North Korea as ready to flight test an ICBM that can reach the United States, and Iran may have such a capability in 2015, according to the DIA.

A production break, by the way, would cost $270 million to restart, so there is a cost in delaying these funds.

Despite recent test failures, the technology is mature enough to proceed with fielding even though we continue to test and improve reliability.

STRATCOM, the Director of Operational Tests and Evaluation, and the Independent Review Team agree that the ground-based midcourse defense test bed has some limited capability. The Independent Review Team also found no fundamental design flaws with the GMD system, and that we need to concentrate on manufacturing quality control.

I happen to be in favor of more operational testing. The MDA is pursuing a prudent approach by delaying further testing until reliability issues are addressed. Four flight tests were scheduled for 2006, starting in October and ending with an intercept next September. Also, the SASC adopted the Nelson amendment that directs increasing cooperation between independent testing agencies and MDA, and calls for more operationally realistic testing that will be evaluated by the Director of Operational Test and Evaluation.

I have been out to visit the southern parts of the test bed. I am convinced our technology is there. I am convinced the threat is real. As a result, I think we need to move forward and we need to move forward in a long-term way so the manufacturers who provide the missiles and technology for the program have some reliable source of revenue as we move forward. We should not interrupt the program. The agencies that are responsible for administering the program need to have that funding there so they can continue to plan in the future for the defense of this country.

There is an emerging threat. There is a threat that continues to emerge, I would say, from North Korea. I think we have to be concerned about Iran.

I have always been a strong proponent of missile defense. I think this particular amendment that Senator LEVIN has introduced tends to make it difficult for us to meet our long-range goals, to protect the borders of this country, and protect the American people from some type of missile attack. In today's environment, it is important that we have that insurance for the future of America.

I wanted to make the comments on the Levin amendment because I think it is ill-advised in light of the state of the world today.

Mr. President, how much time do I have left?

The PRESIDING OFFICER. The Senator has 3 minutes remaining.

Mr. ALLARD. Mr. President, I yield the remainder of my time to the chairman.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, under the unanimous consent requirement, Senator MCCAIN, Senator GRAHAM, and I are now recognized for an hour. I ask our distinguished colleague from Arizona—I would like to amend that to allow Senator SALAZAR to go for 2 minutes. I request that unanimous consent.

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

The Senator from Colorado is recognized.

AMENDMENT NO. 1506

Mr. SALAZAR. Mr. President, I thank my friend from Arizona, also my friend from Virginia, and my friend from Rhode Island for agreeing to let me speak for a couple of minutes on this amendment.

The amendment both Senator ALLARD and I are proposing, amendment No. 1506, is very important as we move forward with the Department of Energy complex. We have created a great model for the rest of our country as to how we clean up the remnants of the Cold War. How we do this in an appropriate fashion to bring the cleanup of Rocky Flats to completion is a very important part of our Nation's efforts to clean up these facilities.

Amendment No. 1506 is a great step in the right direction because it will help us bring to conclusion, in a final form, the cleanup at Rocky Flats. I commend my colleague from Colorado, Senator ALLARD, for his leadership on this effort over the years. I also commend him and both of our staffs for having worked out the issues with the Department of Energy and Department of Interior over the weekend.

I also want to inform my colleagues that I have had a hold on four nominees who had been passed out of the committee, out of the Energy Committee. I am lifting the holds on Jill Sigal, David Hill, James Rispoli, and Thomas Weimer so that they can move forward and hopefully be confirmed by the Senate before we get into the August recess.

I yield the remainder of my time.

Mr. WARNER. Mr. President, we now turn to the three Senators. I would like to take 1 minute to address both Colorado Senators.

I followed with interest your amendments. I do hope we now have on the record a clear statement of support by the Secretary of Energy. Am I correct in that?

Mr. ALLARD. As I have discussed with the Chairman's staff—I assume you are talking about the amendment on the mineral rights.

Mr. WARNER. Yes.

Mr. ALLARD. That provision is before the OMB, so I cannot publicly state their position until we get a decision back from OMB.

Mr. WARNER. I thank the Senator.

Now, Mr. President, we would like to commence the 1 hour. I yield the floor so Senator MCCAIN can gain recognition. But I would want to say this is a subject that is enormously important. I commend Senator MCCAIN and Senator GRAHAM. It merits the full attention and hopefully the support of the Senate. These are issues that go far beyond just the question of detention. It goes to the perception of the great Nation of which we are privileged to be citizens, the United States of America, as it relates to how we treat those people who come into our custody in the course of defending freedom, on battle fields, and elsewhere in the world. I have such great respect for Senator MCCAIN.

I yield the floor.

AMENDMENT NO. 1557, AS MODIFIED

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I ask unanimous consent that I be allowed to modify my amendment No. 1557, which is at the desk.

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

Mr. MCCAIN. Mr. President, I ask the pending amendment be set aside, and I call up amendment No. 1557, which is at the desk. I ask the clerk continue the reading of the amendment because it is short and important.

The PRESIDING OFFICER. Without objection, the clerk will report.

The legislative clerk read as follows:

The Senator from Arizona [Mr. MCCAIN], for himself, Mr. WARNER, Mr. GRAHAM, and Ms. COLLINS, proposes an amendment numbered 1557, as modified:

At the end of subtitle G of title X, add the following:

SEC. 1073. UNIFORM STANDARDS FOR THE INTERROGATION OF PERSONS UNDER THE DETENTION OF THE DEPARTMENT OF DEFENSE.

(a) LIMITATION ON INTERROGATION TECHNIQUES.—

(1) IN GENERAL.—No person in the custody or under the effective control of the Department of Defense or under detention in a Department of Defense facility shall be subject to any treatment or technique of interrogation not authorized by and listed in the United States Army Field Manual on Intelligence Interrogation.

(2) APPLICABILITY.—Paragraph (1) shall not apply to with respect to any person in the custody or under the effective control of the Department of Defense pursuant to a criminal law or immigration law of the United States.

(3) CONSTRUCTION.—Nothing in this subsection shall be construed to affect the rights under the United States Constitution of any person in the custody or under the physical jurisdiction of the United States.

Mr. MCCAIN. Mr. President, I asked that amendment be read because there may be various interpretations of what this amendment is and what it means. What it means to the sponsors—and I am grateful to my friend, Senator WARNER, the distinguished chairman of the committee, and Senator GRAHAM and others, including Senator COLLINS and others who have supported this. Basically, it says the U.S. Army Field Manual on Intelligence Interrogation shall be the document that governs interrogation of prisoners who are under Department of Defense custody.

Some of us may like to see this expanded to treatment of prisoners who are under custody of different agencies of Government. This applies to the Department of Defense.

Before I proceed further, I ask my friend from Virginia—as he knows, we have two amendments. One is this one which we have just read, and the other one concerning cruel and inhumane treatment, which we are sort of still working on. Is it the desire of the Chairman we take up both amendments at this time?

Mr. WARNER. Mr. President, I suggest we take up the other one—you and I have discussed it—as soon as the other one is completed because I am a cosponsor on the one that is now pending.

Mr. MCCAIN. I thank the distinguished chairman. For the information of my colleagues, the second amendment, which would be before the Senate for consideration at a different time, basically says that cruel and inhumane treatment will not be inflicted upon any prisoner, and we would adhere to the Geneva Conventions as well as other international agreements concerning the treatment of prisoners.

But on this issue it says this amendment would prohibit cruel and inhumane and degrading treatment of prisoners in the detention of the U.S. Government, and it is basically fairly straightforward and simple, as I read.

The Army Field Manual and its various editions have served America well, through wars against both regular and irregular foes. The manual embodies the values Americans have embraced for generations while preserving the ability of our interrogators to extract critical intelligence from ruthless foes. Never has this been more important than today in the midst of the war on terror.

I think we all agree to fight terrorism we must obtain intelligence. But we have to ensure that it is reliable and acquired in a way that is humane. To do otherwise not only offends our national morals but undermines our efforts to protect the Nation's security.

Abuse of prisoners harms—harms, not helps—us in the war on terror because inevitably these abuses become public. When they do, the cruel actions of a few darken the reputation of our honorable country in the eyes of millions. Mistreatment of our prisoners also endangers U.S. servicemembers who might be captured by the enemy—if not in this war, then in the next.

I want to emphasize to some of my friends who say that we should do anything that is necessary to extract intelligence, No. 1, torture doesn't work; No. 2, if extraneous or extraordinary actions have to be taken—and there may be cases, and we will get into this in the next amendment, where someone has information that it is believed poses an immediate threat to the United States—then I would suppose that it would be entirely appropriate, under law, that the President of the United States could make that judgment and take whatever actions are necessary. In the meantime, the Army Field Manual authorizes interrogation techniques that are proven effective in extracting lifesaving information from the most hardened prisoners. It also recognizes that torture and cruel treatment are ineffective methods because they induce prisoners to say what their interrogators want to hear, even if it is not true.

It is consistent with our laws and, most importantly, our values. Our values are different from those of our enemies. When colleagues or others may come on this floor and say: Well, they do it, others do it, al-Qaida does it, other nations in the world do it, what differentiates us, the United States of America, from other countries is the fact that we do not. We do not abuse human rights. We do not do it. I would argue the pictures, terrible pictures from Abu Ghraib, harmed us—not only in the Arab world, which is an area of great concern but it also harmed us dramatically amongst friendly nations, the Europeans, many of our allies.

Of course, they were appalled. Of course, we were all appalled. As we go through this later on, there were interesting exchanges between the civilian general counsel in the Pentagon and the military judge advocate general's—members of the judge advocate general, who were deeply concerned about regulations that were proposed for adoption, and exhibited very serious and fundamental concerns. For a short period of time, unfortunately, those objections by the uniform lawyers in the Pentagon were overruled, and we went through a period of time—thank God only a few months—where interrogation techniques were allowed which were then repealed, I am happy to say.

Our friends in London and elsewhere find themselves confronting the same evil that we do. Preserving the common values we hold dear is more important than ever. We fight not just to preserve our lives and liberties but our morals, and we will never allow the terrorists to take those from us. In this war that we must win—that we will win—we should never fight evil with evil.

As I said, the amendment I am offering would establish the Army Field Manual as the standard for interrogation of all detainees held in Department of Defense custody. The manual has been developed by the executive branch for its own uses, with a new edition written to take into account the needs of the war on terror for the new classified annexes due to be issued soon.

The advantage of setting a standard for interrogation based on the field manual is to cut down on the significant level of confusion that still exists with respect to which interrogation techniques are allowed. Two weeks ago, the Committee on Armed Services held hearings, under the chairmanship of Senator LINDSEY GRAHAM, with a slew of high-level Defense Department officials from regional commanders to judge advocate generals from the various branches to the Department's deputy general counsel.

A chief topic of discussion was what specific interrogation techniques are permitted, in what environment, with which DOD detainees, by whom and when. The answers included a whole lot of confusion. We got a bunch of contradictory answers. Several: I would have to take a look at that. A few: Let me get back to you.

Let's think about that for a second. If at the highest level of the Pentagon they do not know what exact techniques are allowed and what aren't, what is going on in the prisons? What is going on with the soldiers, the sergeant, the corporal, those who are supposed to do the actual interrogations? What we are trying to do is make sure there are clear and exact standards set for interrogation of prisoners which have held for other wars and are now being updated to take into consideration the kind of war that we are in.

Confusion results in the kind of messes that once again could give America a black eye around the world. We need a clear, simple, and consistent standard. We will have it in the Army Field Manual on interrogation. That is not my opinion but that of many more distinguished military legal minds than mine.

I received a letter recently from a group of people, 11 former high-ranking military officers, including RADM John Hutson and RADM Don Guter, who each served as the Navy's top JAG, and Claudia Kennedy, who was Deputy Chief of Staff for Army Intelligence. These and other distinguished officers believe that the abuses took place in part because our soldiers received ambiguous instructions which, in some cases, authorized treatment that went beyond what the Field Manual allows and that had the Manual been followed across the board we could have avoided the prisoner abuse scandal.

I am not sure we could have, Mr. President, but wouldn't any of us have done whatever we could to have prevented that?

I ask unanimous consent this letter, dated July 22, 2005, be printed in the RECORD.

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

JULY 22, 2005.

DEAR SENATOR MCCAIN: We strongly support your proposed amendments to the Defense Department Authorization bill concerning detainee policy, including requiring all interrogations of detainees in DOD custody to conform to the U.S. Army's Field Manual on Intelligence Interrogation (FM 34–52), and prohibiting the use of torture and cruel, inhuman and degrading treatment by any U.S. government agency.

The abuse of prisoners hurts America's cause in the war on terror, endangers U.S. service members who might be captured by the enemy, and is anathema to the values Americans have held dear for generations. For many years, those values have been embodied in the Army Field Manual. The Manual applies the wisdom and experience gained by military interrogators in conflicts against both regular and irregular foes. It authorizes techniques that have proven effective in extracting life-saving information from the most hardened enemy prisoners. It also recognizes that torture and cruel treatment are ineffective methods, because they induce prisoners to say what their interrogators want to hear, even if it is not true, while bringing discredit upon the United States.

It is now apparent that the abuse of prisoners in Abu Ghraib, Guantanamo and elsewhere took place in part because our men and women in uniform were given ambiguous instructions, which in some cases authorized treatment that went beyond what was allowed by the Army Field Manual. Administration officials confused matters further by declaring that U.S. personnel are not bound by longstanding prohibitions of cruel treatment when interrogating non-U.S. citizens on foreign soil. As a result, we suddenly had one set of rules for interrogating prisoners of war, and another for ''enemy combatants;'' one set for Guantanamo, and another for Iraq; one set for our military, and another for the CIA. Our service members were denied clear guidance, and left to take the blame when things went wrong. They deserve better than that.

The United States should have one standard for interrogating enemy prisoners that is effective, lawful, and humane. Fortunately, America already has the gold standard in the Army Field Manual. Had the Manual been followed across the board, we would have been spared the pain of the prisoner abuse scandal. It should be followed consistently from now on. And when agencies other than DOD detain and interrogate prisoners, there should be no legal loopholes permitting cruel or degrading treatment.

The amendments proposed by Senator McCain would achieve these goals while preserving our nation's ability to fight the war on terror. They reflect the experience and highest traditions of the United States military. We urge the Congress to support this effort.

General Joseph Hoar (Ret. USMC).

Lieutenant General Robert G. Gard, Jr. (Ret. USA).

Lieutenant General Claudia J. Kennedy (Ret. USA).

Major General Melvyn Montano (Ret. USAF Nat. Guard).

Rear Admiral Don Guter (Ret. USN).

Rear Admiral John D. Hutson (Ret. USN).

Brigadier General David M. Brahms (Ret. USMC).

Brigadier General James Cullen (Ret. USA).

Brigadier General Evelyn P. Foote (Ret. USA).

Brigadier General David R. Irvine (Ret. USA).

Brigadier General Richard O'Meara (Ret. USA).

Ambassador Douglas ''Pete'' Peterson.

Former Vietnam POW Commander Frederick C. Baldock (Ret. USN).

Former Vietnam POW Commander Phillip N. Butler (Ret. USN).

General Joseph Hoar (Ret. USMC)—General Hoar served as Commander-in-Chief, U.S. Central Command. After the first Gulf War, General Hoar led the effort to enforce the naval embargo in the Red Sea and the Persian Gulf, and to enforce the no-fly zone in the south of Iraq. He oversaw the humanitarian and peacekeeping operations in Kenya and Somalia and also supported operations in Rwanda, and the evacuation of U.S. civilians from Yemen during the 1994 civil war. He was the Deputy for Operations for the Marine Corps during the Gulf War and served as General Norman Schwarzkopf's Chief of Staff at Central Command. General Hoar currently runs a consulting business in California.

Lt. General Robert G. Gard, Jr. (Ret. USA)—General Gard is a retired Lieutenant General who served in the United States Army; his military assignments included combat service in Korea and Vietnam. He is currently a consultant on international security and president emeritus of the Monterey Institute for International Studies.

Lieutenant General Claudia J. Kennedy (Ret. USA)—General Kennedy is the first and only woman to achieve the rank of three-star general in the United States Army. Kennedy served as Deputy Chief of Staff for Army Intelligence, Commander of the U.S. Army Recruiting Command, and as Commander of the 703d military intelligence brigade in Kunia, Hawaii.

Major General Melvyn Montano (Ret. USAF Nat. Guard)—General Montano was the adjutant general in charge of the National Guard in New Mexico from 1994 to 1999. He served in Vietnam and was the first Hispanic Air National Guard officer appointed as an adjutant general in the country.

Rear Admiral Don Guter (Ret. USN)—Admiral Guter served as the Navy's Judge Advocate General from 2000 to 2002. Admiral Guter is currently CEO of Vinson Hall Corporation/Executive Director of the Navy Marine Coast Guard Residence Foundation in McLean, Virginia.

Rear Admiral John D. Hutson (Ret. USN)—Admiral John D. Hutson served as the Navy's Judge Advocate General from 1997 to 2000. Admiral Hutson now serves as President and Dean of the Franklin Pierce Law Center in Concord, New Hampshire.

Brigadier General David M. Brahms (Ret. USMC)—General Brahms served in the Marine Corps from 1963–1988. He served as the Marine Corps' senior legal adviser from 1983 until his retirement in 1988. General Brahms currently practices law in Carlsbad, California and sits on the board of directors of the Judge Advocates Association.

Brigadier General James Cullen (Ret. USA)—General Cullen is a retired Brigadier General in the United States Army Reserve Judge Advocate General's Corps and last served as the Chief Judge (IMA) of the U.S. Army Court of Criminal Appeals. He currently practices law in New York City.

Brigadier General Evelyn P. Foote (Ret. USA)—General Foote was Commanding General of Fort Belvoir in 1989. She was recalled to active duty in 1996 to serve as Vice Chair of the Secretary of the Army's Senior Review Panel on Sexual Harassment. She is President of the Alliance for National Defense, a non-profit organization.

Brigadier General David R. Irvine (Ret. USA)—General Irvine is a retired Army Reserve strategic intelligence officer and taught prisoner interrogation and military law for 18 years with the Sixth Army Intelligence School. He last served as Deputy Commander for the 96th Regional Readiness Command, and currently practices law in Salt Lake City, Utah.

Brigadier General Richard O'Meara (Ret. USA)—Brigadier General Richard O'Meara is a combat decorated veteran who fought in Vietnam before earning his law degree and joining the Army's Judge Advocate General Corps. He retired from the Army Reserves in 2002 and now teaches courses on Human Rights and History at Kean University and at Monmouth University.

Ambassador Douglas ''Pete'' Peterson—Ambassador Peterson served as the ambassador to the Socialist Republic of Vietnam until 2001. Prior to his diplomatic posting, Ambassador Peterson served three terms as a member of the United States House of Representatives, representing the Second Congressional District of Florida. He served 26 years in the United States Air Force having served in worldwide assignments as a fighter pilot and commander. He is a distinguished combat veteran of the Vietnam War and was incarcerated as a POW during that conflict for more than six years. He completed his military service in 1981 and has extensive experience in the private sector.

Commander Frederick C. Baldock (Ret. USN)—Commander Baldock was a Navy pilot and is a combat veteran of the Vietnam War. His plane was shot down over North Vietnam in 1966, and he spent seven years in captivity as a POW.

Commander Phillip N. Butler (Ret. USN)—Commander Butler was a Navy pilot and is a combat veteran of the Vietnam War. His plane was shot down over North Vietnam in 1965, and he spent nearly eight years in captivity as a POW.

Mr. MCCAIN. I read from the letter:

We strongly support your proposed amendments to the Defense Department Authorization bill concerning detainee policy, including requiring all interrogations of detainees in DOD custody to conform to the U.S. Army's Field Manual on Intelligence Interrogation (FM 34–52), and prohibiting the use of torture and cruel, inhuman and degrading treatment by any U.S. government agency.

It is now apparent that the abuse of prisoners in Abu Ghraib, Guantanamo and elsewhere took place in part because our men and women in uniform were given ambiguous instructions, which in some cases authorized treatment that went beyond what was allowed by the Army Field Manual. Administration officials confused matters further by declaring that U.S. personnel are not bound by longstanding prohibitions of cruel treatment when interrogating non-U.S. citizens on foreign soil. As a result, we suddenly had one set of rules for interrogating prisoners of war, and another for ''enemy combatants;'' one set for Guantanamo, and another for Iraq; one set for our military, and another for the CIA. Our service members were denied clear guidance, and left to take the blame when things went wrong. They deserve better than that.

The United States should have one standard for interrogating enemy prisoners that is effective, lawful, and humane. Fortunately, America already has the gold standard in the Army Field Manual. Had the Manual been followed across the board, we would have been spared the pain of the prisoner abuse scandal. It should be followed consistently from now on. And when agencies other than

DOD detain and interrogate prisoners, there should be no legal loopholes permitting cruel or degrading treatment.

This is signed by GEN Joseph Hoar, LTG Robert Gard, LTG Claudia Kennedy, MG Melvyn Montano, RADM Don Guter, RADM John Hutson, BG David Brahms, BG James Cullen, BG Evelyn Foote, BG David Irvine, BG Richard O'Meara, et cetera, and all of these people, including General Hoar, served as Commander in Chief United States Central Command. These are very credible people. If we had chosen, we could have gotten many more signatories to this amendment.

We are Americans. We hold ourselves to humane standards of treatment no matter how terribly evil or awful they may be. To do otherwise undermines our security, and it also undermines our greatness as a nation. We are not simply any other country. We stand for a lot more than that in the world: a moral mission, one of freedom and democracy and human rights at home and abroad.

We are better than the terrorists, and we will win because we are better than they are. The enemy we fight has no respect for human life or human rights. They don't deserve our sympathy. But this is not about who they are—it is not about who they are. It is about who we are. These are values that distinguish us from our enemies.

President Bush understands that the war on terror is ultimately a battle of ideas, a battle we will win by spreading and standing firmly for the values of decency, democracy, and the rule of law. I stand with him in this commitment. By applying to ourselves the basic standards we rightly preach to others, I believe we will only increase our effectiveness as the world's ultimate champion of liberty.

I thank Senator WARNER and Senator GRAHAM and others who have shown an interest. Senator WARNER has had a series of hearings for a long period of time. I believe we can do a great service for the military and for the country if we adopt this simple two-paragraph amendment that basically says that prisoners will be treated according to the Army Field Manual, which, by the way, is the tradition of treatment of prisoners for many wars.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I commend Senator MCCAIN. I have been privileged to know him ever since I was Secretary of Navy in the closing years of the war in Vietnam. I know no military family that has served our Nation with greater distinction than the McCain family. This is a subject about which my dear friend has knowledge that none of us possess. I have absolute confidence they are doing the right thing.

The two of us do have some technical differences of opinion. His amendment is predicated on the Army Field Manual which he mentioned is being revised. The current Army Field Manual basically dealt with State-sponsored conflict. I have every reason to believe that the follow-on manual, in due course, presumably in both classified and unclassified form, will be completed.

AMENDMENT NO. 1566

There is another approach here. I ask unanimous consent, if it is agreeable, to set the McCain amendment aside temporarily and ask amendment 1566 be brought up.

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

Mr. WARNER. And in no way do I wish it to substitute for Senator MCCAIN's amendment. This is a complicated subject.

Essentially, my amendment simply says it will be the Secretary of Defense that will establish uniform standards and procedures for two separable subjects, detention and interrogation.

While I have not had a chance to go through in detail the Army's Field Manual, I am not sure there is the emphasis placed on the detention rule in such a manner as equivalent to the detention and regulation that will be and is on the interrogation. Those responsible for detention are often quite different than those responsible for interrogation. If there is any mistreatment in the course of the detention, depending on the timing between such treatment and the follow-on interrogation, it seems to me we have a problem.

Therefore, my amendment entrusts to the Secretary of Defense the task to put together basically all of the objectives as enunciated by my distinguished friend from Arizona.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia, [Mr. WARNER], proposes an amendment numbered 1566.

Mr. WARNER. I ask unanimous consent the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To provide for uniform standards and procedures for the interrogation of persons under the detention of the Department of Defense)

At the end of subtitle G of title X, add the following:

SEC. 1073. UNIFORM STANDARDS AND PROCEDURES FOR TREATMENT OF PERSONS UNDER DETENTION BY THE DEPARTMENT OF DEFENSE.

(a) UNIFORM STANDARDS AND PROCEDURES REQUIRED.—The Secretary of Defense shall establish uniform standards and procedures for the detention and interrogation of persons in the custody or under the control of the Department of Defense.

(b) CONSISTENCY WITH LAW AND TREATY OBLIGATIONS.—The standards and procedures established under subsection (a) shall be consistent with United States law and international treaty obligations.

(c) APPLICABILITY.—

(1) IN GENERAL.—The standards and procedures established under subsection (a) shall apply to all detention and interrogation activities involving persons in the custody or under the control of the Department of Defense, and to such activities conducted within facilities controlled by the Department of Defense, regardless of whether such activities are conducted by Department of Defense personnel, Department of Defense contractor personnel, or personnel or contractor personnel of any other department, agency, or element of the United States Government.

(2) EXCEPTION.—The standards and procedures established under subsection (a) shall not apply with respect to any person in the custody or under the control of the Department of Defense pursuant to a criminal law or immigration law of the United States.

(d) CONSTRUCTION.—Nothing in this section shall affect such rights, if any, under the Constitution of the United States of any person in the custody or under the control of the Department of Defense.

(e) NOTICE TO CONGRESS OF REVISION.—Not later than 60 days before issuing any revision to the standards and procedures established under subsection (a), the Secretary of Defense shall notify, in writing, the congressional defense committees of such revision.

(f) DEADLINE.—The standards and procedures required by subsection (a) shall be established not later than 60 days after the date of the enactment of this Act.

Mr. WARNER. There are considerable parallels between the two amendments, with the exception that the subject should be adjusted to the Secretary of Defense. He may well designate the Army Field Manual as his work product, but then I would need, under the amendment, the assurance that equal emphasis is put on the detention phase as well as the interrogation phase.

Recent history has shown we must have uniform standards for detention and interrogation across the Department of Defense. We cannot have different standards for different theaters.

Soldiers, as Senator MCCAIN pointed out, have to be trained and well understand the rules and regulations as they relate to both detention and interrogation. That is the goal of the McCain amendment. I wholeheartedly support it. It is best to entrust the entire subject to the Secretary of Defense and hold him accountable, as opposed to the designation of the specific document which is in the process of being changed.

AMENDMENT NO. 1557, AS MODIFIED

Mr. President, I ask unanimous consent that the Senate return to consideration of the McCain amendment.

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

Mr. WARNER. Mr. President, seeing our other colleague, Senator GRAHAM, I yield the floor. But I also see Senator MCCAIN.

The PRESIDING OFFICER. The Senator from Arizona.

AMENDMENT NO. 1566

Mr. MCCAIN. Mr. President, I have a brief comment on the chairman's amendment. Leaving it in the hands of the Secretary of Defense is what caused the huge amount of problems we have today.

I have here—in fact, thanks to the tenacity of the Senator from South Carolina—finally, after a year and a half, 2 years, the memoranda that were submitted by the uniformed JAGS when

the rules for the treatment of prisoners were set up the first time, I say to my friend from Virginia. They all objected to it. They were overruled by the Secretary of Defense and the general counsel.

So now, if I understand it, the amendment of my dear friend from Virginia is going to return that to the Secretary of Defense. I urge him to read these memoranda which we finally got thanks to, again, the Senator from South Carolina: treating OEF detainees inconsistently with the Conventions; arguably lowers the bar for the treatment of U.S. POWs in future conflicts, even when nations agree with the President's status determination. Many would view the more extreme interrogation techniques as violative of international law, other treaties, or customary international law; perhaps violative of their own domestic law. This puts the interrogators and the chain of command at risk of criminal accusations abroad, either in foreign domestic courts or international fora, to include the ICC.

I remind my colleagues, these are the memoranda that were sent to comment on the Secretary of Defense guidelines for interrogations of prisoners, which were overruled. And then, a couple months later, they were rescinded.

So in all due respect, my friend from Virginia has a degree of confidence in the Secretary of Defense which, frankly, is not validated by what took place and many argue is one of the reasons why we had Abu Ghraib.

So I thank my colleague and yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, if I could reply to my good friend, you are absolutely right. And I know that chapter as you do and have studied it. But under the law, the Secretary of Defense is still the head of the Department, and as such I suppose he can alter the field manual of the Army and make it less in the present form and in the revised form in due course. But I think it is important we have a clear chain of authority and accountability. I look up the chain, and there are the laws established by the Secretary of Defense as opposed to those who might be involved in drawing up the Army Field Manual. I presume the Secretary of the Army is at the top of that pyramid.

But that is the reason I put in this amendment. I say to my good friend from Arizona, I hope we can sort this out before final passage and possibly amend it. I will withdraw mine because I want you to take the lead in every respect on this important amendment.

If I might add, I say to my friend from Arizona, there is another important amendment you needed to get completed.

Mr. MCCAIN. Mr. President, I thought my colleague wanted me to wait on the additional amendment.

Mr. WARNER. Well, whatever.

Mr. MCCAIN. But I will be glad to proceed. Why don't we let the Senator from South Carolina talk, and then maybe, if it is all right, I will offer the other amendment.

Mr. WARNER. Fine.

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

Mr. MCCAIN. I am glad to yield.

Mr. LEVIN. Mr. President, I have a unanimous consent request. I ask unanimous consent that I be added as a cosponsor to amendment No. 1557, which is the field manual amendment to which they have been referring.

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

Mr. LEVIN. Mr. President, if I could be recognized just for 1 minute to comment on this amendment, and then I will yield the floor.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Michigan.

Mr. LEVIN. Mr. President, first of all, I congratulate Senator MCCAIN. I do not think there is anybody in this body who speaks with greater authority on the subject matter he has spoken to in this amendment. I commend him for the distinction he is making. It is a critical distinction. In addition to the fact that the field manual is there for everybody to see and has historic meaning, the difference between the McCain amendment and the one which was offered by the Senator from Virginia—another difference—is that the field manual is a public document. You can read what is in the field manual. The Secretary of Defense memoranda too often have been classified ''unavailable.'' We have been spending sometimes months and years trying to just find out what is in those memoranda.

So there is a very important difference between these two amendments in a number of regards. I very much believe that the first amendment, amendment No. 1557, is the way which is most consistent with our values. It makes it very clear, in public, what the authorities are and what the standards and criteria are. The contrast between that and something amorphous, which gives the Secretary of Defense a power he already has anyway, which is to issue regulations but to do so in secret and in a classified way, leads to more vagueness, more uncertainty, more conflict, more inability of Congress to perform oversight.

So I commend the Senator from Arizona for this amendment. I believe the differences between these two amendments are significant.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I accept my good friend's critique, but I do point out, as the Army Field Manual is under revision, there will be both a classified and unclassified portion of that manual.

Mr. LEVIN. Mr. President, if I could just comment briefly on that, at least with the unclassified portion, we have access to it, unlike the documents that are issued by the Secretary of Defense memoranda. They are classified, but they are also, too often, unavailable to Congress. They just use one excuse after another not to make those memoranda available to Congress. So there may be a classified version of the field manual, but at least Congress has access to that unclassified version.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I am well aware of the efforts of my good friend from Michigan to get documents from the Department of Defense and his modest success and some lack of success.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. WARNER. Mr. President, I yield to the distinguished Senator from South Carolina such time as he deems necessary.

Could the Chair advise us as to the amount of time remaining under the hour that I requested?

The PRESIDING OFFICER. The Senator from South Carolina has 20 minutes.

Mr. WARNER. That is the full time?

The PRESIDING OFFICER. The Senator from Virginia has 13 minutes. The Senator from Arizona has 3 minutes remaining.

Mr. WARNER. Well, we will allocate the time among the three of us in an equitable way.

I yield the floor.

The PRESIDING OFFICER. The Senator from South Carolina.

AMENDMENT NO. 1557, AS MODIFIED

Mr. GRAHAM. Mr. President, I rise in support of Senator MCCAIN's amendment. The point that Senator WARNER is making, I fully understand. But I think we are at a crossroads in the war on terror. Guantanamo Bay has great potential to make us safer as a nation. But one of the problems we have experienced in this war is a problem of image. It is a new kind of enemy with a lot of nuances. But one thing we cannot do as a nation is forget who we are, what got us here for 200-something years. We can fight this enemy aggressively, no-holds-barred, go after them, and not lose who we are.

Senator MCCAIN is addressing one of the problems we have found crop up in different areas of the world when it comes to noncitizen foreign terrorists, and that is how you interrogate and stay within the boundaries of who you are as a people and not getting your own people in trouble by cutting corners.

So the reason I am supporting his amendment—and we are not just saying: Secretary of Defense, come up with a solution here—is because, after a lot of thought and study, it is clear to me that the Army Field Manual gives you everything you need to aggressively interrogate and seek good intelligence from foreign noncitizen terrorists held at GTMO and any other place under DOD control.

Mr. President, I would like to submit for the Record several memos that have just been recently declassified. They were requested on October 7 of last year by myself, Senator LEVIN, and Senator MCCAIN. The first one is a 27 February 2003 memo from BG Kevin M. Sandkuhler, U.S. Marine Corps, Staff Judge Advocate to CMC. The next one is from MG Thomas J. Romig, U.S. Army, the Judge Advocate General, dated 3 March 2003. The next is from MG Jack L. Rives, Deputy Judge Advocate General of the U.S. Air Force, dated 6 February 2003. The next is from RADM Michael F. Lohr, Judge Advocate General, U.S. Navy, dated 6 February 2003. The next is Rear Admiral Lohr, dated 13 March 2002. And the final memo is from Major General Rives, Deputy Judge Advocate General, U.S. Air Force, dated 5 February 2003. I ask unanimous consent those memorandums be printed in the RECORD.

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

DEPARTMENT OF THE NAVY,
HEADQUARTERS U.S. MARINE CORPS,
Washington, DC, February 27, 2003.

Memorandum for General Counsel of the Air Force

Subject: Working Group Recommendations on Detainee Interrogations

1. In addition to comments we submitted 5 February, we concur with the recommendations submitted by the Navy (TJAG RADM Lohr), the Air Force (TJAG MGen Rives), and the Joint Staff Legal Counsel's Office. Their recommendations dealt with policy considerations, contention with the OLC opinion, and foreign interpretations of GC IV (Civilians) and customary international law, respectively.

2. The common thread among our recommendations is concern for servicemembers. OLC does not represent the services; thus, understandably, concern for servicemembers is not reflected in their opinion. Notably, their opinion is silent on the UCMJ and foreign views of international law.

3. We nonetheless recommend that the Working Group product accurately portray the services' concerns that the authorization of aggressive counter-resistance techniques by servicemembers will adversely impact the following:

a. Treatment of U.S. Servicemembers by Captors and compliance with International Law.

b. Criminal and Civil Liability of DOD Military and Civilian Personnel in Domestic, Foreign, and International Forums.

c. U.S. and International Public Support and Respect of U.S. Armed Forces.

d. Pride, Discipline, and Self-Respect within the U.S. Armed Forces.

e. Human Intelligence Exploitation and Surrender of Foreign Enemy Forces, and Cooperation and Support of Friendly Nations.

KEVIN M. SANDKUHLER,
Brigadier General, USMC, Staff Judge Advocate to CMC.

[SECRET/NOFORN] DECLASSIFIED

Comments on Draft Working Group Report on Detainee Interrogations

1. Change p. 54, fifth paragraph, to read as follows (new language italic):

([S/NF]U) Choice of interrogation techniques involves a risk benefit analysis in each case, bounded by the limits of DOD policy and law. When assessing whether to use exceptional interrogation techniques, consideration should be given to the possible adverse effects on U.S. Armed Forces culture and self-image *which suffered during the Vietnam conflict and at other times due to perceived law of war violations. DOD policy indoctrinated in the DOD Law of War Program in 1979 and subsequent service regulations, greatly restored the culture and self-image of U.S. Armed Forces by establishing high benchmarks of compliance with the principles and spirit of the law of war and humane treatment of all persons in U.S. Armed Forces custody*. In addition, consideration should be given to whether implementation of such techniques is likely to result in adverse impacts for DOD personnel who are *captured or detained* [become POWs,] including possible perceptions by other nations that the United States is lowering standards related to the treatment of prisoners *and other detainees*, generally.

2. Add to p. 68, a paragraph after the seventh paragraph that reads:

(U) Comprehensive protection is lacking for DOD personnel who may be tried by other nations and/or international bodies for violations of international law, such as violations of the Geneva or Hague Conventions, the Additional Protocols, the Torture Convention, the Rome Statute of the ICC, or the Customary International Law of Human Rights. This risk has the potential to impact future operations and overseas travel of such personnel, both on and off duty.

DEPARTMENT OF THE ARMY, OFFICE OF THE JUDGE ADVOCATE GENERAL,
Washington, DC, March 3, 2003.

MEMORANDUM FOR GENERAL COUNSEL OF THE DEPARTMENT OF THE AIR FORCE

Subject: Draft Report and Recommendations of the Working Group to Access the Legal, Policy and Operational Issues Related to Interrogation of Detainees Held by the U.S. Armed Forces in the War on Terrorism (U)

1. (U) The purpose of this memorandum is to advise the Department of Defense (DOD) General Counsel of a number of serious concerns regarding the draft Report and Recommendations of the Working Group to Access the Legal, Policy and Operational Issues Related to Interrogation of Detainees Held by the U.S. Armed Forces in the War on Terrorism (Final Report). These concerns center around the potential Department of Defense (DOD) sanctioning of detainee interrogation techniques that may appear to violate international law, domestic law, or both.

2. (U) The Office of Legal Counsel (OLC), Department of Justice (DOJ), provided DOD with its analysis of international and domestic law as it relates to the interrogation of detainees held by the United States Government. This analysis was incorporated into the subject draft Report and forms, almost exclusively, the legal framework for the Report's Conclusions, Recommendations, and PowerPoint spreadsheet analysis of the interrogation techniques in issue. I am concerned with several pivotal aspects of the OLC opinion.

3. (U) While the OLC analysis speaks to a number of defenses that could be raised on behalf of those who engage in interrogation techniques later perceived to be illegal, the ''bottom line'' defense proffered by OLC is an exceptionally broad concept of ''necessity.'' This defense is based upon the premise that any existing federal statutory provision or international obligation is unconstitutional per se, where it otherwise prohibits conduct viewed by the President, acting in his capacity as Commander-in-Chief, as essential to his capacity to wage war. I question whether this theory would ultimately prevail in either the U.S. courts or in any international forum. If such a defense is not available, soldiers ordered to use otherwise illegal techniques run a substantial risk of criminal prosecution or personal liability arising from a civil lawsuit.

4. (U) The OLC opinion states further that customary international law cannot bind the U.S. Executive Branch as it is not part of the federal law. As such, any presidential decision made in the context of the ongoing war on terrorism constitutes a ''controlling'' Executive act; one that immediately and automatically displaces any contrary provision of customary international law. This view runs contrary to the historic position taken by the United States Government concerning such laws and, in our opinion, could adversely impact DOD interests worldwide. On the one hand, such a policy will open us to international criticism that the ''U.S. is a law unto itself.'' On the other, implementation of questionable techniques will very likely establish a new baseline for acceptable practice in this area, putting our service personnel at far greater risk and vitiating many of the POW/detainee safeguards the U.S. has worked hard to establish over the past five decades.

5. (U) I recommend that the aggressive counter-resistance interrogation techniques under consideration be vetted with the Army intelligence community before a final decision on their use is made. Some of these techniques do not comport with Army doctrine as set forth in Field Manual (FM) 34–52 Intelligence Interrogation, and may be of questionable practical value in obtaining reliable information from those being interrogated.

THOMAS J. ROMIG,
Major General, U.S. Army,
The Judge Advocate General.

DEPARTMENT OF THE AIR FORCE, OFFICE OF THE JUDGE ADVOCATE GENERAL,
Washington, DC, February 6, 2003.

MEMORANDUM FOR SAF/GC

From: AF/JA

Subject: Comments on Draft Report and Recommendations of the Working Group to Assess the Legal, Policy and Operational Issues Relating to Interrogation of Detainees Held by the U.S. Armed Forces in the War on Terrorism (U)

1. (U) Please note that while I accept that the Department of Justice, Office of Legal Counsel (DoJ/OLC), speaks for the Executive Branch and that its legal opinions in this matter are to be followed, I continue to maintain that DoJ/OLC's opinions on several of the Working Group's issues are contentious. Others may disagree with various portions of the DoJ/OLC analysis. I believe we should recognize this fact and therefore urge that certain factors should be prominently provided to the DoD/GC before he makes a final recommendation to the Secretary of Defense. I recommend the following specific modifications to the draft report dated 4 February 2003:

a. Page 2, add the following sentence to the end of paragraph 2:

It should be noted that several of the legal opinions expressed herein are likely to be viewed as contentious outside the Executive Branch, both domestically and internationally.

b. Page 54, change fourth full paragraph to read as follows:

(U) Choice of interrogation techniques involves a risk benefit analysis in each case, bounded by the limits of DOD policy and law. When assessing whether to use exceptional interrogation techniques, consideration should be given to the possible adverse effects on U.S. Armed Forces culture and self-

image, *which suffered during the Vietnam conflict and at other times due to perceived law of armed conflict violations. DoD policy, indoctrined in the DoD Law of War Program in 1979 and subsequent service regulations, greatly restored the culture and self-image of U.S. Armed Forces by establishing high benchmarks of compliance with the principles and spirit of the law of war, and humane treatment of all persons in U.S. Armed Forces custody. U.S. Armed Forces are continuously trained to take the legal and moral ''high-road'' in the conduct of our military operations regardless of how others may operate. While the detainees' status as unlawful belligerents may not entitle them to protections of the Geneva Conventions, that is a legal distinction that may be lost on the members of the armed forces. Approving exceptional interrogation techniques may be seen as giving official approval and legal sanction to the application of interrogation techniques that U.S. Armed Forces have heretofore been trained are unlawful.* In addition, consideration should be given to whether implementation of such techniques is likely to result in adverse impacts for DoD personnel who become POWs, including possible perceptions by other nations that the United States is lowering standards related to the treatment of prisoners, generally.

Alternatively, change the last paragraph on page 68, to read as follows:

(U) The cultural and self-image of the U.S. Armed Forces suffered during the Vietnam conflict and at other times due to perceived law of armed conflict violations. DoD policy, indoctrinated in the DoD Law of War Program in 1979 and subsequent service regulations, greatly restored the culture and self-image of U.S. Armed Forces. U.S. Armed Forces are continuously trained to take the legal and moral ''high-road'' in the conduct of our military operations regardless of how others may operate. While the detainees' status as unlawful belligerents may not entitle them to protections of the Geneva Conventions, that is a legal distinction that may be lost on the members of the armed forces. Approving exceptional interrogation techniques may be seen as giving official approval and legal sanction to the application of interrogation techniques that U.S. Armed Forces have heretofore been trained are unlawful. General use of exceptional techniques (generally, having substantially greater risk than those currently, routinely used by U.S. Armed Forces interrogators), even though lawful, may create uncertainty among interrogators regarding the appropriate limits of interrogations, and may adversely affect the cultural self-image of the U.S. armed forces.

c. Page 68, add the following new paragraphs after the sixth full paragraph:

(U) Several of the exceptional techniques, on their face, amount to violations of domestic criminal law and the UCMJ (e.g., assault). Applying exceptional techniques places interrogators and the chain of command at risk of criminal accusations domestically. Although one or more of the aforementioned defenses to these accusations may apply, it is impossible to be certain that any of these defenses will be successful as the judiciary may interpret the applicable law differently from the interpretation provided herein.

(U) Other nations are likely to view the exceptional interrogation techniques as violative of international law and perhaps violative of their own domestic law. This places interrogators and the chain of command at risk of criminal accusations abroad, either in foreign domestic courts or in international fora, to include the ICC.

d. Page 68, add the following new paragraphs after the eighth full paragraph:

(U) Employment of exceptional interrogation techniques may have a negative effect on the treatment of U.S. POWs. Other nations may disagree with the President's status determination regarding Operation ENDURING FREEDOM (OEF) detainees, concluding that the detainees are POWs entitled to all of the protections of the Geneva Conventions. Treating OEF detainees inconsistently with the Conventions arguably ''lowers the bar'' for the treatment of U.S. POWs in future conflicts. Even where nations agree with the President's status determination, many may view the exceptional techniques as violative of other law.

2. (U) Should any information concerning the exceptional techniques become public, it is likely to be exaggerated/distorted in both the U.S. and international media. This could have a negative impact on international, and perhaps even domestic, support for the war on terrorism. It could likewise have a negative impact on public perception of the U.S. military in general.

JACK L. RIVES,
Major General, USAF,
Deputy Judge Advocate General.

DEPARTMENT OF THE NAVY, OFFICE OF THE JUDGE ADVOCATE GENERAL,
Washington, DC, February 6, 2003.

Subj: Working Group recommendations relating to interrogation of detainees.

1. Earlier today I provided to you a number of suggested changes, additions, and deletions to the subject document.

2. I would like to further recommend that the document make very clear to decision-makers that its legal conclusions are limited to arguably unique circumstances of this group of detainees, i.e., unlawful combatants held ''outside'' the United States. Because of these unique circumstances, the U.S. Torture Statute, the Constitution, the Geneva Conventions and customary international law do not apply, thereby affording policy latitude that likely does not exist in almost any other circumstance. (The UCMJ, however, does apply to U.S. personnel conducting the interrogations.)

3. Given this unique set of circumstances, I believe policy considerations continue to loom very large. Should service personnel be conducting the interrogations? How will this affect their treatment when incarcerated abroad and our ability to call others to account for their treatment? More broadly, while we may have found a unique situation in GTMO where the protections of the Geneva Conventions, U.S. statutes, and even the Constitution do not apply, will the American people find we have missed the forest for the trees by condoning practices that, while technically legal, are inconsistent with our most fundamental values? How would such perceptions affect our ability to prosecute the Global War on Terrorism?

4. I accept the premise that this group of detainees is different, and that lawyers should identify legal distinctions where they exist. It must be conceded, however, that we are preparing to treat these detainees very differently than we treat any other group, and differently than we permit our own people to be treated either at home or abroad. At a minimum, I recommend that decision-makers be made fully aware of the very narrow set of circumstances—factually and legally—upon which the policy rests. Moreover, I recommend that we consider asking decision-makers directly: is this the ''right thing'' for U.S. military personnel?

MICHAEL F. LOHR,
Rear Admiral, JAGC, U.S. Navy,
Judge Advocaate General.

DEPARTMENT OF THE NAVY, OFFICE OF THE JUDGE ADVOCATE GENERAL,
Washington, DC, March 13, 2002.

MEMORANDUM FOR THE AIR FORCE GENERAL COUNSEL

Subject: Comments on the 6 March 2003 Detainee Interrogation Working Group Report

1. My comments on subject report are provided below. These comments incorporate and augment those submitted by my action officer earlier this week. New comments are highlighted within the previously submitted text.

1. (U) Page 2, second paragraph: Add new penultimate sentence to read, ''In addition this paper incorporates significant portions of work product provided by the Office of Legal Counsel, United States Department of Justice.'' In the last sentence change ''by a Department . . .'' to ''by the Department . . .'' Finally, add new footnote to reference the OLC opinion to read ''Memorandum dated March xx, 2003., Re: xxxxxxxxxx.

Rationale: this WG paper contains large segments of DOJ work product, rather than being ''informed'' by DOJ. We believe the OLC opinion should be incorporated by reference into the WG report.

2. (U) Page 24, second paragraph, last sentence: delete.

Rationale: this sentence is not true. There are domestic limits on the President's power to interrogate prisoners. One of them is Congress's advice and consent to the US ratification to the Geneva Conventions that limit the interrogation of POWs. The willingness of the Executive, and of the Legislative Branch, to enforce those restrictions is a different matter.

3. (U) Page 24, footnote 20: delete or rewrite to read, ''This is the stated view of the Department of Justice.''

Rationale: Mr. Yoo clearly stated that he believes the viability of these defenses is greatly enhanced by advance Presidential direction in the matter. He specifically recommended obtaining such direction in writing.

4. (U) Page 26, first full paragraph, first sentence: delete.

Rationale: this statement is too broad. The similar language used at the end of the following paragraph is more accurate.

5. (U) Page 29, second paragraph, fifth sentence: Rewrite sentence to read, ''A leading scholarly commentator . . .'' and later in the sentence change ''. . . section 2340 would be justified under . . .'' to ''. . . section 2340 should be justified under . . .''

Rationale: There is only one article written by one person cited. Also the quoted language from the commentator indicates his view that torture should be permissible, not a statement that international law allows such.

6. (U) Page 29, second paragraph, last sentence: delete.

Rationale: this conclusion is far too broad but the general principle can be inferred from the discussion.

7. (U) Page 31, para d, third sentence and penultimate sentences: delete.

Rationale: This analogy is inapt. There is nothing in law enforcement that would authorize the use of torture or excessive force against persons for intelligence gathering.

8. (U) Page 41, second paragraph, penultimate sentence: delete.

Rationale: it is not clear what the meaning of the sentence is.

9. (U) Page 59, second paragraph: it is unclear if SECDEF must approve exceptional techniques on a case-by-case basis, or just approve their use generally.

10. (U) Page 63, footnote 86. The text of this footnote does not correspond to its citation

in the paper. It appears that the current text of footnote 86 belongs as part of the discussion of API in the paragraph above, or as part of the text of footnotes 83 or 84. Footnote 86 should detail the rationale for the Justice Department determination that GCIV does not apply.

11. (U) Page 67, technique 26: Add last sentence to read, ''Members of the armed forces will not threaten the detainee with the possible results of the transfer, but will instead limit the threat to the fact of transfer to allow the detainee to form their own conclusions about such a move.''

Rationale: threatening the detainee with death or injury (by the transfer) may be considered torture under international law.

12. (U) Page 72, second paragraph: in the last sentence replace ''protections of the Geneva Conventions'' with ''protections of the third Geneva Convention.''

Rationale: clarity

13. (U) Page 72, second paragraph: add new last sentence to read: ''Under international law, the protections of the fourth Geneva Convention may apply to the detainees.''

Rationale: this view is shared by Chairman's Legal and all the services.

14. (U) Page 72, third paragraph: at the beginning add, ''In those cases where the President has made a controlling executive decision or action . . .''

Rationale: this is the standard by which the President may ''override'' CIL.

15. (U) Page 73, sixth paragraph: Add new last sentence to read, ''Presidential written directive to engage in these techniques will enhance the successful assertion of the potential defenses discussed in this paper.''

Rationaie: much of the analysis in this paper is premised on the authority of the President as delegated/directed, in writing, to SECDEF and beyond. This point needs to be made prominently.

16. (U) Matrix Annex, Technique 33: delete.

Rationale: It is not clear what the intent of this technique is. If it loses its effectiveness after the first or second use, it appears to be little more than a gratuitous assault. Other methods are equally useful in getting/maintaining the attention of the detainee. It also has the potential to be applied differently by different individuals.

17. (U) Page 75, first paragraph, in the discussion re technique 36: Rewrite 3rd to last and penultimate sentences to read, ''The working group believes use of technique 36 would constitute torture under international and U.S. law and, accordingly, should not be utilized. In the event SECDEF decides to authorize this technique, the working group believes armed forces personnel should not participate as interrogators as they are subject to UCMJ jurisdiction at all times.''

This is a correct statement of the positions of the services party to the working group, who all believe this technique constitutes torture under both domestic and international law.

18. Thank you for the opportunity to comment. My action officer in this matter is CDR Steve Gallotta.

MICHAEL F. LOHR,
Rear Admiral, JAGC, U.S. Navy,
Judge Advocate General.

DEPARTMENT OF THE AIR FORCE, OFFICE OF THE JUDGE ADVOCATE GENERAL,
Washington, DC, February 5, 2003.

MEMORANDUM FOR SAF/GC

From: AF/JA

Subject: Final Report and Recommendations of the Working Group to Assess the Legal, Policy and Operational Issues Relating to Interrogation of Detainees Held by the U.S. Armed Forces in the War on Terrorism (U)

1. (U) In drafting the subject report and recommendations, the legal opinions of the Department of Justice, Office of Legal Counsel (DoJ/OLC), were relied on almost exclusively. Although the opinions of DoJ/OLC are to be given a great deal of weight within the Executive Branch, their positions on several of the Working Group's issues are contentious. As our discussion demonstrate, others within and outside the Executive Branch are likely to disagree. The report and recommendations caveat that it only applies to ''strategic interrogations'' of ''unlawful combatants'' at locations outside the United States. Although worded to permit maximum flexibility and legal interpretation, I believe other factors need to be provided to the DoD/GC before he makes a final recommendation to the Secretary of Defense.

2. (U) Several of the more extreme interrogation techniques, on their face, amount to violations of domestic criminal law and the UCMJ (e.g., assault). Applying the more extreme techniques during the interrogation of detainees places the interrogators and the chain of command at risk of criminal accusations domestically. Although a wide range of defenses to these accusations theoretically apply, it is impossible to be certain that any defense will be successful at trial; our domestic courts may well disagree with DoJ/OLC's interpretation of the law. Further, while the current administration is not likely to pursue prosecution, it is impossible to predict how future administrations will view the use of such techniques.

3. (U) Additionally, other nations are unlikely to agree with DoJ/OLC's interpretation of the law in some instances. Other nations may disagree with the President's status determination regarding the Operation ENDURING FREEDOM (OEF) detainees; they may conclude that the detainees are POWs entitled to all of the protections of the Geneva Conventions. Treating OEF detainees inconsistently with the Conventions arguably ''lowers the bar'' for the treatment of U.S. POWs in future conflicts. Even where nations agree with the President's status determination, many would view the more extreme interrogation techniques as violative of other international law (other treaties or customary international law) and perhaps violative of their own domestic law. This puts the interrogators and the chain of command at risk of criminal accusations abroad, either in foreign domestic courts or in international fora, to include the ICC.

4. (U) Should any information regarding the use of the more extreme interrogation techniques become public, it is likely to be exaggerated/distorted in both the U.S. and international media. This could have a negative impact on international, and perhaps even domestic, support for the war on terrorism. Moreover, it could have a negative impact on public perception of the U.S. military in general.

5. (U) Finally, the use of the more extreme interrogation techniques simply is not how the U.S. armed forces have operated in recent history. We have taken the legal and moral ''high-road'' in the conduct of our military operations regardless of how others may operate. Our forces are trained in this legal and moral mindset beginning the day they enter active duty. It should be noted that law of armed conflict and code of conduct training have been mandated by Congress and emphasized since the Viet Nam conflict when our POWs were subjected to torture by their captors. We need to consider the overall impact of approving extreme interrogation techniques as giving official approval and legal sanction to the application of interrogation techniques that U.S. forces have consistently been trained are unlawful.

JACK L. RIVES,
Major General, USAF,
Deputy Judge Advocate General.

Mr. GRAHAM. Now, over time, we are going to learn more about what these memos tell us, but basically these memos are telling us that the proposed interrogation techniques dealing with the war on terror, suggested by the Department of Justice, sent over to Department of Defense, were such a deviation from the normal way of doing business that it would get our own people in trouble. It was such a deviation from the normal way of doing business that we would lose the moral high ground in fighting the war on terror.

General Rives sums up:

Finally, the use of the more extreme interrogation techniques simply is not how the U.S. armed forces have operated in recent history. We have taken the legal and moral ''high-road'' in the conduct of our military operations regardless of how others may operate. Our forces are trained in this legal and moral mindset beginning the day they enter active duty. It should be noted that [the] law of armed conflict and code of conduct training have been mandated by Congress and emphasized since the Viet Nam conflict when our POWs were subjected to torture by their captors. We need to consider the overall impact of approving extreme interrogation techniques as giving official approval and legal sanction to the application of interrogation techniques that U.S. forces have consistently been trained are unlawful.

He talks about a slippery slope that we are about to embark on that will result in some of our own people being subject to being court-martialed because the Uniform Code of Military Justice has many provisions dictating how you will treat someone who is in your custody as a detainee. And they were trying to tell the Department of Justice and the Department of Defense civilian lawyers: Do not go down this road. You are going to bite off more problems than it is worth.

Admiral Lohr says that some of the techniques would violate the torture statute. I will read in more detail later what these memos are telling us the rules of the road are. But these are not from the ACLU. These are not from people who are soft on terrorism, who want to coddle foreign terrorists. These are all professional military lawyers who have dedicated their lives, with 20-plus year careers, to serving the men and women in uniform and protecting their Nation. They were giving a warning shot across the bow of the policymakers that there are certain corners you cannot afford to cut because you will wind up meeting yourself.

What Senator MCCAIN is trying to do is build upon their advice by putting in

place an interrogation technique that this country can be proud of, that we all will understand, and that can be implemented to make us safer without having a black eye throughout the world.

I asked the question—when I went to GTMO with the chairman about a week or 2 ago—to all the interrogators there: Is there anything lacking in the Army Field Manual that would inhibit your ability to get good intelligence? And they said no. I asked: Could you live with the Army Field Manual as your guide and do your job? They said yes.

The reason the Army Field Manual is a good source is because it has been part of who we are for years. People are trained on it. What was happening is, the Department of Justice, understandably, after September 11, wanted to come up with the most aggressive techniques possible to deal with foreign terrorists. But the JAGS are telling us you cannot look at this one event in isolation. You have to understand what we have been standing for for 60 years and what the law actually says. The DOJ's interpretation of the torture statute from a lawyer's point of view was absurd. And the JAGS were telling the policymakers: If you go down this road, you are going to get your own people in trouble. You are on a slippery slope. You are going to lose the moral high ground. This was 2003. And they were absolutely right.

To Secretary Rumsfeld's credit, when he heard about the working group having problems with the DOJ's suggested interpretations of ''interrogation,'' he reconvened and the techniques changed. But as Senator MCCAIN has said very well, we need to bring certainty to this process of interrogating foreign terrorists to make sure we can get good, reliable information. We can do it in a way that people understand, our troops will not get in trouble, and we can show the world we are truly a rule-of-law nation.

There is nothing inconsistent with interrogating people to get good information to protect our country and using the Army Field Manual. What has got us in trouble is when we try to make it up as we go, when we forget who we are, when we will not listen to people who have worn the uniform, who are in uniform, telling us: Do not go down this road, our people are trained to do it one way, you are confusing the heck out of them.

What have we learned in the last 2 years? If you know what the rules are about interrogating anybody, come tell me because I can't figure it out. I have spent 20 years as an Air Force lawyer myself. There is much confusion, and confusion in war is dangerous. Anyone who misunderstands what we are doing here in terms of our view of terrorists is playing politics. No one supporting this amendment wants a foreign noncitizen terrorist not to be aggressively detained, prosecuted, if appropriate, and interrogated to make our country safer. We can prosecute, we can detain, and we can interrogate aggressively, but we have to have rules that our people can understand and don't deviate from who we are as a Nation. That is why I am supporting this amendment.

Everyone who works at GTMO dealing with the 500 foreign noncitizen terrorists suspects, enemy combatants, has told me, because I asked the question, if you use the Army Field Manual, we have everything within that manual we need to do the job right. If you use the Army Field Manual, we will be back in a good place with the law. We will be back in a place where our people can understand what is going on. We will again capture the moral high ground which is the ultimate way to win this war.

There is no downside to this. The upside is huge. We are able to get good information, not get our people in trouble, and have a better image in the world. That is why I am supporting this amendment.

I have included these memos for the record. It would serve every Senator well to spend 5 or 10 minutes reading through them because these people were telling us in 2003, if you go down this road, the road we chose initially, you are going to get everybody involved in trouble. That is exactly what happened.

I yield the floor.

AMENDMENT NO. 1556, AS MODIFIED

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I have amendment No. 1556 at the desk. I ask unanimous consent for its modification.

The PRESIDING OFFICER. Without objection, the amendment is so modified.

Mr. MCCAIN. Mr. President, is it the desire that I call up 1556 at this time?

Mr. WARNER. Yes, Mr. President, I suggest that we have amended the present one which is referred to as the Army Field Manual, and I am a cosponsor on that. Now there is a second amendment. I submitted to the Senator a suggestion, I believe that is——

Mr. MCCAIN. It is modified.

Mr. WARNER. Let's bring that up now and have that pending.

Mr. MCCAIN. Mr. President, I ask unanimous consent that the amendment No. 1556 be considered at this time.

The PRESIDING OFFICER. Is there objection?

Mr. SESSIONS. Reserving the right to object, I know the discussion has been going on about the field manual issue. Is the Senator now going to that amendment or are we leaving that amendment? I would like to at least make a few remarks about that subject.

Mr. WARNER. Mr. President, the field manual amendment has been laid aside for the moment. This goes to a second amendment which is——

Mr. SESSIONS. Was there a unanimous consent request made for that?

The PRESIDING OFFICER. The Chair heard a unanimous consent request to move to a new amendment.

Mr. WARNER. That is correct.

The PRESIDING OFFICER. And the Chair asked if there was objection. Did the Senator from Alabama object?

Mr. SESSIONS. I object at this point because I don't understand what we are doing. I want to be able to speak on the amendment dealing with the field manual.

Mr. WARNER. I believe the Senator has just come on the floor. We have been on this now for about 45 minutes covering the parameter of the issues that would be brought up. I respect his desire to speak. We will try to accommodate you at any point. I would urge that we allow the Senator from Arizona to perfect this amendment and then in due course he will speak to it. I will speak to it, and we will lay it aside. And we will find the time for the distinguished Senator from Alabama to speak.

Mr. SESSIONS. Well, everybody has spoken for it. Nobody has spoken against it.

Mr. MCCAIN. Could I ask, maybe we could take a maximum of 5 minutes, 3 or 4 minutes on this amendment, for which I had unanimous consent, and then go back to allow the Senator from Alabama to speak.

Mr. WARNER. That is correct.

Mr. SESSIONS. That would be fine. If I could have 10 minutes, if I could share a few thoughts on the previous amendment in the next 10 minutes, I would be happy.

Mr. WARNER. We definitely will make that happen. But I want to inquire of the Senator from South Carolina, you also have a third amendment. I am not sure of the status. You have it at the desk. You have spoken to it.

Mr. GRAHAM. I would like at this time to submit it to the desk if I may.

Mr. MCCAIN. I ask unanimous consent that I be allowed to propose this amendment, the Senator from Alabama be allowed to speak for 10 minutes, the amendment be set aside, and the Senator from South Carolina be allowed to propose his amendment.

Mr. WARNER. Mr. President, I think that is a very orderly manner in which to accommodate. Then the Senator from Alabama—let's get the time remaining and I will yield some of my time to the Senator from Alabama.

The PRESIDING OFFICER. The motion on the floor right now is to call up, as I understand it, amendment No. 1556 by the Senator from Arizona as modified.

Mr. MCCAIN. As modified.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Ms. STABENOW. Reserving the right to object, I don't intend to object, I understand we are working out some amendments. I also have an amendment I would like to offer. I wanted to raise, as the agreement is being put together, that I have the opportunity to do that.

Mr. WARNER. Mr. President, I will assure you, working with the distinguished Senator from Michigan, we

will arrange—he has time immediately following the 1 hour being divided between three Senators and now a fourth. I want to make sure we have the time remaining to satisfy the needs of the Senator from Alabama. We now are proceeding on the second McCain amendment.

The PRESIDING OFFICER. Is there objection to reporting amendment No. 1556 by the Senator from Arizona?

Mr. MCCAIN. As modified.

The PRESIDING OFFICER. As modified. Without objection, it is so ordered. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Arizona [Mr. MCCAIN] proposes an amendment numbered 1556, as modified.

The amendment is as follows:

At the end of subtitle G of title X, add the following:

SEC. 1073. PROHIBITION ON CRUEL, INHUMAN, OR DEGRADING TREATMENT OR PUNISHMENT OF PERSONS UNDER CUSTODY OR CONTROL OF THE UNITED STATES GOVERNMENT.

(a) IN GENERAL.—No individual in the custody or under the physical control of the United States Government, regardless of nationality or physical location, shall be subject to cruel, inhuman, or degrading treatment or punishment.

(b) PRESIDENTIAL WAIVER.—(1) The President may waive the prohibition in subsection (a), on a case-by-case basis, if the President—

(A) determines that the waiver is required for a military or national security necessity; and

(B) submits the appropriate committees of Congress timely notice of the exercise of the waiver.

(2) The authority of the President under paragraph (1) may not be delegated.

(c) CONSTRUCTION.—Nothing in this section shall not be construed to impose any geographical limitation on the applicability of the prohibition against cruel, inhuman, or degrading treatment or punishment under this section.

(d) LIMITATION ON SUPERSEDURE.—The provisions of this section shall not be superseded, except by a provision of law enacted after the date of the enactment of this Act which specifically repeals, modifies, or supersedes the provisions of this section.

(e) DEFINITIONS.—In this section:

(1) The term ''appropriate committees of Congress'' means—

(A) the Committees on Armed Services and Appropriations and the Select Committee on Intelligence of the Senate; and

(B) the Committees on Armed Services and Appropriations and the Permanent Select Committee on Intelligence of the House of Representatives.

(2) The term ''cruel, inhuman, or degrading treatment or punishment'' means the cruel, unusual, and inhumane treatment or punishment prohibited by the Fifth, Eighth, and Fourteenth Amendments to the Constitution of the United States, as defined in the United States Reservations, Declarations and Understandings to the United Nations Convention Against Torture and Other Forms of Cruel, Inhuman or Degrading Treatment or Punishment done at New York, December 10, 1984.

Mr. WARNER. Mr. President, we would like to have the Senator from Arizona take such time as he desires to explain this. I wish to be added as a cosponsor to this amendment. Then we will yield the floor to the Senator from Alabama to speak for up to 10 minutes on the subjects of these three amendments. Then the balance of the time will be accorded to the Senator from South Carolina to bring forth his amendment.

The PRESIDING OFFICER. The Chair will notify the Senators that the Chair is still working under the original previous order of an hour equally divided, 20 minutes to the Senator from South Carolina, 20 minutes to the Senator from Virginia, and 20 minutes to the Senator from Arizona.

Mr. WARNER. That is correct. Would the Chair advise of the three Senators in the original order, what is the time remaining for each.

The PRESIDING OFFICER. The Senator from Arizona has 2 minutes remaining. The Senator from Virginia has 9 minutes remaining.

Mr. WARNER. I can't hear the Chair.

The PRESIDING OFFICER. The Senator from Virginia has 9 minutes remaining. The Senator from South Carolina has 2 minutes—10 minutes remaining.

Mr. WARNER. I yield from my 9 minutes such time as the Senator from Arizona may need.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, with all due respect to the chairman, I don't think that is going to quite work because the Senator from Alabama needs 10 minutes. And if you are using your 9 and I only have 2, that doesn't get it done. I ask unanimous consent that I have 3 minutes to discuss my amendment.

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

Mr. MCCAIN. That is an additional 3 minutes. I ask unanimous consent that following that, the Senator from Alabama be recognized for 10 minutes in addition to the unanimous consent agreement, and then the Senator from South Carolina be allowed to propose his amendment.

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

Mr. MCCAIN. Mr. President, I ask for the yeas and nays on this amendment and the previous amendment, No. 1557.

The PRESIDING OFFICER. Is there objection to the request to ask for the yeas and nays on two amendments at this time?

Without objection, it is in order to so request.

Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. MCCAIN. Mr. President, I ask unanimous consent that Senator WARNER, Senator LINDSEY GRAHAM, and Senator COLLINS be added as cosponsors. I believe we are still scheduled for a vote at 5:30.

Mr. President, this amendment would prohibit cruel, inhuman, and degrading treatment of persons in the detention of the U.S. Government. The amendment doesn't sound like anything new. That is because it isn't. The prohibition has been a longstanding principle in both law and policy in the United States. The Universal Declaration of Human Rights adopted in 1948 states simply that: No one shall be subject to torture or cruel, inhuman, or degrading treatment or punishment. The International Covenant on Civil and Political Rights, to which the U.S. is a signatory, is the same. The Binding Convention Against Torture, negotiated by the Reagan administration, ratified by the Senate, prohibits cruel, inhuman, and degrading treatment. On last year's DOD authorization bill, the Senate passed a bipartisan amendment reaffirming that no detainee in U.S. custody can be subject to torture or cruel treatment as the U.S. has long defined these terms. All of this seems to be common sense and in accordance with longstanding American values.

I will be glad to explain that amendment more if anyone wants. In the meantime, I know the Senator from Alabama is waiting.

I yield back the remainder of my time on this amendment. I ask unanimous consent we return at this time to amendment No. 1557, according to the previous unanimous consent agreement.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Alabama is recognized for 10 minutes.

Mr. WARNER. If the Senator will withhold, I want to endorse the McCain amendment. Essentially what he is doing is codifying what is policy now. I think it is of such importance that it would require this bill to do so.

I yield the floor.

AMENDMENT NO. 1557

The PRESIDING OFFICER. The Senator from Alabama is recognized for 10 minutes.

Mr. SESSIONS. Mr. President, I will share a little bit of the history of what has happened, as I recall it. I am sorry, I just got back from Alabama and was not able to participate earlier in the debate. We have had maybe 29 hearings involving prisoner abuse. That is a lot of hearings. I serve on the Judiciary and Armed Services Committees. Probably 20 of those have been in those 2 committees of which I have been a member and tried to participate as much as I could in each one of them. I remember that the U.S. military announced they had problems in Abu Ghraib with prisoner abuse. They indicated they were conducting an investigation of it. Members of the Senate, like dogs that chase a car down the road, sometimes I thought they thought they were making the car go because they were chasing it.

The military commenced, on its own accord, an investigation that has culminated in the conviction of a number of people who have gone to jail for rather substantial periods of time for

violating the policies of the Department of Defense and the laws of war on those prisoners in Abu Ghraib. It took place on a midnight shift and was not justified. It was beyond the law, and they have been punished for it. That has been morphed into allegations about what happened at Guantanamo.

We apprehended 17,000 prisoners in Afghanistan and Iraq. We brought 700 to Guantanamo. There are only 500 left. Some of those are the worst of the worst. Allegations were made that they were being abused. A thorough investigation has been conducted of that. Once again, we had a committee hearing to rehear the report. General Schmidt said there were 24,000 investigations. He found three areas in which he felt things had gone awry at Guantanamo. All happened right quickly after 9/11, not going on now, because I was there at Guantanamo Friday a week ago and they absolutely assured us, Senator GRAHAM and others who were with us, Chairman WARNER, that nothing like that is going on today.

But what were the three complaints? Mr. Khatani, the 20th hijacker, he found, had been abused cumulatively, three different things happened. He was interrogated for 20 hours. He was made to listen to loud music. And at certain times he had been put in shackles. The general found that was not torture under the definition of torture. It was not inhuman. But together, they violated the standards the U.S. military adheres to, and he felt that was in error.

One individual was screaming loudly repeatedly and would not stop. Someone said he should be stopped. They found some duct tape, and Americans, I guess, are good with that. They put it around his mouth. He took it off, and they did it again. He took it off, and they did it again. So they put it all the way around his head. He felt that was an abuse. A woman interviewer-interrogator, perhaps losing her temper, or whatever, issued a threat to one of the prisoners and their family. There were 3 out of 24,000 matters in Guantanamo.

So, first, I reject the idea that this Defense Department and our Army and our military is out of control, is confused about what their powers and duties and responsibilities are. I reject that. I don't believe that is accurate.

Now, the field manual is good. We had a number of witnesses before the committee. In one of the many hearings, General Taguba and several others, when asked, or they just volunteered that the current rules of interrogation under the field manual aren't appropriately applicable to all the kinds of new threats we face today and the kind of prisoners we deal with today. These prisoners today are not under the Geneva Conventions and aren't prisoners of war. They are unlawful combatants. They sneak into countries. They don't wear a uniform. They don't carry their arms openly. They make bombs. They direct them not at military targets but at men, women, and children who are going about their peaceful business. So it is indisputable that the Geneva Conventions don't apply to them.

We have a statute in this country that prohibits torture of anybody in our control, and that statute stands firm and clear, and that is certainly a basis for a criminal prosecution for anybody who goes too far in interrogating witnesses.

Now, you are limited in what you can do when you interrogate a prisoner of war. We are told to give only name, rank, and serial number, and others have similar instructions from their countries. You are limited as to how much you can interrogate them and how much you can expect them to say. These people are not prisoners of war. They are terrorists, unlawful combatants, determined to savage the peaceful people of Spain and their railroad, the people of London, or the people of New York City. Thank God that because we have been aggressive and been after them and obtained intelligence from interviews and interrogation and techniques within the rules of warfare, we have been able to prevent another attack on this country—Lord be praised—for almost 4 years now. It can happen again at any time.

I am proud of what our men and women are doing. I was at one of the committee hearings when a young lieutenant commander in the Navy testified that the prosecutor blocked him from interviewing a witness. He told him what to do. He told him he could only plead guilty.

I said: Sir, you are a lieutenant commander in the U.S. Navy—I was in a JAG officer slot. Unlike Senator GRAHAM, I was not trained at the JAG officer school. But I had some training in it and taught the laws of warfare to our soldiers in the Army Reserve. At any rate, this guy said he was ordered by the prosecutor.

I said: I never heard of a defense counsel saying a prosecutor could order them around.

He said: Well, he told me I could not see the prisoner.

I said: You could not see the prisoner?

He said: Except at limited times.

It was out of this that he came up with this bizarre allegation that he was somehow defending the terrorist. He was given a letter, and he said he could only represent him to plead guilty. The letter that appointed him to defend the guy said he was to represent him in all categories. I was disappointed in the quality of his complaints. I don't think they held up to be nearly what he was saying publicly. Whatever got into people's craw about how these matters were handled is a bit out of whack.

Let's say this: The field manual is the manual that controls our handling of a lot of things in the Army, including interrogation. But the President of the United States is Commander in Chief of the military, and these kinds of prisoners, as the witnesses told us in committee, were not contemplated when the field manual was written. Different techniques could be legitimate against them that would not be legitimate against lawful combatants—the kinds of people we have seen so many times in the history of warfare. It is a weird thing. We should not treat them inhumanely. It is an order of the President that we cannot. We cannot torture them. We have a criminal statute that defines that and says you cannot do it. You can go to jail if you do.

I ask unanimous consent for 2 more minutes.

The PRESIDING OFFICER. Is there objection?

Mr. LEVIN. Mr. President, reserving the right to object, I wonder if we can line up some time at this point. I will not object, but after he is recognized, I believe then the majority has additional time for another amendment going up to what time?

Mr. WARNER. We are operating under an original 1-hour agreement that was modified to give 10 minutes to the Senator from Alabama. I think under the original 1 hour the Senator from Virginia has time and the Senator from South Carolina has time. Would I be correct?

The PRESIDING OFFICER. The Senator is correct. The Senator from Virginia has 9 minutes remaining. The Senator from South Carolina has 10 minutes remaining. We still show the Senator from Arizona, Mr. MCCAIN, with 2 minutes remaining.

The Chair also notifies Senators that under the previous order, at 5 o'clock, the Senate is to go to 30 minutes of debate on the Americans with Disabilities resolution.

Mr. WARNER. Mr. President, that is followed by a vote, is my understanding.

The PRESIDING OFFICER. Yes, it is scheduled for 5:30.

Mr. LEVIN. Mr. President, I ask unanimous consent that immediately following the completion of those three time periods on the Republican side, I be allocated 10 minutes on this side, which I will provide equally between the junior Senator from Michigan, the Senator from Washington, and myself, so that four amendments can be introduced and laid aside.

Mr. WARNER. Reserving the right to object, and I do not wish to object, it seems to me that reality dictates that in 6 minutes we will go on the ADA; am I correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. WARNER. In effect, the Senator from South Carolina, unless he wants to take the 6 minutes and put his amendment in, we would have to come back to it at the conclusion of the ADA. Would that be acceptable?

Mr. GRAHAM. I don't want to stop Senator SESSIONS from finishing. I can come back.

The PRESIDING OFFICER. The unanimous consent request right now is 2 additional minutes for the Senator from Alabama.

Mr. LEVIN. Reserving the right to object, we have not had any time prior to the ADA matter, and it was intended that we have some time. There is a prepared UC that would perhaps assist us, which has been handed to us. I wonder if the manager will read this.

Mr. WARNER. Mr. President, I ask unanimous consent that notwithstanding the previous order, the Senate resume consideration of S. 207 at 5:15 today, with 15 minutes to debate under the control of Senator HARKIN. I further ask that following the use or yielding back of the time, the Senate proceed to a rollcall vote on the resolution as under the previous order.

Mr. LEVIN. Reserving the right to object, I ask that that be modified to allow 10 minutes between 5:15 and 5:30 to be granted to this side for the introduction of those amendments. They will be introduced, with a minute on each, and then set aside.

Mr. WARNER. Mr. President, I believe that will accommodate our distinguished colleague from South Carolina to introduce his amendment beginning now, concluding at 5:10, at which time the Chair will recognize the junior Senator from Michigan for a period not to exceed 5 minutes.

Mr. LEVIN. No.

Mr. SESSIONS. Mr. President, can we include my 2 minutes?

Mr. LEVIN. The junior Senator from Michigan, 2 minutes; the Senator from Washington, 2 minutes; and me for 1 minute.

The PRESIDING OFFICER. Does the Senator modify the unanimous consent request?

Mr. WARNER. I do so to accommodate Senator LEVIN. We have 2 minutes now for the Senator from Alabama to complete his remarks before the Chair recognizes the Senator from South Carolina; is that correct?

The PRESIDING OFFICER. Is there objection to the request by the Senator from Alabama?

Mr. LEVIN. Reserving the right to object, does that include the UC which the Senator from Virginia read?

The PRESIDING OFFICER. The separate unanimous consent request of the Senator from Virginia would incorporate that. There is one request for 2 additional minutes for the Senator from Alabama; 9 minutes for the Senator from Virginia—

Mr. LEVIN. Reserving the right to object, the Democratic leader is going to want 2 minutes prior to the vote on leadership time, or prior to 5:15. You all figure it out.

Mr. WARNER. We certainly want to accommodate the Democratic leader. The Senator from South Carolina indicated that perhaps he would like to take up his amendment following the vote, giving him then such time as he requires, and giving the Senator from Michigan such time as he may require. So perhaps let us allocate the remaining time between now and 5:15 between the Senator from Alabama, the two colleagues on that side, and the distinguished Democratic leader.

Mr. GRAHAM. That is acceptable to me.

Mr. WARNER. Mr. President, following the completion of the rollcall vote, I ask unanimous consent that the Senator from South Carolina be recognized.

The PRESIDING OFFICER. If the Chair understands the now-modified unanimous consent request, it is a request that the Senator from Alabama be recognized for 2 additional minutes, the time between that and 5:15 would be the Senator from Michigan, and at 5:15, under the previous order, the Senate would consider the Americans with Disabilities resolution, followed by a vote at 5:30, followed by the Senator from South Carolina being recognized to offer his amendment.

Mr. WARNER. Mr. President, that is correct.

The PRESIDING OFFICER. Is there objection?

Mr. GRAHAM. Reserving the right to object, I would like to be able to state some general areas of agreement and disagreement concerning Senator SESSIONS' statement. Is that possible when I introduce my amendment?

Mr. LEVIN. I wonder if the Senator will yield. We need only 7½ minutes before 5:15. I wonder if the chairman will agree to this: After Senator SESSIONS, go to the Senator from South Carolina for 5 minutes, and then come to me.

Mr. WARNER. That is acceptable.

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

The Senator from Alabama is recognized for 2 minutes.

Mr. SESSIONS. Mr. President, I will try to conclude and sum this up.

This country was attacked by a very dangerous group of people. I certainly respect my colleagues' concern and commitment that our prisoners be treated humanely and consistent with the rules of war. I have also said that the rules of the Geneva Conventions do not apply to these unlawful combatants. The field manual is an Army Department of Defense document that sets the rules for our conduct. But the DOD can alter that.

As I understand what this amendment would do, it would make the field manual, with regard to the section involving interrogation and intelligence, the equivalent of law; that before the Army or Department of Defense could make any changes in those field manuals, somebody would have to offer legislation in the House and the Senate, which would be subject to a filibuster and maybe we could fix it and maybe we could not. It becomes force of law. I think that is a mistake.

Finally, alterations in procedure by which these prisoners or detainees were handled was done with review by the Department of Justice. We had Attorney General Gonzales, when he was White House counsel and Attorney General, testify about how it came about and all the legal research that went into it. We had the Department of Defense leadership discuss this. They reviewed it. The generals reviewed the heightened techniques personally, individually, and carefully on a case-by-case basis, and they recommended this general at Guantanamo, Miller, be disciplined because these combination of events exceeded what was proper. It was overruled later, but that is how seriously they take this.

I don't think this is the way to fix this situation. Some prisoners need to be handled differently than others. We should not bind by law what the field manual states.

The PRESIDING OFFICER. The Senator's time has expired. Under the unanimous consent agreement, the Senator from South Carolina is recognized.

Mr. GRAHAM. Mr. President, I would like to build on what Senator SESSIONS said. If this amendment did the things suggested, I would support it. One, the Army Field Manual is being revised, as we speak, with two groups in mind—lawful combatants and unlawful combatants. The amendment says that the Army Field Manual be the guide in whatever form it is in. It does not lock in this version. They are going to have a version part of it classified so our enemy does not have a chance to prepare for interrogation techniques that deal with lawful combatants and unlawful combatants.

The reason we are doing that is because what the JAGs told us over 2 years ago. The common thread among our recommendations is concern for servicemembers.

If we put people on the line in this war in terror, we want to give them everything they need as far as equipment. If we put people on the line in terms of handling detainees, we want to give them everything they need, the tools to get good information, but what we do not want to do is put our own people at risk.

We are trying to armor all our vehicles. What we are trying to do with the people who are holding these terrorists and interrogating them is not getting them in trouble. The Office of Legal Counsel, on 27 February 2003, from a Marine general, not exactly the ACLU, said:

> The common thread among our recommendations is concern for our service members. The Office of Legal Counsel does not represent the services, thus understandably concern for service members does not reflect in their opinion. Notably, their opinion is violent on the foreign views of international law.

This is what the judge advocate general of the Army said:

> I recommend the aggressive counterresistant interrogation techniques under consideration be vetted with the Army intelligence community before a final decision on their use is made. Some of these techniques do not comport with Army doctrine as set forth in the Field Manual, FM 34–52, intelligence interrogation, and may be of questionable practical value in obtaining reliable information of those being interrogated.

What we are trying to do is have a guide our troops can understand with

two parts—one for lawful combatants and one for unlawful enemy combatants. We will know what the rules of the road will be. We are putting congressional approval on those rules.

We have had the White House, Congress, and eventually the courts saying you can aggressively interrogate prisoners not covered by the Geneva Conventions. We have been all over the board for the last couple of years. We are trying to bring it together in symmetry where the military can write the rules. They know better than I do. I am not saying I am an expert on interrogations. They are going to write the rules the way they need to be written, and Congress is going to say you are good to go.

These JAGs were telling us you have confused concepts, so we are trying to do away with that confusion to make it stronger, not weaker, to make us better at gathering intelligence and avoid the problems we have had in the last 2 years.

I think it is a very smart thing to do. I look forward to trying to help change it if it needs to be changed, but nobody is locking the military into a set of rules that does not allow them to aggressively get what they need to make us safe. We are trying to provide the military and all those in charge of detainees clear guidance so they will have the flexibility they need and we will not get our people in trouble. That is what we have been working on for 2 years. We are at a point where we can actually accomplish something that will be good for this country, good for the military, and help win this war on terror. Part of this war is about image.

Mr. SESSIONS. Will the Senator yield?

Mr. GRAHAM. Yes, I yield.

Mr. SESSIONS. It did say ''not authorized in the field manual.'' But the Senator from South Carolina interprets that to mean that the military could amend it at any point in time.

Mr. GRAHAM. Absolutely.

Mr. SESSIONS. I think that is more acceptable, but even then the policies in the field manual should reflect the executive branch, it seems to me, being able to use extraordinary events and extraordinary circumstances.

Mr. GRAHAM. And it will be. There will be a section that is specific for unlawful enemy combatants. That is not a traditional way to deal with them versus POWs.

Mr. SESSIONS. I thank the Senator.

The PRESIDING OFFICER. Under the previous order, the Senator from Michigan has the time remaining up to 5:15 p.m. under his control.

Mr. LEVIN. Mr. President, I yield 3 minutes to my colleague from Michigan.

The PRESIDING OFFICER. The Senator from Michigan.

AMENDMENT NO. 1435

(Purpose: To ensure that future funding for health care for veterans takes into account changes in population and inflation)

Ms. STABENOW. Mr. President, I thank my friend and distinguished colleague. I ask unanimous consent to set aside the pending amendment, and I call up amendment No. 1435.

The PRESIDING OFFICER. Without objection, the clerk will report.

The assistant legislative clerk read as follows:

The Senator from Michigan [Ms. STABENOW], for herself, Mr. JOHNSON, Mr. AKAKA, Mrs. MURRAY, Mr. DAYTON, Mr. NELSON of Florida, Mr. LAUTENBERG, Mr. SALAZAR, Mrs. LINCOLN, and Mr. CORZINE, proposes an amendment numbered 1345.

Ms. STABENOW. 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 printed in the RECORD of July 23, 2005 under ''Text of Amendments.'')

Ms. STABENOW. Mr. President, today's soldiers are tomorrow's veterans, and America has made a promise to these brave men and women to provide them with the care they need and deserve. Senator JOHNSON and I and others are offering an amendment today to provide full funding for VA health care to ensure that the VA has the resources necessary to provide quality care in a timely manner to our Nation's sick and disabled veterans.

The Stabenow-Johnson amendment provides guaranteed funding for America's veterans from two sources. First, the legislation provides an annual discretionary amount that would be locked in for future years at the 2005 funding levels and, second, in the future, the VA would receive a sum of mandatory funding that would be adjusted year to year based on the changes in demand from the VA health care system and the rate of health care inflation.

This is about whether we are going to fully support our brave men and women who are fighting today and have fought in the past and will fight tomorrow, whether we are going to continue to debate year to year whether there is adequate funding for veterans health care or whether we will make a statement in this bill that part of national defense is making sure that when our men and women come home and put on the veteran's cap, they will, in fact, be assured that the health care they need will be there, not dependent on the Appropriations Committee entirely, not dependent on what happens year to year, but knowing there is a full commitment that we have made to them for veterans health care.

I will speak further at a later time. I understand there are other colleagues who wish to speak on other amendments. I simply ask colleagues to support this very important commitment, keeping our promises to our veterans, starting with the fact that we say very loudly and clearly that veterans health care, in the full amount needed, will be available to each and every one of our brave veterans.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I yield 3 minutes to the Senator from Washington.

AMENDMENT NO. 1348

Mrs. MURRAY. Mr. President, I ask unanimous consent to lay the pending amendment aside.

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

Mrs. MURRAY. Mr. President, I come to the floor this afternoon to call up two amendments, and in the event cloture is invoked on the underlying bill, I will ask for the yeas and nays on both amendments.

First, I ask unanimous consent to call up amendment No. 1348 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Washington [Mrs. MURRAY] proposes an amendment numbered 1348.

Mrs. MURRAY. 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 amend the assistance to local educational agencies with significant enrollment changes in military dependent students due to force structure changes, troop relocations, creation of new units, and realignment under BRAC)

Strike section 582 of the bill and insert the following:

SEC. 582. ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES WITH SIGNIFICANT ENROLLMENT CHANGES IN MILITARY DEPENDENT STUDENTS DUE TO FORCE STRUCTURE CHANGES, TROOP RELOCATIONS, CREATION OF NEW UNITS, AND REALIGNMENT UNDER BRAC.

(a) AVAILABILITY OF ASSISTANCE.—To assist communities making adjustments resulting from changes in the size or location of the Armed Forces, the Secretary of Defense shall make payments to eligible local educational agencies that, during the period between the end of the school year preceding the fiscal year for which the payments are authorized and the beginning of the school year immediately preceding that school year, had (as determined by the Secretary of Defense in consultation with the Secretary of Education) an overall increase or reduction of—

(1) not less than 5 percent in the average daily attendance of military dependent students enrolled in the schools served by the eligible local educational agencies; or

(2) not less than 250 military dependent students enrolled in the schools served by the eligible local educational agencies.

(b) NOTIFICATION.—Not later than June 30, 2006, and June 30 of each of the next 2 fiscal years, the Secretary of Defense shall notify each eligible local educational agency for such fiscal year—

(1) that the local educational agency is eligible for assistance under this section; and

(2) of the amount of the assistance for which the eligible local educational agency qualifies, as determined under subsection (c).

(c) AMOUNT OF ASSISTANCE.—

(1) IN GENERAL.—The Secretary of Defense shall, in consultation with the Secretary of Education, make assistance available to eligible local educational agencies for a fiscal year on a pro rata basis, as described in paragraph (2).

(2) PRO RATA DISTRIBUTION.—

(A) IN GENERAL.—The amount of the assistance provided under this section to an eligible local educational agency for a fiscal year shall be equal to the product obtained by multiplying—

(i) the per-student rate determined under subparagraph (B) for such fiscal year; by

(ii) the overall increase or reduction in the number of military dependent students in the schools served by the eligible local educational agency, as determined under subsection (a).

(B) PER-STUDENT RATE.—For purposes of subparagraph (A), the per-student rate for a fiscal year shall be equal to the dollar amount obtained by dividing—

(i) the amount of funds available for such fiscal year to provide assistance under this section; by

(ii) the sum of the overall increases and reductions, as determined under subparagraph (A)(ii), for all eligible local educational agencies for that fiscal year.

(d) DISBURSEMENT OF FUNDS.—The Secretary of Defense shall disburse assistance made available under this section for a fiscal year, not later than 30 days after the date on which the Secretary of Defense notified the eligible local educational agencies under subsection (b) for the fiscal year.

(e) CONSULTATION.—The Secretary of Defense shall carry out this section in consultation with the Secretary of Education.

(f) REPORTS.—

(1) REPORTS REQUIRED.—Not later than May 1 of each of the years 2007, 2008, and 2009, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the assistance provided under this section during the fiscal year preceding the date of such report.

(2) ELEMENT OF REPORT.—Each report described in paragraph (1) shall include an assessment and description of the current compliance of each eligible local educational agency with the requirements of part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.).

(g) FUNDING.—Of the amount authorized to be appropriated to the Department of Defense for fiscal years 2006, 2007, and 2008 for operation and maintenance for Defense-wide activities, $15,000,000 shall be available for each such fiscal year only for the purpose of providing assistance to eligible local educational agencies under this section.

(h) TERMINATION.—The authority of the Secretary of Defense to provide financial assistance under this section shall expire on September 30, 2008.

(i) DEFINITIONS.—In this section:

(1) BASE CLOSURE PROCESS.—The term ''base closure process'' means the 2005 base closure and realignment process authorized by the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) or any base closure and realignment process conducted after the date of the enactment of this Act under section 2687 of title 10, United States Code, or any other similar law enacted after that date.

(2) ELIGIBLE LOCAL EDUCATIONAL AGENCY.—The term ''eligible local educational agency'' means, for a fiscal year, a local educational agency—

(A)(i) for which not less than 20 percent (as rounded to the nearest whole percent) of the students in average daily attendance in the schools served by the local educational agency during the preceding school year were military dependent students that were counted under section 8003(a)(1) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7703(a)(1)); or

(ii) that would have met the requirements of clause (i) except for the reduction in military dependent students in the schools served by the local educational agency; and

(B) for which the required overall increase or reduction in the number of military dependent students enrolled in schools served by the local educational agency, as described in subsection (a), occurred as a result of—

(i) the global rebasing plan of the Department of Defense;

(ii) the official creation or activation of 1 or more new military units;

(iii) the realignment of forces as a result of the base closure process; or

(iv) a change in the number of required housing units on a military installation, due to the military housing privatization initiative of the Department of Defense undertaken under the alternative authority for the acquisition and improvement of military housing under subchapter IV of chapter 169 of title 10, United States Code.

(3) LOCAL EDUCATIONAL AGENCY.—The term ''local educational agency'' has the meaning given the term in section 8013 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7713).

(4) MILITARY DEPENDENT STUDENT.—The term ''military dependent student'' means—

(A) an elementary school or secondary school student who is a dependent of a member of the Armed Forces; or

(B) an elementary school or secondary school student who is a dependent of a civilian employee of the Department of Defense.

Mrs. MURRAY. Mr. President, I ask unanimous consent to add Senator KENNEDY as a cosponsor of that amendment.

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

Mrs. MURRAY. I ask for the yeas and nays on amendment No. 1348.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 1349

Mrs. MURRAY. Mr. President, I ask unanimous consent to lay the pending amendment aside.

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

Mrs. MURRAY. Mr. President, I ask unanimous consent to call up amendment No. 1349 and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the clerk will report.

The assistant legislative clerk read as follows:

The Senator from Washington [Mrs. MURRAY] proposes an amendment numbered 1349.

Mrs. MURRAY. 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 facilitate the availability of child care for the children of members of the Armed Forces on active duty in connection with Operation Enduring Freedom or Operation Iraqi Freedom and to assist school districts serving large numbers or percentages of military dependent children affected by the war in Iraq or Afghanistan, or by other Department of Defense personnel decisions)

At the end of subtitle E of title VI, add the following:

SEC. 653. CHILD CARE FOR CHILDREN OF MEMBERS OF ARMED FORCES ON ACTIVE DUTY FOR OPERATION ENDURING FREEDOM OR OPERATION IRAQI FREEDOM.

(a) CHILD CARE FOR CHILDREN WITHOUT ACCESS TO MILITARY CHILD CARE.—

(1) IN GENERAL.—In any case where the children of a covered member of the Armed Forces are geographically dispersed and do not have practical access to a military child development center, the Secretary of Defense may, to the extent funds are available for such purpose, provide such funds as are necessary permit the member's family to secure access for such children to State licensed child care and development programs and activities in the private sector that are similar in scope and quality to the child care and development programs and activities the Secretary would otherwise provide access to under subchapter II of chapter 88 of title 10, United States Code, and other applicable provisions of law.

(2) PROVISION OF FUNDS.—Funds may be provided under paragraph (1) in accordance with the provisions of section 1798 of title 10, United States Code, or by such other mechanism as the Secretary considers appropriate.

(3) PRIORITIES FOR ALLOCATION OF FUNDS IN CERTAIN CIRCUMSTANCES.—The Secretary shall prescribe in regulations priorities for the allocation of funds for the provision of access to child care under paragraph (1) in circumstances where funds are inadequate to provide all children described in that paragraph with access to child care as described in that paragraph.

(b) PRESERVATION OF SERVICES AND PROGRAMS.—The Secretary shall provide for the attendance and participation of children in military child development centers and child care and development programs and activities under subsection (a) in a manner that preserves the scope and quality of child care and development programs and activities otherwise provided by the Secretary.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Department of Defense $25,000,000 to carry out this section for fiscal year 2006.

(d) DEFINITIONS.—In this section:

(1) The term ''covered members of the Armed Forces'' means members of the Armed Forces on active duty, including members of the Reserves who are called or ordered to active duty under a provision of law referred to in section 101(a)(13)(B) of title 10, United States Code, for Operation Enduring Freedom or Operation Iraqi Freedom.

(2) The term ''military child development center'' has the meaning given such term in section 1800(1) of title 10, United States Code.

SEC. 654. EMERGENCY FUNDING FOR LOCAL EDUCATIONAL AGENCIES ENROLLING MILITARY DEPENDENT CHILDREN.

(a) SHORT TITLE.—This section may be cited as the ''Help for Military Children Affected by War Act of 2005''.

(b) GRANTS AUTHORIZED.—The Secretary of Defense is authorized to award grants to eligible local educational agencies for the additional education, counseling, and other needs of military dependent children who are affected by war or dramatic military decisions.

(c) DEFINITIONS.—In this section:

(1) ELIGIBLE LOCAL EDUCATIONAL AGENCY.—The term ''eligible local educational agency'' means a local educational agency that—

(A) had a number of military dependent children in average daily attendance in the schools served by the local educational agency during the school year preceding the school year for which the determination is made, that—

(i) equaled or exceeded 20 percent of the number of all children in average daily attendance in the schools served by such agency during the preceding school year; or

(ii) was 1,000 or more,
whichever is less; and

(B) is designated by the Secretary of Defense as impacted by—

(i) Operation Iraqi Freedom;

(ii) Operation Enduring Freedom;

(iii) the global rebasing plan of the Department of Defense;

(iv) the realignment of forces as a result of the base closure process;

(v) the official creation or activation of 1 or more new military units; or

(vi) a change in the number of required housing units on a military installation, due to the Military Housing Privatization Initiative of the Department of Defense.

(2) LOCAL EDUCATIONAL AGENCY.—The term ''local educational agency'' has the meaning given the term in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(3) MILITARY DEPENDENT CHILD.—The term ''military dependent child'' means a child described in subparagraph (B) or (D)(i) of section 8003(a)(1) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7703(a)(1)).

(d) USE OF FUNDS.—Grant funds provided under this section shall be used for—

(1) tutoring, after-school, and dropout prevention activities for military dependent children with a parent who is or has been impacted by war-related action described in clause (i), (ii), or (iii) of subsection (c)(1)(B);

(2) professional development of teachers, principals, and counselors on the needs of military dependent children with a parent who is or has been impacted by war-related action described in clause (i), (ii), or (iii) of subsection (c)(1)(B);

(3) counseling and other comprehensive support services for military dependent children with a parent who is or has been impacted by war-related action described in clause (i), (ii), or (iii) of subsection (c)(1)(B), including the hiring of a military-school liaison; and

(4) other basic educational activities associated with an increase in military dependent children.

(e) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to the Department of Defense such sums as may be necessary to carry out this section for fiscal year 2006 and each of the 2 succeeding fiscal years.

(2) SPECIAL RULE.—Funds appropriated under paragraph (1) are in addition to any funds made available to local educational agencies under section 582, 583 or 584 of this Act or section 8003 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7703).

Mrs. MURRAY. Mr. President, I ask for the yeas and nays on amendment No. 1349.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mrs. MURRAY. Mr. President, I thank my colleagues for their consideration. I will come to the floor later to discuss both of these amendments, but essentially they deal with the children of our Guard and Reserve. I think all of us understand the impacts to families across our country. Our members from home have been called up for Guard and Reserve duty.

The first amendment I offered will help schools handle the sudden changes in student enrollment and help schools handle base closures, deployment, and force realignments. And the second amendment will make sure our military students get the counseling and support they need. Our Guard and Reserve families are spread across our States, not necessarily close to a base, and the schools are impacted across this country. When they are impacted, our children are impacted.

Both of these amendments will help all of our students in our schools make sure they reach the goals we all desire. I will be here again later to talk about both of these amendments. I thank the managers for their consideration in allowing me to call them up at this time.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I ask unanimous consent to set aside the pending amendment.

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

AMENDMENT NO. 1494

(Purpose: To establish a national commission on policies and practices on the treatment of detainees since September 11, 2001)

Mr. LEVIN. I call up amendment 1494, cosponsored by Senators KENNEDY, ROCKEFELLER, and REED of Rhode Island.

The PRESIDING OFFICER. Without objection, the clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for himself, Mr. KENNEDY, Mr. ROCKEFELLER, and Mr. REED, proposes an amendment numbered 1494.

Mr. LEVIN. 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 printed in today's RECORD under ''Text of Amendments.'')

Mr. LEVIN. Mr. President, this amendment would establish an independent commission on the treatment of detainees in Afghanistan, Iraq, Guantanamo, and elsewhere. U.S. policies, and too often practices, in the treatment of detainees have veered off the course which was established by decades of U.S. leadership in international humanitarian law and has been a champion of the Geneva Conventions on the treatment of prisoners of war and other detainees.

Our troops serve honorably and courageously across the globe. Their honor is besmirched when some of those who are captured are abused. Our troops' future security is jeopardized when people we detain are not treated as we rightfully insist others treat our troops when they are captured.

The amendment we are proposing today would help reaffirm the values we cherish as Americans. It would protect our troops should they be captured. It is going to be argued that there have been dozens of inquiries and hundreds of interviews and thousands of pages provided to Congress, but the fact is that huge gaps and omissions remain.

First, we do not know the role of the CIA and other parts of the intelligence community in the mistreatment of detainees or what policies apply to these intelligence personnel.

Second, we do not know what the policies and practices of the United States are regarding the rendition of detainees to other countries where they may be interrogated using techniques that would not be permitted at U.S. detention facilities.

Third, we have insufficient information on the role of contractors in U.S. detention and intelligence operations.

Fourth, the detention and interrogation of detainees by special operations forces need close examination.

Fifth, we are still missing key documents, including legal documents, from the Office of Legal Counsel.

Sixth, there are just too many significant questions which have been left unanswered.

I hope we can appoint an independent commission on the treatment of these detainees, on policies involved, patterned after the 9/11 Commission. We owe it to our military personnel who might someday be in enemy custody to demonstrate our commitment to the humane treatment of detainees, to strengthen our standing, to object and to take appropriate action against anyone who would mistreat an American prisoner of war.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I wonder if I might bring to the attention of the Senate that we now have 215 amendments offered on this bill; 27 amendments have been proposed and are pending, a number desiring to have rollcall votes. I know of five rollcall votes that I think are ready to go. I ask the Senator, might we advise our leaders that we can continue tonight with rollcall votes and hopefully that can be facilitated.

Mr. LEVIN. I would have to check with our leadership on that. In terms of continuing tonight, I surely would be happy to do that, but let me check with our leaders.

Mr. WARNER. I thank my distinguished colleague because it is important that we keep momentum going forward on this bill.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I mentioned to Senator WARNER I would be saying this. He suggested the possibility of votes tonight. My response to him privately, and now publicly, is we would be happy to try to see if we could work out additional amendments that are pending where we could agree on rollcall votes tonight. I will work with Senator WARNER to see if those amendments can be identified mutually during this rollcall vote.

HONORING 15TH ANNIVERSARY OF AMERICANS WITH DISABILITIES ACT

The PRESIDING OFFICER. Under the previous order, the hour of 5:15 having arrived, there will be 15 minutes for

debate on the Americans with Disabilities resolution. The Senator from Iowa will control 15 minutes.

The Senator is recognized.

Mr. HARKIN. I thank the Chair.

Mr. President, in remarks on the floor this morning I spoke about the remarkable progress that we have made since the Americans with Disabilities Act became law 15 years ago tomorrow. Today, the physical impact of ADA's quiet revolution is all around us. Sidewalks are equipped with curb cuts allowing access for people using wheelchairs. New buildings are outfitted in countless ways with ramps, wide doors, and large bathroom stalls to accommodate people with disabilities. Many banks have talking ATMs to assist individuals who are blind. Service animals are welcome in restaurants and shops, and on and on.

For those of us who are able-bodied, these changes are all but invisible. For a person with a disability, they are transforming and liberating. So are provisions in the ADA outlawing discrimination against qualified individuals with disabilities in the workplace, and requiring employers to provide reasonable accommodations.

The ADA is about designing our policies and also our physical environment so that America can benefit from the contributions of all of our citizens. The ADA is about rejecting the false dichotomy between disabled and abled. It is about recognizing that people with disabilities, like all people, have unique abilities, talents, and aptitudes and that our country, that our America, is better, fairer and richer when we make full use of those gifts.

Last week, in anticipation of this 15th anniversary, I asked people from all across America to send stories about how their lives are different today thanks to the Americans with Disabilities Act. I wanted to find out what the ADA means to people in their everyday lives.

I want to recite some of those.

Before I do, I ask unanimous consent that Senators CANTWELL and VOINOVICH be added as original cosponsors of S. Res. 207.

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

Mr. HARKIN. One young woman whose name is Cheri Blauwet wrote me and said:

> I am a paraplegic as the result of a farming accident when I was 15 months old. I am now 25 years old and am currently a medical student at Stanford University in addition to being a wheelchair racer on the United States Paralympic Team. My ultimate goal is to become a physician and to work internationally to provide sport and physical activity opportunities to my peers with disabilities.

She continued:

> I was 10 years old when the ADA was passed in 1990. Although I didn't know it at that time, my realization of my own talents and capacities would be shaped on this fateful day. As I grew into adulthood, I attended a public university and had an accessible dorm room and classrooms that were wheel chair friendly. I received financial assistance from the state Vocational Rehabilitation program. I was able to apply for jobs, scholarships, and schools and to know I would be viewed without discrimination. My ability to easily take buses, trains, and airplanes led me to domestic and global travel for the purposes of building my sports and medical careers. I knew that something as simple as a set of stairs would not stop me from achieving my life goals.

A woman from Chicago who uses a wheelchair and works for the Federal Reserve wrote the following:

> I am part of the first generation of Americans with disabilities to grow up with the ADA in effect, and as a result, it never crossed my mind that going to college, studying abroad, or working in a big city would be impossible for me. I knew these goals would be challenging—as they would be for anyone. But I also knew they were possible, in part, because of the ADA. The law laid the groundwork to make this country more accessible for everyone, and it gave me the access I need to do the things I'm capable of doing. For example, I need accessible transportation to go to work so I can afford my apartment. My apartment is located near a city bus line, and all of the buses have lifts to accommodate my wheelchair. ADA helped to make these necessities available to me and others with disabilities, giving us more opportunities than ever before to be active members of the community. It's hard for me to imagine what my life would be like without the ADA and without the accessibility I take advantage of every day.

An individual from Laramie, WY, wrote:

> The ADA has made a tremendous impact in my life. The ability to go into a store to shop, or to travel, and to find a place to stay have been the largest differences I've experienced. Now, when I find a place of business that I can't get into or get around in because of my wheelchair, it's the exception rather than the rule. In 1990, in Wyoming, the number of businesses I couldn't get into, or get around in, far outnumbered the number of businesses that were accessible. That has changed. Many have added ramps, doorbells, or simply rearranged displays to make wider aisles.

An individual with a spinal cord injury from St. Paul, MN, wrote:

> I'm 32. Growing up, I was never sure whether I would be employed. Thanks to the ADA, I received accommodations to enable me to earn a B.A. and a J.D. I passed the bar in 1998, thanks to accommodations received under the ADA. One of my first jobs was clerking for a district court judge. Under the ADA, the court provided me with assistive technology to enable me to write judicial opinions and orders. The ADA has made a tremendous difference in my life, both personally and professionally. The ADA has enabled me to participate in every facet of daily life, including the mundane things like going to a movie or staying at a hotel. I can't imagine what my life would be like if this law had not passed.

A woman who has an 11-year-old son with a disability wrote:

> I am thankful for the ADA each time we pull into a handicapped parking space, hit the automatic door to the building, and can move around due to widened doorways. Each time we go into a movie theater and don't have to sit on the very front row. Each time we go to a theme park show where we don't have to sit in the very back row.

Those are just a few of the many letters. I ask unanimous consent that the remainder of the letters I have be printed in the RECORD at this point.

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

A woman with multiple disabilities wrote: ''Without the ADA, I would either be on welfare or Social Security, unable to support myself. Thanks to the ADA, I am a tax-paying citizen helping to support others, living in my own little home which I bought myself, paying for my own car, bills and medicine. The ADA has helped me to secure meaningful employment. In the 70's and 80's, when I was hard of hearing with hearing aids, I had a very difficult time finding and holding jobs because I was not able to hear on the phone, and most often misunderstood verbal instruction. I could often only find jobs paying the minimum wage. Now, though, thanks to the ADA, I am happily employed with an employer who recognizes me for my abilities, not my limits.''

A German woman with a disability wrote the following: ''Although I am not an American with a disability but a German with a disability, the ADA had an impact on my life. The United States is one of my favorite countries for traveling. Why? I am a wheelchair user and I enjoy having no problems finding an accessible hotel. I don't have any trouble finding accessible restrooms, and I never have any problems visiting museums, parks, attractions and public buildings. There are many more parking spaces for the disabled than in Europe. And if I book my flight at an American airline, there will be no stupid questions—I am just a passenger who uses a wheelchair. No big deal! I try to travel to US at least once a year, because of the ADA. It means seamless travel to me.''

And one final story. A man from Minnesota with a spinal cord injury wrote the following: ''Six years ago, my spine was severed in a car accident. In that one afternoon I went from being a positive and productive husband, father, and worker in the U.S. to spending months at the Mayo Hospitals. Before that time I didn't know or think much about the ADA. Since my accident I have remained a positive husband not just the right to be independent and have a job, but the wherewithal to be independent and hold a job.

Mr. HARKIN. Mr. President, shortly we are going to have a vote on a resolution commending the 15th anniversary of the Americans with Disabilities Act and all it has achieved for our society. It truly has opened the doors and torn down the walls of segregation and discrimination and the denial of equal opportunity for people with disabilities.

As I said this morning, after the Civil Rights Act of 1964 passed, we thought we had done a great thing, and indeed we had. But for a large group of Americans with disabilities, the Civil Rights Act of 1964 left them out because they still faced segregation on a daily basis. They faced discrimination on a daily basis; they faced inequality of opportunity on a daily basis. So the Americans with Disabilities Act, signed into law on July 26, 1990, finally accorded to Americans with disabilities every right that every American ought to have. That is the right to live independently, the right to have equality of opportunity, the right to have economic self-sufficiency, and the right to be accorded full participation in our society. Those are the four goals of the Americans with Disabilities Act, and now we see the evidence all around us.

On July 26, 1990, when he signed the Americans with Disabilities Act into law, President George Herbert Walker Bush spoke with great eloquence, and I will never forget his final words before taking up his pen.

He said, ''Let the shameful wall of exclusion finally come tumbling down.''

Today, that wall has indeed fallen. We must continue this progress. We must go forward and not backward.

As I said this morning, we have come a long way in making sure people with disabilities are able to participate in American society. We see people in restaurants, traveling, in theaters and sports arenas, people with jobs, people going to school, people becoming lawyers and doctors and everything else, regardless of their disability, and it is a wonderful thing for our country. It has made us a better, richer, and fairer country.

We only have one other thing that we have to do. We have to make sure people with disabilities have personal attendant services so they can go to work. Right now, 15 years after the Americans with Disabilities Act, over 60 percent of people with disabilities are unemployed, no job. Many of them can have a job if they just have some personal attendant services to help them get going in the morning or help them at night, maybe help them on their job. As taxpayers we know this will cost us less money than institutionalizing people, and it will make their lives and our lives better.

One final thought. As chairman of the Disability Policy Subcommittee, I brought the Americans with Disabilities Act to the floor in 1990. Right after it was passed, I spoke in sign language from this desk down here about what this would mean for people like my brother Frank who was deaf. So I will close my remarks today by using another sign. I will not speak at all in sign language, but I would like to close by saying that there is a wonderful sign—see, sign language is very expressive. There is a wonderful sign in sign language for ''America.'' I am going to teach it right now to Senators who are watching. The sign for ''America'' in sign language is where one puts all of their fingers together like this, intertwined, and makes a circle. That is the sign for America, all of the fingers intertwined, one family in a closed circle. It is a beautiful sign. It really expresses volumes about America.

Fifteen years ago, not all of those fingers were there. People with disabilities were not part of that family. Now they are. So our family in America is more complete, the circle is more complete because of the Americans with Disabilities Act. For centuries they were excluded. People were excluded from our family. Now they are a part of our family, and it has made us a better, fairer, and richer country.

So I hope all Senators will give a strong vote of approval to this resolution; one, to recognize the advances that we have made; second, to recommit ourselves to make sure that we will not go backward but that we will continue forward to even break down more barriers, to become even more inclusive, to make sure that every single person with a disability is a member of that American family.

I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to a vote on S. Res. 207. The question is on agreeing to the resolution.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The assistant Journal clerk called the roll.

Mr. MCCONNELL. The following Senators are necessarily absent: the Senator from Utah (Mr. BENNETT), the Senator from Georgia (Mr. CHAMBLISS), the Senator from Mississippi (Mr. COCHRAN), the Senator from Idaho (Mr. CRAIG), the Senator from Tennessee (Mr. FRIST), the Senator from Arizona (Mr. KYL), the Senator from Florida (Mr. MARTINEZ), and the Senator from Pennsylvania (Mr. SANTORUM).

Mr. DURBIN. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Delaware (Mr. BIDEN), the Senator from New Jersey (Mr. CORZINE), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from West Virginia (Mr. ROCKEFELLER), are necessarily absent.

The PRESIDING OFFICER (Mr. CORNYN). Is there any Senator in the Chamber desiring to vote?

The result was announced—yeas 87, nays 0, as follows:

[Rollcall Vote No. 201 Leg.]

YEAS—87

Akaka	Dorgan	McConnell
Alexander	Durbin	Mikulski
Allard	Ensign	Murkowski
Allen	Enzi	Murray
Baucus	Feingold	Nelson (FL)
Bingaman	Feinstein	Nelson (NE)
Bond	Graham	Obama
Boxer	Grassley	Pryor
Brownback	Gregg	Reed
Bunning	Hagel	Reid
Burns	Harkin	Roberts
Burr	Hatch	Salazar
Byrd	Hutchison	Sarbanes
Cantwell	Inhofe	Schumer
Carper	Inouye	Sessions
Chafee	Isakson	Shelby
Clinton	Jeffords	Smith
Coburn	Johnson	Snowe
Coleman	Kerry	Specter
Collins	Kohl	Stabenow
Conrad	Landrieu	Stevens
Cornyn	Lautenberg	Sununu
Crapo	Leahy	Talent
Dayton	Levin	Thomas
DeMint	Lieberman	Thune
DeWine	Lincoln	Vitter
Dodd	Lott	Voinovich
Dole	Lugar	Warner
Domenici	McCain	Wyden

NOT VOTING—13

Bayh	Corzine	Martinez
Bennett	Craig	Rockefeller
Biden	Frist	Santorum
Chambliss	Kennedy	
Cochran	Kyl	

The resolution (S. Res. 207) was agreed to.

The PRESIDING OFFICER. Under the previous order, the preamble is agreed to and the motion to reconsider is laid upon the table.

The resolution, with its preamble, reads as follows:

S. RES. 207

Whereas July 26, 2005, marks the 15th anniversary of the enactment of the Americans with Disabilities Act of 1990;

Whereas prior to the passage of the Americans with Disabilities Act, it was commonplace for individuals with disabilities to experience discrimination in all aspects of their everyday lives—in employment, housing, public accommodations, education, transportation, communication, recreation, voting, and access to public services;

Whereas prior to the passage of the Americans with Disabilities Act, individuals with disabilities often were the subject of stereotypes and prejudices that did not reflect their abilities, talents, and eagerness to fully contribute to our society and economy;

Whereas the dedicated efforts of disability rights advocates, such as Justin Dart, Jr. and others too numerous to mention, served to awaken Congress and the American people to the discrimination and prejudice faced by individuals with disabilities;

Whereas Congress worked in a bipartisan manner to craft legislation making such discrimination illegal and opening doors of opportunity to individuals with disabilities;

Whereas Congress passed the Americans with Disabilities Act and President George Herbert Walker Bush signed the Act into law on July 26, 1990;

Whereas the Americans with Disabilities Act pledged to fulfill the Nation's goals of equality of opportunity, economic self-sufficiency, full participation, and independent living for individuals with disabilities;

Whereas the Americans with Disabilities Act prohibited employers from discriminating against qualified individuals with disabilities, required that State and local governmental entities accommodate qualified individuals with disabilities, encouraged places of public accommodation to take reasonable steps to make their goods and services accessible to individuals with disabilities, and required that new trains and buses be accessible;

Whereas since 1990, the Americans with Disabilities Act has played an historic role in allowing some 54,000,000 Americans with disabilities to participate more fully in our national life by removing barriers in employment, transportation, public services, telecommunications, and public accommodations;

Whereas accommodations such as curb cuts, ramps, accessible trains and buses, accessible stadiums, accessible telecommunications, and accessible Web sites have become commonplace since passage of the Americans with Disabilities Act, benefitting not only individuals with disabilities but all Americans; and

Whereas the Americans with Disabilities Act is our Nation's landmark civil rights legislation for people with disabilities: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes and honors the 15th anniversary of the enactment of the Americans with Disabilities Act of 1990;

(2) salutes all people whose efforts contributed to the enactment of such Act; and

(3) encourages all Americans to celebrate the advance of freedom and the opening of opportunity made possible by the enactment of such Act.

The PRESIDING OFFICER. The Senator from Virginia.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2006—Continued

Mr. WARNER. Mr. President, my understanding is that the Senate now returns to the Defense authorization bill. Is that the pending business?

The PRESIDING OFFICER. The Senator is correct.

The Senator from Texas.

AMENDMENT NO. 1477

Mrs. HUTCHISON. Mr. President, I call up amendment No. 1477 and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the pending amendment is laid aside. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Texas [Mrs. HUTCHISON] proposes an amendment numbered 1477.

Mrs. HUTCHISON. 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 make oral and maxillofacial surgeons eligible for special pay for Reserve health professionals in critically short wartime specialties)

At the end of subtitle B of title VI, add the following:

SEC. 624. ELIGIBILITY OF ORAL AND MAXILLOFACIAL SURGEONS FOR SPECIAL PAY FOR RESERVE HEALTH PROFESSIONALS IN CRITICALLY SHORT WARTIME SPECIALTIES.

(a) IN GENERAL.—Section 302g(b) of title 37, United States Code, is amended by inserting ", including oral and maxillorfacial surgery," after "in a health profession".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 2005.

Mrs. HUTCHISON. Mr. President, this is a very simple amendment, and it is going to add one more category to those who will be able to receive special incentive pay for signing up to come in to serve our military in the medical field. This field is oral surgery. Those who are deployed in Iraq and Afghanistan and other military theaters have critical needs for oral surgery. Complex facial trauma comes with battlefield injuries.

In addition to being on the ground in mobile surgical hospital units, oral surgeons are serving on every aircraft carrier to provide essential facial reconstruction and trauma care. These surgeons are indispensable military personnel who provide a unique and necessary role in caring for our troops. Unfortunately, this valuable role is being threatened by an ever-widening compensation gap between military and civilian pay and the unlimited practice opportunities that oral surgeons have in the civilian market. With a historical retention rate of 85 percent, a loss of 15 percent, recent statistics predict the current retention rate for oral surgeons is closer to only 75 percent. Even more concerning, many of our military's oral surgeons are senior officers who could retire at any time. In fact, if all oral surgeons eligible for retirement were to retire next year, we could have a 50-percent reduction in this force.

As a means to recruit and retain essential specialties vital to maintaining the military's readiness, the military offers a variety of special pay programs to supplement a specialist's base pay and to help close the military-civilian pay gap. One such special pay program is known as incentive special pay. Available to medical personnel, incentive special pay is a yearly bonus that is designed to bring the salaries of military specialists into closer line with civilian specialists. Although it doesn't get there, it does help. Applied at different levels based on medical specialties, wartime role, and retention, incentive special pay ranges from now between $12,000 for pediatrics to $36,000 for trauma surgery specialists. Ear, nose, and throat specialists, the most comparable medical personnel to oral surgeons, are eligible for incentive special pay around $30,000.

Although oral surgeons stand the same facial trauma watches as ear, nose, and throat specialists and provide the same critical head and neck trauma care as ENTs, they are not eligible for incentive special pay. Often serving as the only head and neck specialist on aircraft carriers and smaller hospitals, our oral and maxillofacial surgeons are providing essential services for our troops in combat, services we cannot afford to lose.

Today, I ask my colleagues to join me in recognizing the important and necessary role that oral surgeons are providing our military by making these surgeons eligible for incentive special pay. We can't allow the pay disparity between military and civilian oral surgeons to become so substantial that these necessary specialists retire from the service or resign their commissions to be in private practice. I urge my colleagues to join me in allowing oral surgeons in uniform who are providing critical trauma services for our troops in the war on terror to be eligible for incentive special pay just as many other medical specialties are.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. I know the Senator from Wyoming desires to address the Senate.

I yield the floor.

AMENDMENT NO. 1342

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Mr. President, I rise in support of amendment No. 1342, the Support Our Scouts Act offered by my distinguished colleague from Tennessee, Senator FRIST. The amendment was intended to be simple and straightforward in its purpose to ensure the Department of Defense can continue to support youth organizations, including the Boy Scouts of America, without fear of frivolous lawsuits. The dollars that are being spent on litigation ought to be spent on programs for youth. Every time we see a group such as the Boy Scouts that will teach character and take care of community, we ought to do everything we can to promote it.

Last Saturday, over 40,000 Boy Scouts from around the Nation and the world met at Fort A.P. Hill in Virginia for the National Boy Scout Jamboree. This event provides a unique opportunity for the military and civilian communities to help our young men gain a greater understanding of patriotism, comradeship, and confidence.

Since the first jamboree was held at the base of the Washington Monument in 1937, more than 600,000 Scouts and leaders have participated in the national event. I attended the Jamboree at Valley Forge in 1957. Boy Scouts has been a part of my education. I am an Eagle Scout. I am pleased to say my son was in Scouts. He is an Eagle Scout. Boy Scouts is an education. It is an education of possibilities for careers. I can think of no substitution for the 6 million boys in Scouts and the millions who have preceded them. There are dozens on both sides of the aisle who have been Boy Scouts. I say it is part of my education because each of the merit badges that is earned is an education. I tell school kids, as I go across my State and the country, that even though at times I took courses or merit badges or programs that I didn't see where I would have any use for them, I later wished I had paid more attention at the time I was doing it.

I always liked the merit badge pamphlet on my desk called entrepreneurship. It is the hardest merit badge in Boy Scouts. It is also one of the most important ones. I do believe that small business is the future of our country. Scouts promote small business through the entrepreneurship merit badge. Why would it be the toughest to get? Not only do you have to figure out a product or a service, not only do you have to do a business plan, not only do you have to find financing, the toughest requirement is the final requirement, and that is that you actually have to start the business.

I could go on and on through the list of merit badges required in order to get an eagle badge. There are millions of boys in this country who are doing that and will be doing that. They do need places to meet. They are being discriminated against. They are being told they cannot use military facilities even for their national jamboree. That is a tradition. These jamborees become a great American tradition for our young people, and Fort A.P. Hill has been made the permanent site of the gatherings. But now the courts are trying to say that this is unconstitutional. It isn't just military facilities, it is Federal facilities.

A couple of years ago, we had an opportunity to debate this on the Senate floor. It had to do with the Smithsonian. Some Boy Scouts requested that they be able to get their Eagle Scout Court of Honor at the National Zoo.

They were denied. Why? The determination by the legal staff of the Smithsonian that Scouts discriminate because of their support for and encouragement for the spiritual life of their members. Specifically, they embrace the concept that the universe was created by a supreme being, although we surely point out Scouts do not endorse or require a single belief or any particular faith's God. The mere fact they ask you to believe in and try to foster a relationship with a supreme being who created the universe was enough to disqualify them.

I read that portion of the letter twice. I had just visited the National Archives and read the original document signed by our Founding Fathers. It is a good thing they weren't asked to sign the Declaration of Independence at the National Zoo.

This happens in schools across the country. Other requests have been denied. They were also told they were not relevant to the National Zoo. That is a kind of fascinating experiment in words. I did look to see what other sorts of things have been done there and found that they had a Washington Singers musical concert and the Washington premiers for both the Lion King and Batman. Clearly, relevance was not a determining factor in those decisions, but it was in the Boy Scouts decision.

The Boy Scouts of America has done some particular things in conservation that are important, in conservation tied in with the zoo. In fact, the founder of the National Zoo was Dr. William Hornaday. He is one of the people who was involved in some of the special conservation movements and has one of the conservation badges of Scouts named for him.

If the situations did not arise, this amendment would not come up. But they do. In 2001, I worked with Senator Helms to pass a similar amendment requiring that the Boy Scouts be treated fairly, as any other organization, in their efforts to hold meetings on public school grounds. This amendment clarified the difference between support and discrimination. It has been successful in preventing future unnecessary lawsuits. The Frist amendment is similar to the Helms amendment and will help prevent future confusion.

Again and again, the Scouts have had to use the courts to assure they were not discriminated against. I am pretty sure everyone in America recognizes that if you have to use the courts to get your rights to use school buildings, military bases, or other facilities, it costs money. It costs time. This amendment eliminates that cost and eliminates that time to allow all nationally recognized youth organizations to have the same rights.

The legal system is very important, but it has some interesting repercussions. Our system of lawsuits, which sometimes is called the legal lottery of the country, allows people who think they have been harmed to try to point out who harmed them and get money for doing that. It has had some difficulties through the Boy Scouts. I remember when my son was in Scouts, their annual fundraiser was selling Christmas trees. One of the requirements when we were selling Christmas trees was that the boys selling the trees at the lot had to be accompanied by two adults not from the same family. I didn't understand why we needed all of this adult supervision. It seemed as if one adult helping out on the lot would be sufficient. The answer was, they have been sued because if there is only one adult there and that adult is accused of abusing boys, they get sued.

So two adults provides some assurance that they won't get sued. The interesting thing is, it was just me and my son. We still had to have another adult in order to keep the Boy Scouts from being sued. They run into some other difficulties with car caravans.

So the legal system of this country has put them in the position where they are doing some of the things that they are doing. The legal system of this country has caused some of the discrimination that is done. It is something we need to correct.

This discussion of the Frist amendment is timely. U.S. District Judge Blanche Manning recently ruled that the Pentagon could no longer spend Government money to ready Fort A.P. Hill for the National Boy Scouts Jamboree. The Frist amendment would ensure that our free speech protections would also apply to the Boy Scouts of America.

The Boy Scouts of America is one of the oldest and largest youth organizations in the United States and the world today. The organization teaches its members to do their duty to God, to love their country, and to serve their fellow citizens. The Boy Scouts of America has formed the minds and hearts of millions of Americans and prepared these boys and young men for the challenges they are sure to face the rest of their lives. It is an essential part of America.

I urge my colleagues to join me in defending the Boy Scouts from constitutional discrimination by supporting the Frist amendment.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, before my distinguished colleague leaves the floor, I regret to say that I just got a call from the Department of Defense in which I was advised that at the jamboree being held just a short distance down 95 in Virginia, a power line collapsed, and at the moment there is one deceased and five critically injured and an assortment of other problems associated with this.

So I am delighted that you gave that speech. I am a cosponsor of the bill. I support it. I was a Scout myself, and I got a lot out of it. I think we ought to close this set of remarks out by offering our prayers and hearts and minds to this tragic accident that occurred an hour or so ago. I thank my colleague.

Mr. ENZI. I thank the Senator.

Mr. WARNER. Mr. President, we are still on the bill and speakers are coming to the Senate floor.

At this time, 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. LOTT. 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. LOTT. Mr. President, parliamentary inquiry: What is the pending business? Are we now on an amendment?

The PRESIDING OFFICER. We are on amendment No. 1477.

Mr. LOTT. Further parliamentary inquiry: Are we in a position where we can discuss any amendment that has been offered and has been set aside? For instance, amendment No. 1389 by Senator THUNE?

The PRESIDING OFFICER. It is in order to discuss any amendment at this time.

Mr. WARNER. Mr. President, the Senator is free to go. He spoke with me. It is an important element before the Senate. The general subject is BRAC.

AMENDMENT NO. 1389

Mr. LOTT. Mr. President, I thank the chairman, Mr. WARNER, the Senator from Virginia. I wanted to begin by congratulating him and Senator LEVIN for the bill they have produced from the Senate Armed Services Committee. I, frankly, had my doubts that we were going to be able to get the bill up at this time in a way that would have momentum and would get through to passage. I think they have succeeded in doing that. The atmosphere is such that I believe we will pass the Defense authorization bill.

As the Senator from Virginia knows, I always made a window for him, when I had the opportunity to make that call. Sometimes it took 2 weeks. Sometimes we put it up against a recess. Sometimes we put it together with Defense appropriations. But it is of a high priority, and I would be delighted if I could see us pass this bill in an orderly fashion this week.

Mr. WARNER. Mr. President, I thank the distinguished leader. The Senator forgot the one time it was 5 weeks, but we got there.

Mr. LOTT. We did. I think the atmosphere is different now. The Senator understands and the American people understand that we are at war, and terrorism is a very serious threat. We cannot expect homeland security and our law enforcement agencies to do the job alone. This is broader than that. We have to have a defense that is prepared to do the job at home and overseas. Certainly, we have called on our National Guard and Reserve to fill in, and they are doing a wonderful job. We have to provide the additional authorization necessary to get the funds so

our men and women can continue to do the fine job they have done.

I thank the Senator for his cooperation on amendments that have been accepted and the language in the bill. I served on the Armed Services Committee for a few years—I believe 6½ years. I enjoyed it very much. I always had a real interest in this area. I am happy to be on the Intelligence Committee now. I am obviously interested in shipbuilding because of what it means to not only my hometown and my State but to our country, the Navy, and a lot of other issues you have addressed for our military.

I am worried about what we are having to expend and how we are having to expend things now because we have certain demands in Afghanistan and Iraq for the Army and the Marines. I am concerned that in 5 or 10 years, we will need to have a military that can address new and emerging threats. I think that is part of what this bill is about—to try to begin to address some of those issues. I look forward to working with the Senator.

I rise in support of Senator THUNE's amendment No. 1389, which would defer Congress's consideration of closure and realignment recommendations that the President will forward to the Congress this coming fall. This is not a new position for me. I have always been opposed to the Base Realignment and Closure Commission process. I generally don't like commissions. I have spoken against them on a number of subjects on the Senate floor. I probably will again before the week is out. I think that is what we were hired to do. That is our job.

I get nervous sometimes that from Social Security, to tax policy, to detainees policy, to intelligence, we basically say: Well, we cannot do the job, so let a commission give us advice here. A commission can do it for us. Our attitude is see no evil, hear no evil, speak no evil, save us. But doing that difficult work is our job.

Up until recent years, we did our job and it worked. After World War II and Korea, certainly as the chairman knows, we closed bases in his State and mine. I can take you around Mississippi and show you those bases that were closed. How was it done? The Pentagon assessed their needs, recognized the fact that we were not on war footing, and we had to begin to close some of those airbases in Greenwood, MS, and in Mobile, AL, and make difficult recommendations, and Congress considered it and dealt with it. We did our job. Now we are in the fifth BRAC round, or something like that. I have opposed every one of them.

One day, I was walking up to the floor of the House of Representatives and this young Congressman from Texas named Dick Armey came up to me as a member of the Rules Committee and said, ''I got this idea and I want you to talk to me about how I get it through the Rules Committee.'' He would remember this. I told him, ''I don't agree with what you are trying to do, and I am absolutely going to vote against it. But if I were you, this is how I would do it.'' He did it, and it led to this BRAC process. Congressman Dick Armey from Texas went on to be majority leader.

I voted against BRAC every time. Some people say: Wait a minute, you are just protecting your own bases; you are troubled because of bases in your own State. Not true. Not a single base has been closed in my State in these rounds. Contrary to popular opinion, we don't have a whole lot of bases. We have been through every round, and we have been fortunate. The commissions have decided not to go forward with closing those bases. So it is not that I have a grudge or that I am angry at anybody. I don't like the process, No. 1.

No. 2, this amendment doesn't kill the process. It allows the Commission to finish their independent and important work and forward the recommendations to the President.

The amendment permits the President to submit a set of recommendations to the Congress. At that point, the Congress would hold the President's recommendations in abeyance, pending completion of several requirements that are critical to achieving a fully informed interagency perspective of our basing requirements.

Here is my problem with BRAC this time. I don't like the process, No. 1. No. 2, I think the timing could not be worse. At a time when we are in war in Iraq and, of course, have been and are still exposed in Afghanistan, a war on terror, with communities all over America having to cope with Reserve and Guard units from all of our States there on extended tours in Iraq, Afghanistan, or in the region, it has had an impact on communities. They are already stressed, and they are asking themselves, What next? Now you are going to come in and close my Air Guard unit or this hospital or you are going to do this or that. The timing could not be worse. That is the second problem.

Next is I think this particular process, the way it is set up by the Pentagon, is a lot less reassuring and messier and more unreliable than the previous BRAC rounds have been. They have made significant mistakes. At a time, also, when we are looking at overseas alignment, talking about reformation, I have serious questions about some of the Pentagon's reformation plans.

So in instance after instance, I think we are making a mistake here. It is going to have huge negative ramifications, and I think we are going to wake up later and find out, wait a minute here, we didn't evaluate the impact of the reduction of military medical services and what it means in the local communities. The local communities may not be able to absorb that additional service. Who is going to serve these military men and women? Or, wait a minute, you mean we are bringing that heavy unit back from Europe? Where are we going to put them? Where are the spouses going to live? What are the quality of life facilities? In some instances, they won't be there. This BRAC, in my opinion, is set up to be worse than all the previous rounds.

Senator THUNE has done a very thoughtful job. He has allowed the process to go forward to a point where he will then put it on hold until some very important things are done.

The conditions that have to be met:

First, complete analysis and implementation of recommendations from the Overseas Basing Commission. We have been talking about this, and we are planning on doing it. We are going to have realignment of where our units are based in Europe. We are going to bring some units home, perhaps some heavy units. We are going to have to bring them somewhere. We need to know what that is and where we are going to put them.

Second, submission of the Quadrennial Defense Review by the DOD to the Congress, and that will be completed before very long—I think this coming winter. Why don't we wait until we see what the needs and the plans are for the future? It would not cause an inordinate delay for that in itself.

The next condition is that we complete deployment and implementation by the Department of Defense and Department of Homeland Security of the national maritime security strategy and the homeland defense and civil support directive. It would have to be held until we get a submission of a report by the DOD to Congress to assess military installation needs in view of the Overseas Basing Commission, returning troops, QDR, national maritime strategy, and the homeland defense and civil support directive.

And return of substantially all troops from Iraq. We need to weigh the impact of what is going on in Iraq, when they will be coming home, and where they are going.

So those are the factors that would have to be considered before the Congress could actually act on the present recommendations.

When the Department of Defense released its BRAC recommendations last May, it was very evident that many of the recommendations were flawed and developed in a vacuum. Their recommendations did not consider the impact on other agencies, such as the Department of Homeland Security or the Veterans' Administration.

The Department of Defense did not even involve the Governors of States that would be affected by recommendations concerning Air National Guard units. The Air Guard is under the Governors. I don't know how they missed that turf. More than one counsel has advised the BRAC Commission that they cannot willy-nilly go in there and say they are shutting down this Air Guard unit. The Governor is going to have some say in that.

I, along with many of my Senate colleagues, was also alarmed that DOD

used transformational options in lieu of military value as the framework for many of the recommendations. Even distinguished Chairman WARNER noted in his testimony before the BRAC Commission, ''A number of the Department's recommendations'' deviate substantially from the BRAC legislative requirements in three important areas.

First, certain recommendations were justified by factors and priorities other than the selection criteria in violation of section 2914(f) [of the base closure law];

Two, certain recommendations were based on data that was not certified as required by section 2903 [of the BRAC law];

Three, certain recommendations did not contain accurate assessments of the costs and savings to be incurred by the Department of Defense and other Federal agencies as required by section 2913(e) [of the BRAC law].

The experience in my own State of Mississippi in looking at the installations was similar to what the great State of Virginia obviously observed and experienced: that DOD recommendations were not based in fact and analysis was faulty. For example, for Keesler Hospital at Keesler Air Force Base, the cost for admitting patients was underestimated by over $2,000 per patient. A math error decreased the military value by 20 percent, and the Department of Defense ignored the fact that local VA facilities and community hospitals have no—none—no excess capability.

Where are these military men and women going to go? It is a problem, it is a big problem for the local community and, more importantly, for the military men and women who deserve quality health care.

Let me get even more simply to the statement of what happened. In one military value critical category, for some reason they gave this category almost a zero rating. When they actually went back at our urging, they said that obviously a mistake was made, and that should have been an 11 military value points instead of a zero. It moved that installation up 44 places. Little error? Big error.

There is a lot more embedded in this than we have been able to dig out even yet. Regarding the Navy Personnel Center at Stennis Space Center, DOD mistakenly assumed that the building was a commercially leased property with no security perimeter. It is not. The personnel center is on a secure compound owned and operated by NASA and is the model of interagency cooperation. Just a little detail there. We have this huge buffer zone. It is a totally secure facility, and they missed that little point.

For Pascagoula Naval Station, DOD proposed to abandon a naval presence for 35 percent of our Nation's coastline, leaving unprotected over 30 percent of this Nation's gas and oil reserves, 60 percent of our trade sealanes, and 14 of America's largest 23 ports. But just 3 weeks ago, the Department of Defense issued a new policy stating that defense of the homeland is their new No. 1 priority.

DOD's proposal to the BRAC Commission would mean we would not have a single naval port between the east coast of Florida at Mayport, FL, to San Diego. It is all sitting there, a vast gulf with all kinds of sealanes and potential threats and future dangerous areas. But DoD says no presence at all is ok; that causes me a great deal of concern.

Even if DOD's work had been perfect, we should not be closing bases at home if we are engaged in armed conflict overseas. It is not fair to the families of our service men and women who have to endure the uncertainty of where they will live and where their children will go to school.

Closing bases right now is also detrimental to our war-fighting ability. The Overseas Basing Commission has already noted that '' . . . to launch major realignments of bases and unit configurations at a time when we are in the midst of two major conflicts takes us to the edge of our capabilities.''

The Overseas Basing Commission also expressed concern that the domestic BRAC is disconnected from the proposed closure of overseas bases, and DOD's budget is woefully inadequate to implement necessary changes. These are some of the Commission's recommendations:

. . . adequate strategic sealift, airlift, and prepositioned equipment and stocks do not exist . . .

And—

budgetary plans for mobility assets are inadequate to meet projected lift demand—

When forces return from overseas.

We [intend to] reposition tens of thousands of family members to localities that have not been given adequate time or budget to prepare for their proper reception . . .

. . . DOD estimates the implementation of [global basing changes] to be between $9 billion and $12 billion with only about $4 billion currently budgeted in fiscal years 2006 through 2011.

If it was just up to me, I would vote to kill this process right now. I have never liked it. I must admit, I have fought it three times in the Senate and was almost able to kill it one of those times. It is an abrogation of Congress's responsibility to oversee basing and, if necessary, to close excess bases.

DOD insisted on doing its BRAC assessment in a vacuum. We tried to follow what was going on. We could not get the answers. But we, the Congress, are obligated to the American people to take a larger perspective.

Commissioner Principi and the entire BRAC Commission are doing a good job. They are doing honorable work right now to try to fix some of the fundamental flaws in DOD's set of recommendations. I want to make it clear, it is not that I don't have confidence in the chairman and the Commission. I do. I think they are a good quality group. But even the Commission can only do so much. The Commission is bound by a set of legal constraints that did not anticipate DOD recommendations would deviate from the laws so substantially.

So if we are not willing to stop this flawed process in its tracks, let's do the next best thing. Senator THUNE's amendment is a workable compromise. It gives breathing room to take a larger view to consider our basing requirements in a global fashion and across all affected agencies. The distinguished Senators from Virginia and Michigan have both said that we do need to close unneeded bases. I agree with that. I am not unrealistic. I know different times call for different things. I know we have some duplication and overlapping, and we can have more efficiencies and we can consolidate.

I do know we are trying to change our forces to deal with where the challenges may be, where our forces are more light, more mobile, and prepositioned. The problem is that many of the recommendations of the BRAC undermine the construct of lighter and more mobile and prepositioned. They do not mesh with what we are saying we should do here, and what we are saying we do should do in reformation does not fit with making our troops lighter and more mobile and prepositioned. Let's not ride a flawed process into oblivion. I urge my colleagues to support Senator THUNE's amendment so that we, the Congress, can make an informed decision when we are asked to vote on the merits of closing domestic bases. I think we will feel better about it.

I realize perhaps the die is cast. I tried last year with an amendment to defer it for a couple of years. We got, I think, 44 votes or close to that. A couple votes who were absent, and we got close. In retrospect, that was the key vote. The opposition was effective, and they won the day. And we have moved forward. I don't think we can turn back that clock, but I do think we can take a pause. We can take some time to see if certain things are considered before we actually pull this trigger and make some changes that we may regret.

Mr. WARNER. Mr. President, if my distinguished leader would enter into a little discussion with me, the Thune amendment, to which he has referred in his remarks, apparently has been modified in a way that I wish to advise the Senate on this modification, as I read it. It is extraordinary.

The concept of BRAC only works if the President decides on the block of closures and sends it to the Congress to vote it up or down en bloc.

As I read this and I just read it for the first time a few minutes ago I draw your attention to the page I handed the Senator from Mississippi. It says as follows:

In the heading by striking ''congressional disapproval'' and inserting ''congressional action.'' In subparagraph A, by striking ''the date on which the President transmits such report'' and inserting ''the date by which the President is required to transmit such report,'' and subparagraph B, by striking ''such report is transmitted'' and inserting ''such report as required''—all

this gets down to the following: that the Secretary may not carry out any closure or realignment—that is any of the number on the whole list, any of them:

The Secretary may not carry out any closure or realignment recommended by the Commission report transmitted by the President pursuant to section 2903 if a recommendation for such closure or realignment is specified as discussed by Congress in a joint resolution partially disapproving the recommendations of the Commission that is enacted before the earlier of. . . .

It seems to me, as I read this, Congress can now go in and cherry-pick base after base and pass a resolution to take it out.

Mr. LOTT. Mr. President, if the Senator would allow me to ask, is this a modification of the Thune amendment? Is this the Thune amendment? This sounds similar to an amendment I heard discussed earlier as maybe one that was being suggested or considered by Senator COLLINS. It is not clear to me.

Mr. WARNER. If I may inquire at the desk, was there not a modification put in by Senator COLLINS this morning, three amendments, and among them

The PRESIDING OFFICER. The Senator from Maine called up three amendments on behalf of the Senator from South Dakota, Mr. THUNE. None of the amendments have been modified.

Mr. LOTT. That is an important point, I say to the Senator from Virginia. That is not my understanding of the Thune amendment. If a modification along these lines were added to the Thune amendment, I would have some reservations about that. I want to take a look at it.

Mr. WARNER. Let me point out, I say to my distinguished former leader, that the original Thune amendment that was offered, I think, Thursday or Friday night and was the subject of a detailed colloquy between myself and the distinguished Senator from South Dakota, is still at the desk, and then this amendment that I read to you is the final paragraph in an amendment which is identical in every way to the one we discussed—Senator THUNE and myself—on Thursday night.

With the exception of the last paragraph in that amendment, it has been changed to read the same as this one.

Mr. LOTT. Mr. President, I say to the distinguished chairman of the committee, I would want to take a good look at the different amendments that might be pending. I want to be sure I understood any modification or change to Senator THUNE's amendment. The Thune amendment, as I understand it and as I described it in my remarks, is an approach which I think is good. I think what the chairman is saying about the idea that Congress would start cherry-picking at this point from this list, I have my sincere reservations about that. That would be a messy thing to do without proper consideration. I would have a lot of reservations about it. I would want to hear what the sponsors have to say. My predisposition is to be very hesitant about that.

Mr. WARNER. Mr. President, I thank my distinguished leader. I cannot remember how many years he was in the House and how many years he has been in the Senate, but I have only been here 27.

Mr. LOTT. So long my memory has faded to the point I can't remember.

Mr. WARNER. If he had something such as this on the roll, he would have a challenge——

Mr. LOTT. I think, if we should start to cherry-pick from this list or any list at this time, it would not be very wise.

Mr. WARNER. Give them the benefit of the doubt to find out, but this is at the desk right now. This is the moving target on this BRAC. I am strongly in favor of the current BRAC law being implemented as it is written in the law, not deviating in any way. I cannot accept the delay, I say to my distinguished leader, because there are too many communities burdened by all the expenses of lobbyists, and so forth, and the uncertainty that would throw onto the business community not knowing, with the Thune amendment, for maybe another 2 years whether they are going to stay open.

Mr. LOTT. I certainly agree with that argument. I have a problem with why these communities and States have had to spend a lot of money on it. I thought that is what we were for.

Having said that, if you gave a lot of them a choice—have your base closed or delay it for 2 years—I think I know what the answer would be: Give me 2 more years to deal with the demands of this kind of choice.

There have been instances where these closures have taken place and the communities have done pretty well. The old Brookley Air Force Base in Mobile, AL—talking about a State other then my own—recently won a competition to assemble airbus airplanes there. I think they are making pretty good use of it.

Mr. WARNER. Mr. President, I am familiar with that.

These communities could not begin to attract new business, could not get new capital. They would become almost stagnated not knowing which way that decision would go. I thank my distinguished leader for his participation in this debate.

Mr. LOTT. I yield the floor.

The PRESIDING OFFICER (Mr. THUNE). The Senator from Virginia.

Mr. WARNER. Mr. President, if I might advise the Senate, there was a UC in place whereby the Senator from South Carolina was to be recognized for the purpose of bringing an amendment to the attention of the Senate. He has been patiently waiting some period of time. I would like to consult with the distinguished Senator from Michigan. I would like to give the Senator from South Carolina the opportunity to proceed, but I would like to be aware of what the needs of the Senator from Michigan are in regards to his side.

Mr. LEVIN. I thank my good friend from Virginia. I think Senator GRAHAM was actually part of a UC.

Mr. WARNER. It is a part of the RECORD.

Mr. LEVIN. Right. So he has the right to go next.

I would ask, if it is convenient for the Senator from Florida, that after Senator GRAHAM, I will ask unanimous consent that the Senator from Florida be recognized to introduce his amendment at that time. I wonder if we could find out from Senator GRAHAM about how long he expects to be.

Mr. GRAHAM. Less than 10 minutes.

Mr. WARNER. Mr. President, might I suggest that we take 15, and I would like to have 5 of those minutes.

Mr. GRAHAM. Fifteen minutes, and the Senator from Virginia can have 5; yes, sir.

Mr. LEVIN. Then I would make inquiry also from my friend from Virginia. I understand that the Republican TV monitor has already indicated no votes tonight. Is that correct?

Mr. WARNER. I am not aware of that. I have been on the floor. I know that we checked with the Senator's side and there was some doubt as to whether there could be votes.

Mr. LEVIN. If we could work out votes, we were willing to do that, but I think it is becoming clear that is not going to happen.

Mr. WARNER. In fairness to our colleagues, let us clear that up in the course of the debate on the amendment of the Senator from South Carolina.

Might I ask from the Senator from Florida how much time he would like?

Mr. LEVIN. The Senator from Florida would need about how much time?

Mr. NELSON of Florida. At the Senator's great pleasure, 10 minutes.

Mr. LEVIN. Whatever the Senator needs is fine. Then I would be offering two amendments, if that is agreeable with the Senator from Virginia.

Mr. WARNER. Absolutely.

Mr. LEVIN. I will be introducing them immediately following the Senator from Florida.

The PRESIDING OFFICER. The Senator from South Carolina is recognized under the previous order.

Mr. WARNER. Mr. President, I think we had modified the previous order with a new UC whereby the Senator from South Carolina gets 15 minutes, 5 minutes under the control of the Senator from Virginia, and 10 under his control, followed by the Senator from Florida for 10 minutes. Am I not correct?

The PRESIDING OFFICER. The Chair would note that is correct.

Mr. WARNER. I yield the floor.

The PRESIDING OFFICER. The Senator from South Carolina.

AMENDMENT NO. 1505, AS MODIFIED

Mr. GRAHAM. I ask unanimous consent at this time to set aside the pending amendment and call up amendment No. 1505 and send it to the desk with a modification.

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

The clerk will report.

The legislative clerk read as follows:

The Senator from South Carolina [Mr. GRAHAM], for himself, and Mr. MCCAIN, proposes an amendment numbered 1505, as modified.

Mr. GRAHAM. 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:

At the end of subtitle G of title X, add the following:

SEC. 1073. AUTHORITY TO UTILIZE COMBATANT STATUS REVIEW TRIBUNALS AND ANNUAL REVIEW BOARD TO DETERMINE STATUS OF DETAINEES AT GUANTANAMO BAY, CUBA.

(a) AUTHORITY.—The President is authorized to utilize the Combatant Status Review Tribunals and a noticed Annual Review Board, and the procedures thereof as specified in subsection (b), currently in operation at Guantanamo Bay, Cuba, in order to determine the status of the detainees held at Guantanamo Bay, including whether any such detainee is a lawful enemy combatant or an unlawful enemy combatant.

(b) PROCEDURES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the procedures specified in this subsection are those that were in effect in the Department of Defense for the conduct of the Combatant Status Review Tribunal and the Annual Review Board on July 1, 2005.

(2) EXCEPTION.—The exceptions provided in this paragraph for the procedures specified in paragraph (1) are as follows:

(A) To the extent practicable, the Combatant Status Review Tribunal shall determine, by a preponderance of the evidence, whether statements derived from persons held in foreign custody were obtained without undue coercion.

(B) The Designated Civilian Official shall be an officer of the United States Government whose appointment to office was made by the President, by and with the advise and consent of the Senate.

(3) MODIFICATION OF PROCEDURES.—The President may modify the procedures and requirements set forth under paragraphs (1) and (2). Any modification of such procedures or requirements may not go into effect until 30 days after the date on which the President notifies the congressional defense committees of the modification.

(c) DEFINITIONS.—In this section:

(1) The term ''lawful enemy combatant'' means person engaging in war or other armed conflict against the United States or its allies on behalf of a state party to the Geneva Convention Relative to the Treatment of Prisoners of War, dated August 12, 1949, who meets the criteria of a prisoner of war under Article 4 of that Convention.

(2) The term ''unlawful enemy combatant'', with respect to noncitizens of the United States, means a person (other than a person described in paragraph (1)) engaging in war, other armed conflict, or hostile acts against the United States or its allies, or knowingly supporting others so engaged, regardless of location.

Mr. GRAHAM. Very quickly, I appreciate the patience of the Senator from Florida and Chairman WARNER.

Mr. President, this amendment deals with the concept called unlawful enemy combatant, a concept being used to detain about 500 people at Guantanamo Bay who have been captured throughout the world, many of them on battlefields. It is a concept that goes back to World War II where the Supreme Court, during World War II, coined the phrase ''enemy combatant'' to deal with some German saboteurs who were caught coming into America in civilian clothes, with a plan to disrupt American life in the war operations.

These individuals—I think there were seven of them—were tried by military tribunals. A couple of them were put to death. Some were given lengthy prison sentences. Then the Court recognized the concept of enemy combatant.

Fast forward 60 years. What do we find? We find ourselves in a war with a group of people who are not part of a state or a nation. They do not wear uniforms. They are terrorists. They hide among civilians. They cheat. They do anything one can imagine to have their way. They do not abide by any international regimes.

When we capture these people, we have made a decision as a nation to house them at Guantanamo Bay, a place run by the military. It has three functions: To interrogate foreign terrorists to get good information to make sure that we are safer as a nation. Senator MCCAIN has an amendment to standardize the interrogation techniques. I think the country would be well served to have everything dealing with unlawful and lawful combatants in separate categories.

We want the Geneva Conventions to apply to people who are under it. We do not want the Geneva Conventions to apply to terrorists. We want to do it right. We want our troops to not be confused. Senator MCCAIN has an amendment that would basically allow the Army Field Manual to be the one source of law to deal with both categories, which would be a great benefit to the military and the country at large, in my opinion.

I have an amendment that gets Congress involved for the first time. In a general way, the Congress authorized the President to go to war after 9/11. A lot has happened since then, some good, some bad. I think it is now time for the Congress to weigh in on the issues that affect this Nation in the war on terror. My amendment allows Congress to define ''unlawful enemy combatant'' in a very flexible way similar to what is being used at Guantanamo Bay now. It incorporates the procedures that are used to classify and review enemy combatant status.

The way it works now, if the military or appropriate authority sends someone to Guantanamo Bay, the first thing that happens is there is a review process where a determination will be made as to whether that person fits the definition of ''unlawful enemy combatant.'' We are codifying that procedure. We are accepting most of it. We are tweaking the definition in line with Supreme Court cases that have reviewed this whole subject matter.

That is another point I would like to make. There are about five cases in Federal court now dealing with issues like enemy combatant status, military commissions to try noncitizen foreign terrorists. The Government has won on most of these cases. But enemy combatant status needs to be defined, in my opinion, by the Congress working in conjunction with the administration because courts will defer to a statute much quicker than it will defer to anything else.

In one of these opinions, Justice Scalia has been telling us that Congress has been AWOL. Congress needs to get involved. So this amendment allows the procedures in place at Guantanamo Bay to make the initial determination, if one is an enemy combatant, to be authorized to be utilized by the President. Every year, a review is made of each person's case. Every year the Government has to come and show that the enemy combatant status is still justified, that the person who is being detained is not dangerous to us or our allies, or they no longer have any intelligence capability or intelligence value. At that point, they can be released. Two hundred and something have been released. What we are trying to do with this amendment is to get Congress involved in that process so that the courts will understand that Congress agrees with the concept of unlawful enemy combatant and that the review process in place is a good process. I have made two changes.

One, I have addressed the issue of using statements that are derived from foreign interrogations. I do not think anybody in this country wants our Nation to be using evidence that may be tainted by torture or undue coercion. So I have a provision in there that says if a statement or information is used that comes from a foreign detention or a foreign interrogation, we have to simply prove, where practical, that it is reliable, that it is not as a result of coercion. The courts will appreciate that, and I think the American public would appreciate that.

Second, we have a provision that the releasing authority, the person who decides if someone can be released, should be confirmed by the Senate. Under Secretary England performs that function right now, but I think it would be a good relationship to have the Senate involved in picking that person who has the ultimate authority to determine to let these people go because 12 of them have gone back to the fight. Some people who have been released have gone back to the war. Some people who have been picked have probably been misidentified.

We are trying to get a procedure that the courts will accept, that will be good for the country, that will keep terrorists off the battlefield, that would withstand legal scrutiny and live up to the ideals of who we are.

If Congress will get involved and legitimize unlawful enemy combatant status, it will pay great dividends to the operation at Guantanamo Bay because we will have the administration and the Congress on the same sheet of music and the courts will soon follow.

My goal is to strengthen Guantanamo Bay, make sure that abuses in the past never occur again, have standardization of interrogation techniques so our troops will not get in trouble so that we can get good, reliable information. The military commissions are on track to be approved by the Supreme Court. We need a place to try these terrorists for their crimes. If they are not being tried, they need to be kept off the battlefield. Enemy combatant status does that. We need due process rights. We are a nation of laws. This amendment incorporates the due process that already exists with some improvement.

If we will do these things, Guantanamo Bay will be more effective in the future. It will be a forward-looking, reform-type process. We will not be captured by the mistakes of the past, and we will be a safer nation.

I appreciate Senator WARNER's support and leadership on this issue. We are trying in concert to make sure that we are stronger as a nation, not weaker. We learn from our problems. We clean up some of the problems we have had in the past and Congress finally gets involved. I think the courts will appreciate that. I know the American public will.

With that, I will yield to Senator WARNER.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, this is another very important step forward, drawing on the very profound remarks made earlier today by our distinguished colleague from Arizona. The three of us have worked together.

I want to clarify one aspect because when I looked at the Senator's earlier draft, it appeared to me that a military judge being given to an unlawful combatant appearing before an administrative review board would give that individual more due process than accorded a lawful combatant, a POW. My understanding is the Senator's modification now embraces that concern, and I want to make that clear to our colleagues.

Mr. GRAHAM. That is correct.

Mr. WARNER. Why does the Senator not state it in his own words?

Mr. GRAHAM. That is a very good point. Under the procedure in place now, a military representative is provided to the enemy combatant initially. When the determination is made whether someone is an enemy combatant, our own rules provide a military representative. In an annual review, a military representative is given to the enemy combatant to make their case that they are no longer a danger. What I wanted to do at the annual review is make that person a military lawyer because the potential of keeping these people there for a long period of time is great because unlike other wars dealing with traditional POWs, there is nobody to sign surrender documents.

I can understand the Senator's concerns. We can deal with that issue later. So we will go back to the old way of doing business. The lawyer requirement will be taken out and we will go back to the procedures that are in place now.

Right now, every unlawful enemy combatant has a military representative to help them make their case about their status. We will not make that person a military judge advocate. I think it would help us in court, but I do not believe it is that important. It will pass muster with the courts in its current form, so that has been changed.

Mr. WARNER. Clearly, the unlawful has no advantages over, as we might say, the lawful. They are on equal status, so to speak?

Mr. GRAHAM. The Geneva Convention would govern how we treat the lawful combatant. That is something we all understand and have been working with for 60 years. The unlawful enemy combatant can now be detained for an indeterminate period of time, once that determination has been made, with an annual review required to see if they should be kept based on danger to our country that the person presents, and any intelligence data that they present.

So this legitimizes what the courts have been telling us to do. The courts have said that an unlawful enemy combatant status determination is an appropriate legal concept as long as the person is given notice and the right to challenge. So what we are doing in this statute is taking the court's directive and we are giving them notice and we are giving them a right to challenge. A lawful combatant already has that under the Geneva Conventions.

Mr. WARNER. Mr. President, I thank my colleague. I ask that I now be a cosponsor, with that modification.

Mr. GRAHAM. The Senator has made my day.

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

Mr. WARNER. Mr. President, the three of us, together with others who have talked with us, I think, have made a very valuable contribution because all eyes are on America as to how we conduct these difficult situations.

Tomorrow we will have an opportunity to further go into this question about the use of the Army manual. My concern over that is that the current manual, in my judgment, does not quite strike the balance between detention and interrogation. I am hopeful that we can draw from the Department of Defense, as best we can, what the modification of the Army manual would be.

If I can be assured that is going to be balanced and take into consideration the need to address this unlawful category of these individuals who are not acting on behalf of a State-sponsored conflict—am I not correct?

Mr. GRAHAM. I say to the chairman, he is absolutely correct. It is a very simple concept we are trying to achieve. There are two problems, there are two groups of people we worry about for two different reasons. One group I worry about is the Americans in charge of these detainees because we have all kinds of laws that we have adopted, for 60 years, directing our people in how to treat folks who are captured—whether they are lawful or unlawful. We have had policy statements and directives that are at best inconsistent, that are all over the board, floating out there in legal cyberspace. We are trying to put into one document, the Army Field Manual, the rules of the road for both groups, lawful combatants and unlawful combatants.

We are not writing the field manual, we are not telling the experts what to put in the manual, how to write it, we are saying, for the sake of our own troops, you have one document you can go to now. And we are saying to the world we are going to standardize our techniques. We are not going to have inconsistent messages. The JAG memos we were talking about a while ago that were 2 years old now are telling us if you get too far afield from what we have been doing for 60 years, you are going to get yourself in trouble. So the Army Field Manual will be one-stop shopping for all those responsible for detainees in both categories, and it will standardize procedures that will allow us to get good information, be aggressive, without losing who we are as a people. That is why we need this, in my opinion.

Mr. WARNER. Mr. President, I do need to make certain that this modification will treat the subject of how a person is detained with equal specificity as to how they are to be interrogated.

As you know from your experience of 20 years in the JAG—as a matter of fact, you and I went to Guantanamo a week or so ago. It is important that detention be conducted in a way that it doesn't somehow influence how the interrogation might go. I will not draw the picture here as to what could be done.

Mr. GRAHAM. Absolutely.

Mr. WARNER. I yield the floor.

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

Mr. GRAHAM. Absolutely.

Mr. DURBIN. I ask the Senator from South Carolina, the amendments which you have offered and were cosponsoring with Senator MCCAIN, Senator WARNER, and others, do they make it clear that the policy of the United States is not to engage in cruel, inhuman, and degrading treatment of any prisoner in our control?

Mr. GRAHAM. It becomes a statute——

Mr. WARNER. Mr. President, I can answer that. If you look at the second McCain amendment, basically that amendment is directed at that question. That is my understanding.

Mr. GRAHAM. That is absolutely right. It uses the terms the Senator has just uttered and makes it a statutory

prohibition to engage in that conduct. It takes what the President said, we are going to treat people humanely, gets the Congress involved, and we are putting parameters around what we do with foreign terrorists, noncitizens. We can interrogate them, but we are not going to change who we are as a people, and the interrogators tell us that the Army Field Manual—as we were down there a week ago—gives them all the tools they need to aggressively pursue the interrogations. You really don't get things out of torture. They do not believe it is good practice, to begin with, so you are absolutely right. There will be a prohibition in law as well as rhetoric.

Mr. DURBIN. I ask unanimous consent for 2 additional minutes for the Senator from South Carolina or Virginia—whoever wants the floor.

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

Mr. DURBIN. I thank the Senator from Florida for his patience, too.

If I can ask either Senator—both served in the military, and the Senator from South Carolina in the Judge Advocate General Corps—it strikes me this is an important thing for our troops, to give them clarity, in terms of policy. I would ask the Senator from South Carolina if, in his visits to Guantanamo or visits with other military personnel, he has found that sentiment.

Mr. GRAHAM. This is absolutely giving clarity. What had been confusing will now be clear, and it will be protection for the troops who are having to administer the detainees, in terms of interrogation. That is what Senator WARNER said, in terms of detention.

The Marine Corps Judge Advocate, who was part of a review process 2 years ago, said the one thing he thought policymakers were missing, or misunderstood, was the effect on our own troops. Under the Uniform Code of Military Justice, it is a crime to abuse a detainee. So you are creating a new model for interrogation, and you may be getting your own people in trouble if you don't understand how the law exists already.

We are trying to reconcile those concepts; let the military tell us what they need and not put our own people at jeopardy. This will help GTMO in two regards: Get better, more reliable information that will not give us a black eye and help the troops understand what their duties are.

Mr. DURBIN. I say in closing to the Senator from South Carolina, I thank him for his leadership, along with Senators WARNER and MCCAIN. I know better than most in this Chamber this is a very delicate issue, and I think they have handed it in a positive way, with clarity along the lines we are drawing, so we protect America and protect our troops and give them clear guidance in terms of conduct that is acceptable and up to American's standard of value. I thank the Senator for his leadership.

Mr. LEVIN. Will the Senator yield for an additional question? And I ask unanimous consent that I be allowed to proceed for 3 minutes with the Senator from South Carolina, if the Senator from Florida will be so gracious.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Michigan.

Mr. LEVIN. I also commend the Senators who are involved in these proposals. These are extremely important proposals. I hope that they would not be nongermane if, indeed, cloture is invoked tomorrow.

By the way, I wonder if I could ask the Chair whether or not the pending amendment would be germane, if cloture is invoked?

The PRESIDING OFFICER. The Chair would note there is not sufficient information at this time to make that determination.

Mr. LEVIN. I thank the Chair.

Mr. WARNER. Will the Senator allow me to address the Senate on a separate matter for 1 minute? On the subject of cloture, my leader, Senator FRIST, and I will confer in the morning and then confer with the Democratic leader himself. At the moment, it is not a matter of absolute certainty, even though it ripens, as to whether the leader will wish to pursue it.

Also, we would like to advise all Senators there will be no more votes tonight, if you concur in that?

Mr. LEVIN. I have no objection.

Mr. WARNER. The assistant Democratic leader is here.

Mr. LEVIN. If I can go back and make inquiry of my good friend from South Carolina, I think he has focused, along with the cosponsors, on something which is critically important, and that is reliance on the Army manual so everybody knows the roadmap, as he puts it.

Is it the Senator's understanding of the Army manual that abusive and degrading treatment would be prohibited?

Mr. GRAHAM. It is not only my understanding, it is also part of the Uniform Code of Military Justice. There is a specific section that makes it a crime to abuse a detainee or a prisoner.

Mr. LEVIN. The reason this comes up is those words have now been utilized by a witness, by somebody who has made investigation. So I want to be as precise as I can, in my question, about whether it would be the belief of the Senator from South Carolina that abusive and degrading treatment would be a violation of the manual?

Mr. GRAHAM. It is my understanding that the Army Field Manual, as written—and it is being revised—rejects that concept in interrogation of abusive and degrading behavior. I am not an expert on the terms of it. But the whole point of these amendments also is to make sure that we have standardized interrogation techniques that get good information without having to be abusive and degrading. But you can be forceful. You can be stressful. You can be psychologically and physically stressful under the Army Field Manual without crossing the line that we are all concerned about.

That is exactly what we did. We had confusing messages—if I may continue for a second—to our troops. We had a DOJ memo that was a basic departure from the way we have lived as a nation for 60 years. Understandably, after 9/11 we wanted to be aggressive. But the JAGs in question told us: Don't go down this road too far because we have trained people for 60 years to do it one way. It works that way. And you are going to confuse our own troops.

Lo and behold, that's exactly what happened. So we are trying to get it back to where we have been.

We fought World War II, Hitler—a pretty bad guy—using these concepts. We can fight these terrorists using these concepts.

My goal, and I am sure it is your goal, is to kill them if we have to, capture them, interrogate them, detain them and prosecute them and do all that without giving up who we are as a nation.

We can do that. This is a step in that direction.

Mr. LEVIN. Again, I commend my friend from South Carolina. I am glad we have the reassurance that he would consider at least abusive and degrading treatment to be inhumane treatment within the meaning of those words. I thank him, and I yield the floor.

AMENDMENT NO. 762

The PRESIDING OFFICER. Time has expired. The Senator from Florida is recognized.

Mr. NELSON of Florida. Mr. President, I want to talk about widows and orphans. I call up amendment No. 762, which is filed at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Florida [Mr. NELSON], for himself and Mr. HAGEL, Mr. CORZINE, Mr. NELSON of Nebraska, Mr. SMITH, Ms. CANTWELL, Mr. DAYTON, Mr. KERRY, Ms. LANDRIEU, Ms. MIKULSKI, Mrs. MURRAY, Ms. STABENOW, Mrs. BOXER, Mr. PRYOR, Mr. DURBIN, Mr. JEFFORDS, Mr. JOHNSON and Mr. SALAZAR proposes an amendment numbered 762.

Mr. NELSON of Florida. I ask unanimous consent the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To repeal the requirement for the reduction of certain Survivor Benefit Plan annuities by the amount of dependency and indemnity compensation and to modify the effective date for paid-up coverage under the Survivor Benefit Plan)

At the end of subtitle D of title VI, add the following:

SEC. 642. REPEAL OF REQUIREMENT OF REDUCTION OF SBP SURVIVOR ANNUITIES BY DEPENDENCY AND INDEMNITY COMPENSATION.

(a) REPEAL.—Subchapter II of chapter 73 of title 10, United States Code is amended—

(1) in section 1450(c)(1), by inserting after ''to whom section 1448 of this title applies'' the following: ''(except in the case of a death as described in subsection (d) or (f) of such section)''; and

(2) in section 1451(c)—

(A) by striking paragraph (2); and

(B) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

(4) as paragraphs (2) and (3), respectively.

(b) PROHIBITION ON RETROACTIVE BENEFITS.—No benefits may be paid to any person for any period before the effective date provided under subsection (e) by reason of the amendments made by subsection (a).

(c) PROHIBITION ON RECOUPMENT OF CERTAIN AMOUNTS PREVIOUSLY REFUNDED TO SBP RECIPIENTS.—A surviving spouse who is or has been in receipt of an annuity under the Survivor Benefit Plan under subchapter II of chapter 73 of title 10, United States Code, that is in effect before the effective date provided under subsection (e) and that is adjusted by reason of the amendments made by subsection (a) and who has received a refund of retired pay under section 1450(e) of title 10, United States Code, shall not be required to repay such refund to the United States.

(d) RECONSIDERATION OF OPTIONAL ANNUITY.—Section 1448(d)(2) of title 10, United States Code, is amended by adding at the end the following new sentences: ''The surviving spouse, however, may elect to terminate an annuity under this subparagraph in accordance with regulations prescribed by the Secretary concerned. Upon such an election, payment of an annuity to dependent children under this subparagraph shall terminate effective on the first day of the first month that begins after the date on which the Secretary concerned receives notice of the election, and, beginning on that day, an annuity shall be paid to the surviving spouse under paragraph (1) instead.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on the later of—

(1) the first day of the first month that begins after the date of the enactment of this Act; or

(2) the first day of the fiscal year that begins in the calendar year in which this Act is enacted.

SEC. 643. EFFECTIVE DATE FOR PAID-UP COVERAGE UNDER SURVIVOR BENEFIT PLAN.

Section 1452(j) of title 10, United States Code, is amended by striking ''October 1, 2008'' and inserting ''October 1, 2005''.

Mr. NELSON of Florida. Mr. President, it is an honor for me, on behalf of some folks who have not been treated with fairness and equity, to rise on the floor of the Senate to try to obtain it for them. There will be attempts to strip this amendment from the bill. But I offer it tonight, whether or not cloture is invoked on the overall bill, with the hope that we are going to get an up-or-down vote. It is important that widows and orphans in this country, whose husbands and fathers died as a result of their military service, can know where the Senators stand on this important issue. It is an honor for me to offer this amendment, and it is going to correct two important inequities faced by our military widows and our military retirees.

There is an unfair and painful offset of the Defense Department's Survivors Benefits Plan, offset against the Veterans Affairs Dependency and Indemnity Compensation. What is Survivors Benefit Plan? When servicemembers die on active duty, their survivors receive a benefit to recognize their sacrifice. You also have 100-percent disabled military retirees who actually go out and purchase this survivors benefit so their loved ones will have this when they have passed on. Yet that survivor benefit is today being taken away unfairly from our military widows and orphans. Fixing that is what my amendment is all about.

If you go back into the Good Book, you will find that one of the main things that we are admonished is to look out for the widows and orphans. With our Nation now in a violent struggle with brutal and vicious enemies, and Americans being lost every day, we simply must not forget that the families left behind by those courageous men and women, those families, bear tremendous pain. Their survivors' lives are forever altered. Their future is left unclear. They have made the ultimate sacrifice and our Nation expects us to honor that sacrifice.

It reminds me of President Lincoln, who during the midst of the Civil War, said:

> As God gives us to see the right, let us strive on to finish the work we are in; to bind up the nation's wounds; to care for him who shall have borne the battle, and for his widow, and his orphan.

The immortal words of President Lincoln.

Since the beginning of this session we have considered and adopted increased death gratuity benefits for the survivors of our troops lost in this present war. But the survivors of those killed in action are entitled to automatic enrollment in the survivors benefit plan. That is a change we made in the law, but it is not complete.

We now see the pain caused. At the same time a widow or a widower is enrolled in the Survivor Benefit Plan, and in many cases paid for it, another set of laws under the Department of Veterans Affairs says they are also entitled to dependency and indemnity compensation. However, under current law one offsets the other—they can't get both.

Widows instantly recognize the injustice of this offset. It deeply wounds their sense of the value of their sacrifice. It is wrong, the way we treat these families. This offset is no less painful for the survivors of our 100-percent disabled military retirees because it is a purchased plan, yet they cannot get what they have purchased because it is offset by Dependency and Indemnity Compensation.

Survivors of service members killed on active duty are entitled, in law, to automatic enrollment in the Survivor Benefit Plan, and 100-percent disabled military retirees can purchase the survivors benefit plan. Survivors stand to lose most or even all of the benefits under that plan because they are offset by a second benefit to which they are also entitled, Dependency and Indemnity Compensation.

That is not right. I have 22 cosponsors of this amendment. They are from both sides of the Senate. This amendment is going to remedy these inequities. It is going to honor our commitments to military retirees and servicemembers who are killed in the line of duty, and their surviving widows and dependent children.

We have sergeants and corporals losing their lives. Their base pay determines the benefits for their surviving spouse. The base pay of a corporal isn't very much, and their survivors are supposed to live off even less; yet, in fact, in another part of the law, they are due something as the widow of a veteran, and we are saying under the current law: You cannot get both benefits you are entitled to.

Is this what we want to do for these young families who lost a loved one in Iraq or elsewhere? Will the Nation not stand tall to support them? This is not what the law intended. We ought to change it.

Mr. DURBIN. Will the Senator yield?

Mr. NELSON of Florida. I yield.

Mr. DURBIN. I ask unanimous consent to be added as a cosponsor to Senator NELSON's amendment.

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

Mr. DURBIN. Mr. President, I ask the Senator from Florida—to make sure I understand exactly what he is saying—here is a person in service to our country who was killed in combat. If that soldier had basically bought an insurance policy on his life, then the amount of money his family would receive from our Government is going to be reduced by the amount he would have received from that insurance policy? Is that, in shorthand, the way to describe the current law?

Mr. NELSON of Florida. Let me tweak it a little bit for the Senator, and I thank the Senator for the compassion coming out of his heart and expressed on his face as he asks this question. This Senator from Illinois is right on.

In the first place, in current law the soldier does not actually have to make an affirmative purchase. Under current law we enroll the survivors of any service member who is killed in the Survivors Benefit Plan. However, for a private, a corporal, a sergeant, that is not a lot because of their base pay.

Mr. DURBIN. I might ask the Senator from Florida, through the Chair, so the benefit the soldier receives depends on rank and salary?

Mr. NELSON of Florida. Under the Survivors Benefit Plan it does. However, there is another part of the law that says survivors shall receive a second benefit, Dependency and Indemnity Compensation, to attempt in one small way to make those survivors whole for all the sacrifice their loved one has given.

But, no, because of a problem with the current law, they cannot get both. One offsets the other, the long and short of which is that a young widow of a private or corporal or sergeant can't make it with what the U.S. Government is going to give her unless we rectify this inequity in the law.

Mr. DURBIN. Does the Senator have remaining time?

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

Mr. DURBIN. I ask unanimous consent the Senator from Florida be recognized for an additional 5 minutes.

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

Mr. DURBIN. I ask the Senator from Florida this specific question. We are about to consider whether we are going to shut down debate on this bill. It is called cloture. It closes down the debate on the bill, limits the amendments to the bill. As to the Senator's amendment, which protects these widows and surviving children of a soldier killed in combat, once we have closed down debate and limited amendments, would we still be able to vote on the Nelson amendment?

Mr. NELSON of Florida. The Senator asked a good question.

I ask the Presiding Officer, would the Nelson amendment, with its 22 cosponsors, be considered germane following a successful cloture motion?

The PRESIDING OFFICER. There is insufficient information at this point to be able to make that determination.

Mr. NELSON of Florida. So the answer, I say to the Senator from Illinois, it could well be knocked off if cloture is brought on this Defense authorization bill.

Mr. DURBIN. I ask through the Chair one last question. How often do we have an opportunity to change the law and to help these soldiers and their families? How many times do we get a chance in the Senate during the course of the year to consider the Department of Defense authorization bill or another bill that might give us a chance to help those families and to rectify this injustice which the Senator from Florida has pointed out and which I think every Member on both sides of the aisle would like to change?

Mr. NELSON of Florida. The Senator from Florida will ask for the yeas and nays.

If the chairman of the committee, the distinguished Senator from Virginia, is persuasive in talking to the Republican majority leader not to bring the motion for cloture to cut off debate so that amendments like this to help widows and orphans might fall, maybe we can get it to a vote. It is the least we can do for Americans who have given their lives, or their best years, in defense of our country. We simply cannot allow this situation to continue. We need to restore fair benefits to these folks. I am going to continue my fight for these people who have given their all to their Nation and especially to the loved ones whom they have left behind.

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. WARNER. Mr. President, I say to our good friend and colleague, we will take under consideration the Senator's amendment with great care.

Mr. DURBIN. Mr. President, I would like to address to the chairman the following. I have two pending amendments which I would like to call up. I will do this briefly.

Mr. WARNER. Please proceed.

AMENDMENT NO. 1428

Mr. DURBIN. I ask unanimous consent that the pending amendment be set aside for the purpose of calling up amendment No. 1428.

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

The clerk will report.

The legislative clerk read as follows:

The Senator from Illinois [Mr. DURBIN] proposes an amendment numbered 1428.

Mr. DURBIN. I ask unanimous consent the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To authorize the Secretary of the Air Force to enter into agreements with St. Clair County, Illinois, for the purpose of constructing joint administrative and operations structures at Scott Air Force Base, Illinois)

On page 371, between lines 8 and 9, insert the following:

SEC. 2887. ADMINISTRATIVE AND OPERATIONS STRUCTURES, SCOTT AIR FORCE BASE, ILLINOIS.

(a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of the Air Force may enter into agreements with St. Clair County, Illinois, for the joint construction and use of administrative and operations facilities at Scott Air Force Base, Illinois.

(b) LIMITATIONS.—

(1) TOTAL COST.—The total cost of agreements entered into under subsection (a) may not exceed $60,000,000.

(2) LEASE PAYMENTS.—All payments made by the Air Force under leases entered into under subsection (a) shall be made out of funds available for the Air Force for operation and maintenance.

(3) TERMS OF LEASES.—Any lease agreement entered into under subsection (a)—

(A) shall provide for the lease of such administrative or operations facilities for a period not to exceed 30 years; and

(B) shall provide that, upon termination of the lease, all right, title, and interest in the facilities shall, at the option of the Secretary, be conveyed to the United States.

Mr. DURBIN. Mr. President, and to the chairman and ranking member of the committee, I hope this is an amendment which will be accepted because it is noncontroversial and important to my State and to the protection of our country.

The amendment authorizes the Secretary of the Air Force to enter into agreements with local county officials for the construction and lease of joint administration and operation facilities needed at Scott Air Force Base, currently operating under a joint use agreement with MidAmerica Airport, to accommodate new missions.

The fiscal year 05 Defense Appropriations conference report included $259 million to procure three C–40C aircraft to be based at Scott Air Force Base and flown by the 932nd Airlift Wing with the 375th Air Wing as an active associate, move three C–9C aircraft from Andrews Air Force Base to Scott AFB, and to support these new and expanded missions.

The expanded C–9 mission and new C–40 mission will strain existing TRANSCOM and TACC facilities and require additional administrative and operations space/structures.

Due to the accelerated funding schedule of the C–9 and C–40 missions, immediate administrative and operations space is needed.

St. Clair County, IL, the appropriate local unit of Government, has offered to enter into an agreement with the Air Force to construct the necessary facilities, saving our Department of Defense some money. These structures would be for joint military-civilian use. Currently, Scott AFB and MidAmerica Airport operate on a joint use plan. St. Clair County is a partner in MidAmerica Airport.

The Air Force has estimated the cost of a new facility for TRANSCOM and HQ TACC is about $60 million.

This general provision is needed in order for the Air Force and St. Clair County to enter into an agreement on joint use facilities. The construction would be at no cost to the Air Force. The county would invite the Air Force to lease space in the buildings, consistent with military lease requirements.

If the chairman has not had a chance to review this amendment, I would like to ask his staff to take a look at it. It is no expense to the Government and it provides a necessary facility at a very important airbase.

Mr. WARNER. Mr. President, we will take the amendment under careful consideration, I assure the Senator.

Mr. DURBIN. I ask for the yeas and nays on that pending amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 1571

Mr. DURBIN. Mr. President, I ask that amendment be set aside and we call up amendment No. 1571.

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

The clerk will report.

The legislative clerk read as follows:

The Senator from Illinois [Mr. DURBIN], for himself, Ms. MIKULSKI, Mr. ALLEN, Mr. GRAHAM, Ms. LANDRIEU, Mr. LEAHY, Mr. SARBANES, Mr. LAUTENBERG, Mr. BINGAMAN, Mr. KERRY, Mr. SALAZAR, Mr. CORZINE, Mr. CHAFEE, Mrs. LINCOLN, Mr. BIDEN, Mr. KENNEDY, and Mrs. MURRAY, proposes an amendment numbered 1571.

Mr. DURBIN. I ask unanimous consent the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To ensure that a Federal employee who takes leave without pay in order to perform service as a member of the uniformed services or member of the National Guard shall continue to receive pay in an amount which, when taken together with the pay and allowances such individual is receiving for such service, will be no less than the basic pay such individual would then be receiving if no interruption in employment had occurred)

At the end of title XI, add the following:

SEC. 1106. NONREDUCTION IN PAY WHILE FEDERAL EMPLOYEE IS PERFORMING ACTIVE SERVICE IN THE UNIFORMED SERVICES OR NATIONAL GUARD.

(a) SHORT TITLE.—This section may be cited as the ''Reservists Pay Security Act of 2005''.

(b) IN GENERAL.—Subchapter IV of chapter 55 of title 5, United States Code, is amended by adding at the end the following:

''§ 5538. Nonreduction in pay while serving in the uniformed services or National Guard

''(a) An employee who is absent from a position of employment with the Federal Government in order to perform active duty in the uniformed services pursuant to a call or order to active duty under a provision of law referred to in section 101(a)(13)(B) of title 10 shall be entitled, while serving on active duty, to receive, for each pay period described in subsection (b), an amount equal to the amount by which—

''(1) the amount of basic pay which would otherwise have been payable to such employee for such pay period if such employee's civilian employment with the Government had not been interrupted by that service, exceeds (if at all)

''(2) the amount of pay and allowances which (as determined under subsection (d))—

''(A) is payable to such employee for that service; and

''(B) is allocable to such pay period.

''(b)(1) Amounts under this section shall be payable with respect to each pay period (which would otherwise apply if the employee's civilian employment had not been interrupted)—

''(A) during which such employee is entitled to reemployment rights under chapter 43 of title 38 with respect to the position from which such employee is absent (as referred to in subsection (a)); and

''(B) for which such employee does not otherwise receive basic pay (including by taking any annual, military, or other paid leave) to which such employee is entitled by virtue of such employee's civilian employment with the Government.

''(2) For purposes of this section, the period during which an employee is entitled to reemployment rights under chapter 43 of title 38—

''(A) shall be determined disregarding the provisions of section 4312(d) of title 38; and

''(B) shall include any period of time specified in section 4312(e) of title 38 within which an employee may report or apply for employment or reemployment following completion of service on active duty to which called or ordered as described in subsection (a).

''(c) Any amount payable under this section to an employee shall be paid—

''(1) by such employee's employing agency;

''(2) from the appropriation or fund which would be used to pay the employee if such employee were in a pay status; and

''(3) to the extent practicable, at the same time and in the same manner as would basic pay if such employee's civilian employment had not been interrupted.

''(d) The Office of Personnel Management shall, in consultation with Secretary of Defense, prescribe any regulations necessary to carry out the preceding provisions of this section.

''(e)(1) The head of each agency referred to in section 2302(a)(2)(C)(ii) shall, in consultation with the Office, prescribe procedures to ensure that the rights under this section apply to the employees of such agency.

''(2) The Administrator of the Federal Aviation Administration shall, in consultation with the Office, prescribe procedures to ensure that the rights under this section apply to the employees of that agency.

''(f) For purposes of this section—

''(1) the terms 'employee', 'Federal Government', and 'uniformed services' have the same respective meanings as given them in section 4303 of title 38;

''(2) the term 'employing agency', as used with respect to an employee entitled to any payments under this section, means the agency or other entity of the Government (including an agency referred to in section 2302(a)(2)(C)(ii)) with respect to which such employee has reemployment rights under chapter 43 of title 38; and

''(3) the term 'basic pay' includes any amount payable under section 5304.''.

(c) CLERICAL AMENDMENT.—The table of sections for chapter 55 of title 5, United States Code, is amended by inserting after the item relating to section 5537 the following:

''5538. Nonreduction in pay while serving in the uniformed services or National Guard.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to pay periods (as described in section 5538(b) of title 5, United States Code, as amended by this section) beginning on or after the date of enactment of this Act.

Mr. DURBIN. Mr. President, this amendment is not new to this Senate. We have considered it several times and passed it. It has not survived conference committees, but I hope this time it will be successful, we will be successful in our effort in passing it. It is the reservist pay amendment.

Here is what is going on in America: All across America members of Guard units and Reserve units are being activated, called into service for our country, risking their lives, spending lengthy periods of time away from their families. We understand these new assignments create a lot of personal hardship and sacrifice on the part of these soldiers and marines, sailors, airmen, members of the Coast Guard, and others. We also understand it creates much financial hardship on some as well.

So we, as a nation, encourage the employers of Guard and Reserve members to try to stand by the men and women who are serving our country, even when they have been activated. It turns out that well over 1,000 employers across America have said: We will do just that. They continue to make up the difference in pay for these activated members of the Guard and Reserve. We salute them. We thank them. They are bringing financial peace of mind to men and women who are serving our country every day, separated from their homes and their families.

Now, the concern I have is the fact that one of the largest employers in America is not doing the same thing, and that is the Federal Government. The Federal Government is not making up the difference in pay for those members of the Guard and Reserve who are activated. Some of them face quite a setback when they are activated and receive less money and a lot of financial hardship.

Last year, when we debated this amendment, the Government Accountability Office told us that about 40 percent of Guardsmen and Reservists lose some amount of income when mobilized. Well, I want to report to the Senate that figure has now been updated. The new figure is 51 percent. More than half of the men and women activated in the Guard and Reserve lose income because of that activation, causing financial hardship and economic difficulties for some. Over 11 percent of those activated lose more than $2,500.

We also find that income loss is one of the top reasons given by Guardsmen and Reservists as to why they stop serving in Reserve components. We need to actively recruit and retain the very best to serve in America's military. And when you ask those currently serving why they are not reupping, why they are not reenlisting, many of them give as a major reason—one of the top reasons—the loss of income when they are activated to serve from Reserve units.

We want to make certain that we salute the employers across America who are dealing with these troops and helping them. But I think we have an obligation, those of us who work here in Washington, to make sure our Government does the same.

Roughly 1 out of every 10 Guardsmen and Reservists in service to our country is also a Federal employee. How can we on the one hand say to private employers, and even State governments, ''We salute you for your foresight and compassion in helping our troops'' and not do the same? I think we ought to be standing by those Federal employees who are activated in the service to our country as well. We should not be lagging behind those who have made real contributions and have shown this leadership. We should be setting an example.

This measure does not bust the budget. It results in some expenditures, but the money to make up any lost income by mobilized Federal workers is drawn from funds already previously appropriated. Secondly, it is not additional pay for military service. Reservists continue to receive the same military pay for the same military job. Any differential pay they receive is separate and apart, simply intended to keep such employees financially whole while serving our country.

I do not believe our service men and women sit down and ask those serving with them, ''Do you have a supplement in pay coming in here?'' and resent it if some do and some do not. Why, then, would we put Federal employees in this unfortunate situation? The wisdom of this amendment is it is readily understandable by the entire force, whether

Active Duty or Reserve. They know that private-sector companies are making whole these employees' pay, and they can certainly understand it if the Federal Government did the same.

I think we ought to be sensitive to the fact that if we do not make up the difference in regular civilian income, it could create great hardship, concern, worry, stress, and anxiety on troops that we want in the field with a positive attitude doing their job and coming home safely.

The reason to support this measure is simple: The Federal Government cannot continue to do less for its employees than other major employers. It is time for the Government to be as generous, as caring, as compassionate as Sears, Roebuck, IBM, Home Depot, General Motors, and 24 State governments that stand behind their soldiers once they are activated to serve our country.

How can we commend everyone else and not do our part? We can adopt this amendment. I invite all of my colleagues to come together once more to adopt the Reservist Pay Security Act.

Mr. President, I ask for the yeas and nays on the pending amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. DURBIN. Thank you, Mr. President. I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I ask unanimous consent to set aside the pending amendment.

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

AMENDMENT NO. 1496

Mr. LEVIN. Mr. President, I call up amendment No. 1496.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN] proposes an amendment numbered 1496.

Mr. LEVIN. 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 prohibit the use of funds for normalizing relations with Libya pending resolution with Libya of certain claims relating to the bombing of the LaBelle Discotheque in Berlin, Germany)

At the end of title XII, add the following:

SEC. 1205. LIMITATION ON AVAILABILITY OF FUNDS FOR NORMALIZATION OF RELATIONS WITH GOVERNMENT OF LIBYA.

None of the funds authorized to be appropriated by this Act or any other Act may be obligated or expended for purposes of negotiations towards normalizing relations with the Government of Libya until the Attorney General, in consultation with the Secretary of State and the Secretary of Defense, certifies to Congress that the Government of Libya has made a good faith offer in the negotiations on the claims of members of the Armed Forces of the United States who were injured in the bombing of the LaBelle Discotheque in Berlin, Germany, and the claims of family members of members of the Armed Forces of the United States who were killed in that bombing.

Mr. LEVIN. Mr. President, on April 5, 1986, Libya directed its agents to execute a terrorist attack in West Berlin for the sole purpose of killing and maiming as many American military personnel as possible. So they selected a discotheque that military personnel frequented in Berlin. They placed a bomb in the discotheque when 260 people, including U.S. personnel, were present. When that bomb detonated, two U.S. soldiers were killed and over 90 soldiers were severely injured. They have not been compensated.

The German civilians who were in that discotheque were compensated, but the American military personnel and their families have not been, despite promises of the Libyan Government to do so.

So this amendment simply says that we will not normalize, in any further way, relations with Libya until the Attorney General, after consulting with the Secretary of State and the Secretary of Defense, certifies to Congress that Libya has made a good-faith effort and a good-faith offer in negotiating with U.S. service members who were injured in that discotheque bombing and with the family members of U.S. service members who were killed in that bombing.

It is a very straightforward amendment that is so essential if we are going to do justice for U.S. military personnel who were killed in a terrorist attack by Libya the way justice has been done for the German civilians who were killed in that attack at that discotheque that was perpetrated by Libya and its agents.

So we provide a very carefully worded assessment by the Secretary of State and the Attorney General. They will decide if the good-faith offer has been made the way it has been promised. We do not make that decision in this amendment. We leave that up to the Attorney General, after consulting with the Secretary of State and the Secretary of Defense.

AMENDMENT NO. 1497

Mr. President, I now ask unanimous consent that the pending amendment be laid aside, and I call up amendment No. 1497.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN] proposes an amendment numbered 1497.

Mr. LEVIN. 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 establish limitations on excess charges under time-and-materials contracts and labor-hour contracts of the Department of Defense)

At the end of subtitle A of title VIII, add the following:

SEC. 807. LIMITATION ON EXCESS CHARGES UNDER TIME-AND-MATERIALS AND LABOR-HOUR CONTRACTS.

(a) REGULATIONS REQUIRED.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall prescribe regulations governing the terms and conditions of time-and-materials contracts and labor-hour contracts entered into for or on behalf of the Department of Defense.

(b) LIMITATION ON EXCESS CHARGES.—

(1) IN GENERAL.—The regulations prescribed pursuant to subsection (a) shall authorize the use of a time-and-materials contract or a labor-hour contract for or on behalf of the Department of Defense only if the contract provides for acquiring supplies or services on the basis of—

(A) direct labor hours provided by the prime contractor at specified fixed hourly rates that include wages, overhead, general and administrative expenses, and profit; and

(B) the reimbursement of the prime contractor for the reasonable costs (including overhead, general and administrative expenses, and profit, to the extent permitted under the regulations) of subcontracts for supplies and subcontracts for services, except as provided in paragraph (2).

(2) SUBCONTRACTOR LABOR HOURS.—Direct labor hours provided by a subcontractor may be provided on the basis of specified fixed hourly rates that include wages, overhead, general and administrative expenses, and profit only if such hourly rates are set forth in the contract for that specific subcontractor.

(c) DEPARTMENT OF DEFENSE PURCHASES THROUGH CONTRACTS ENTERED BY NON-DEFENSE AGENCIES.—The regulations prescribed pursuant to subsection (a) shall include appropriate measures to ensure compliance with the requirements of this section in all Department of Defense purchases through non-defense agencies.

(d) EFFECTIVE DATE.—The regulations prescribed pursuant to subsection (a) shall take effect on the date that is 90 days after the date of the enactment of this Act, and shall apply to—

(1) all contracts awarded for or on behalf of the Department of Defense on or after such date; and

(2) all task or delivery orders issued for or on behalf of the Department of Defense on or after such date, regardless whether the contracts under which such task or delivery orders are issued were awarded before, on, or after such date.

Mr. LEVIN. Mr. President, we read the other day in the Washington Post about a procedure that is used by a number of contractors that reimburses those contractors for services rendered by subcontractors and where the contractor is charging the Government significantly more for that service than the subcontractor is paid. We are talking about labor rates.

Here is what the Post told us and reminded us:

Security guards in Virgin Islands paid $15 and $20 an hour were billed to the government at [twice that rate]. Office workers provided by [a subcontractor] at $20 an hour were billed to the government [by the prime contractor] at $48.07 an hour.

This is not just to have a profit put in there for the prime contractor. That

is legitimate. This is a theory that prime contractors are using known as ''mapping,'' where instead of basing their charge to the Government on the cost of labor, they are basing the charge to the Government on a theoretical cost of labor—not on the subcontractor's cost but on what the prime would have paid for the same service. So we are billed as a Government for labor performed, and the cost of that labor, although it is not the true cost of the labor, is a theoretical cost.

That kind of practice should end. This amendment would fix the problem by requiring that prime contractors charge the Government their actual subcontract costs, unless the subcontract rates are specifically set forth in the prime contract. The General Services Administration has been balking at this change, although the Department of Defense itself says they have recognized the problem and are working to fix it. So we are going to come down with the effort to correct this problem that the DOD recognizes and override the obstinacy of the GSA to correct a very obvious inequity in terms of the American taxpayer.

So that is the sum and substance of this amendment. We would ask that this amendment be considered in the usual course, assuming, again, that cloture is not invoked.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, we are a nation at war. I can think of no other legislation deserving of this body's complete attention than the Defense Authorization bill. What could be more profound than debating critically important amendments on the very issues of war and peace? What could honor our men and women in uniform fighting in the sands of Iraq and Afghanistan than a full and complete discussion of amendments that will promote the safety and well-being of our troops, their families, our veterans, and our national security. Unfortunately, there are those who wish to shut down this critically important debate. And so I rise today to urge my colleagues to consider the consequences of terminating such discourse. When the time comes tomorrow, I ask my colleagues to vote against cloture to end debate on this important piece of legislation.

I am not a member of this committee. And I commend the distinguished chairman from Virginia and the ranking member from Michigan and the other members of this committee who have worked tirelessly to bring this bill to the floor.

In my more than 20 years as a Member of this body, I can tell you, historically, the Defense authorization bill has come up at about this time, and has generally been subject to between five and ten days of unlimited debate over its amendments. From the time that John Stennis was the chairman of the Armed Services Committee to the tenure of its current Chairman, Senator WARNER, I have observed the great care that this body has taken to ensure adequate consideration of amendments that would serve the national security interests of our nation. And we in this body have done so because of the importance of this legislation—particularly at times, such as now, when the Nation faced down grave threats around the globe.

As a matter of tradition as well as law, the Armed Services Committee has always produced an authorization bill. Unlike any other government agencies, the Defense Department has always been subject to both an authorization and appropriations bill.

Other than some expenditures that occur as a result of our demands under Medicaid, Medicare, and the like, nothing consumes as much of our Treasury as does the Defense appropriations bill. Therefore, Mr. President, I rise because of my concern that we are about to vote tomorrow after little more than a day and a half of debate on this Defense authorization bill. Here we are bringing up one of the most critically important pieces of legislation we ever consider here, and we are going to potentially truncate this debate down to a few hours.

Here we are, a nation at war, with literally thousands of our fellow citizens in uniform serving in Afghanistan and Iraq. We are facing major questions about the conduct of a war and considerable strain is being placed on our military personnel—with active duty, reserve, and national guard members. Are constituents are asking How well protected are our troops? How much do we provide for them when they come back?

We have listened to my colleague from Florida, my colleague from Illinois, and my colleague from Michigan, who raise serious issues about whether we are going to provide additional benefits for our veterans. I am told by many who have analyzed these amendments that there is a very good likelihood that those amendments would not survive a post-cloture environment. If we do invoke cloture tomorrow, at 10 or 10:30 tomorrow morning, I am told that those amendments would require a supermajority to consider them, and there is little or no likelihood they would ever have any chance of being even considered by this body.

I do not understand that. I do not quite understand the logic that would suggest somehow we ought to so truncate this debate that these very important amendments would not be considered or at least potentially not be considered. There are a number of amendments being offered on the Base Realignment and Closure Commission that has been formed.

I know the Presiding Officer, like this Senator, has more than a passing interest in what happens with the Base Closure commission. Facilities in both of our States are listed for closure. There are those of us who have deep concerns about how this process is working. If, in fact, cloture is invoked tomorrow, I suspect, based on what I have been told, that any effort by the Presiding Officer or this Senator or others to bring up these amendments, to talk about those issues, to at least debate them here and ask our colleagues whether they are sympathetic to our proposals would fail. We would not be allowed to consider those amendments.

Again, I am not suggesting that every idea we have ought to be adopted by this body. But the fact that we wouldn't even be allowed to debate these matters strikes me as a breach of our obligations to our constituents back home as well as American troops fighting on the frontlines in Iraq and Afghanistan.

I realize you have to close the debate at some point. You can't go on endlessly. We are getting near the end of this session before we take the August break. So clearly over the next several days, we have to conclude these debates. But there ought to be ample enough time, short of 10:30 tomorrow morning, for us to conclude our deliberations, going through amendments, dropping those which may be redundant. At least there ought to be a fair consideration of those matters before we just cut off the debate, slam the door shut on matters as important as the safety and well-being of our troops, American veterans, the BRAC process, the future of new nuclear weapons programs and a whole host of issues that would no longer be viable under a postcloture environment.

For example, Senator STABENOW would like to offer a critically important amendment to guarantee adequate funding levels for veterans health benefits; Senator MURRAY would like to offer an amendment on childcare for troops based overseas; Senator KERRY has an amendment on the GI bill. And Senators MCCAIN and GRAHAM have a number of issues related to the treatment of detainees held in U.S. military facilities.

For those who care about BRAC amendments, those who care about the Geneva Convention, those who care about whether we can have a good debate regarding our veterans, the base-closing commission, all of that discussion would be precluded from having a final consideration if, in fact, cloture is to be invoked.

The Presiding Officer, when queried whether these amendments would fall, properly responded that you would have to see the amendment before you could make a categorical statement. But for those who have been through these amendments and examined whether they would survive postcloture, the conclusion has been that this list of amendments, including many more that I have in front of me, would not survive a postcloture environment.

I urge my colleagues, regardless of how you may feel about these amendments, give this body a chance to do its

job. Otherwise, by closing off the debate, we deprive our members and the American people of critically important discourse at a time when our nation is at war.

Throughout my tenure here, I do not ever recall a debate that would last about a day and a half on a Defense authorization bill, particularly when our troops were engaged in combat overseas. Some of the best debates I have ever witnessed as a Member of this body have occurred on the Defense authorization bill because the chairs of this committee, Republicans and Democrats, have insisted that authorization bill be considered by this body in its entirety. We made better decisions because we had those debates about the direction in which our country ought to go.

Arguing over the wisdom of certain weapons systems, arguing over whether we ought to be involved in certain military conflicts, it has been educational for the country.

And in the end, no other issue was more important than those impacting our troops deployed in harm's way. We have lost somewhere between 1,700 and 2,000 of our men and women in uniform, battling in Iraq and Afghanistan. It is for them and their families that we ought to continue to take into serious consideration the various amendments proposed to support their operations at home and abroad.

What matter could possibly trump the importance of having a full debate about the national security needs of our country? I can't think of another subject matter that is more important than this one. Allowing this body to be heard on these issues is the patriotic thing to do. It would be unpatriotic to cut off debate prematurely. There should be a time certain on final passage and not to delay going on endlessly in this discussion. But these are important amendments my colleagues have drafted.

I have no amendment on this list. I am a cosponsor of a couple of them. But I have no matter that I am insisting be brought up here. But there are others here who do have amendments that ought to be heard. But I would hope that the leadership would ask to vitiate the cloture vote, work out the arrangements we traditionally do here so that amendments could be brought up and debated and discussed in a reasonable amount of time, and try to limit the number of amendments so we don't have duplication.

I hope this evening as the leadership considers its game plan for tomorrow and the coming days, they will decide that the Defense authorization bill ought to be the business of the day, of every day this week to finish this debate and to do so in the kind of spirit that I think is warranted, when Members of both bodies get a chance to fully debate and discuss the importance of these issues.

We ought to have a debate about the Base Closure Commission. There are important issues. Is it wise for us to be shutting down major military facilities at a time of war? Would it not be wiser maybe to delay those decisions a few months to determine whether we truly are going to need these facilities in the coming months? That is a legitimate debate to occur. When else is it going to occur if not on this bill? When can it come up? After September 8, when the decisions are made, when we are already just coming back from an August break and people look back and say, Why didn't you raise it then, why didn't you debate it on the floor of Senate to let the American public know what the choices ought to be?

If we cut off this debate, I am told that those amendments that would deal with the Base Closure Commission would not be allowed under a postcloture environment.

I think that is an important debate. Our colleagues may decide to vote against those amendments, may decide they are all wrong, but at least give us a chance to be heard and to vote up or down on whether you think it is the right time to close these facilities.

Certainly, when it comes to veterans' benefits and some of the other issues that my colleagues are offering—Senator DORGAN from North Dakota wants to form a special committee dealing with contracting. Lord knows, given the amount of waste and abuse that there have been reports of that have occurred, that certainly is a good amendment, in my view. I think we probably ought to have such a committee to determine whether taxpayer money is being wasted. That amendment, I am told, would fall.

Senator KENNEDY and Senator FEINSTEIN want to offer an amendment on dealing with the robust nuclear earth penetrator. We have had a good debate here. I listened intently to both sides as they argued the wisdom of having that system or not. I am told that amendment would fall as well. That is an important debate to have, regardless of your view. We ought to be debating the wisdom of that weapons system. If that debate does not occur here, where does it occur, if not on the Defense authorization bill? Is it unpatriotic to have a debate about a weapons system that will cost millions and millions of dollars when there are strong feelings on both sides? If we cut off that debate, we will never have an opportunity to understand the wisdom of having a system or not having that system.

It is not my intention to go down and list every single one of these amendments that I am told would fall. My colleague from Connecticut, would like to propose an amendment increasing Army end strength, he is offering that amendment with several of our colleagues. That is a very important amendment. That is a very important debate, for it gets to the core of the readiness of the American Armed Forces. What is the appropriate personnel level for our forces to both fight wars on two fronts while staying prepared to mobilize against threats that have not yet emerged? If you don't have that debate on this bill, when do you have it? If you don't authorize it, you can't appropriate it. If you can't appropriate it, then we never can decide whether that end strength ought to be increased. Again, there may be those who will offer very strong arguments against the Lieberman amendment about why we don't need to increase the end strength, but let's have the debate and let's have the vote, if you think it is important. I believe it is.

I feel strongly about this and many other issues. Some have suggested that there will be those who will be accused of being not patriotic if they appear to be having an extended debate on the Defense authorization bill. I think just the opposite. It is unpatriotic not to have the debate. Not unlimited debate, not debate that goes on forever, but is it unlimited debated to go on for the next 2 or 3 days to discuss this issue which is in the headlines every day we pick up the paper? Terrorists attacking the transit system in London, hotels in Egypt. We find soldiers dying from suicide bombers every day. What could be more important than this subject matter, to be discussing how best to prepare our troops and our country for what needs to be done to support our veterans when they come back from these conflicts?

It is unpatriotic to cut off the debate. The patriotic thing to do is to have a good discussion, a good civil debate over the important issues that confront our country when it comes to the Defense authorization. I commend the chairman of the committee for insisting that there be a debate on the Defense authorization bill. That is the great tradition of this committee. It is one of the few committees that is an authorizing committee that insists every year that there be a Defense authorization bill. I commend every member of that committee for insisting that we take the time to do it. I wish other authorizing committees were insistent as well so that we would have these debates about policy before deciding on the appropriations levels. That is the way it ought to proceed. My commendations to Senators WARNER and LEVIN and other members of the committee. I thank them for giving us the opportunity to at least discuss these matters tonight.

Every year we have had a good debate on Defense authorization. Armed Services is one of the few committees that insist upon it. I wish others did as well. It is the way we are supposed to proceed.

It is the tradition of this great body to have good discussions, educate our constituents about the difficult choices with not unlimited resources. Where do we go? What do we invest in? How far do we go in helping veterans and in the support structures we need? That debate occurs because there has been a

tradition in the committee of insisting that we have that discussion. I hope, as I said in the absence of the chairman, we have a reasonable amount of time this week—call for a time certain on Thursday or Friday, whenever it would occur, to end debate and come to final passage.

Why don't we stay in tomorrow night and Wednesday night later than we normally retire here, and we can come in a bit earlier. Say you have an hour or half an hour for debate on amendment. Let's have that good discussion.

The country would be better for it, and our men and women in uniform deserve it. They want to know where we are and where we are going. There is no vehicle other than the Defense authorization bill for us to have that kind of discussion and to consider these important amendments. It has been the history of this great body, and I hope it will continue to be after tomorrow. And I would suggest, that at a time when this Nation is engaged in a war on terrorism, it is important that we take as much care as possible to consider these critically important matters.

I thank the Chair.

Mr. WARNER. Mr. President, may I assure our colleague and others who have expressed an interest, Senator LEVIN and I are working toward those ends. I take full responsibility for the concept of the cloture. It has achieved, a significant result thus far. We have up to 240 amendments. Another 18 amendments are pending at the desk with rollcalls requested. So the Senate is actively participating. I assure you I am going to meet with my leader—and I respect his judgment—first thing in the morning. I will explore the options that are available with him. I thank my colleague.

Mr. DODD. Mr. President, I thank the chairman.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. LEVIN. While Senators DODD and WARNER are on the floor, let me first thank Senator DODD for the passion he brought to this issue. This sounds like a process issue. It is not a process issue. These are life-and-death issues we are debating. These are war issues and how do we support our troops and their families issues. These are issues of whether there will be benefits for families who have lost loved ones in war. These are issues of whether bases will be closed, issues of nuclear weapons, and issues of whether we are going to go down the road of new nuclear weapons use at the same time we are trying to persuade the world not to go down that road.

These are the most vital issues we can possibly face as a people. I commend the chairman. He is, in good faith, going to attempt to see if we cannot find a way we can have a reasonable few days of debate before this debate is closed off, so we can consider the important amendments that have been filed.

The chairman is very much aware of the tradition of this committee because he has been part of it and supportive of it for so long. The tradition the Senator from Connecticut talks about is tradition which is plenty deep, but it is also law. I think we are the only committee which, by law, must pass an authorization bill. So that tradition is embodied in the law itself.

There is one little statistic, and this is something the Senator from Connecticut feels in his bones is true. But I want to give a statistic to support that passion and feeling that has been so beautifully expressed by the Senator from Connecticut. Last year, the first cloture motion was filed on the 11th day of debate. This year, it was the beginning of the second day. The second cloture motion, because the first wasn't adopted last year, was filed after 15 days of debate and after 148 amendments were considered. That is how important this bill is. So look at a longer period of time—a 10-year average. The average length of time for the first filing of cloture on a Defense authorization bill during that 10-year period is the fifth day of debate, and the second filing is on the ninth day of debate. So we have always historically, and by law, taken a reasonable period of time—a week or 2 weeks—to debate this bill because of its importance to the country.

As I was saying a moment ago, the chairman is very much aware of this tradition. He embodies it. He has fought for it. The Defense authorization bill should have due consideration, and I know he will do what he can in the next 24 hours to see if we cannot work out something that would allow some critically important amendments to be considered.

I thank the chairman for that and I thank the Senator from Connecticut.

Mr. WARNER. Mr. President, we have labored together these 27 years. This, too, shall be overcome in one way or another. I thank my friend from Connecticut. I am impressed with the enthusiasm he expressed at this hour of the night.

Mr. DODD. I thank my friend. Enthusiasm at any hour of the night is appreciated.

Mr. WARNER. Mr. President, I rise to express concerns about the Levin amendment related to Federal time and material contracts.

The proposed amendment would direct that when prime contractor engages a subcontractor to augment the delivery of hours under a time and materials contract, the prime should be entitled to be reimbursed only at the price the subcontractor is billing the prime.

I want to bring to the attention of the Senate the rational for the pricing of these time and materials contracts. The prime contractor must locate, negotiate and obtain the subcontractors with whom he performs the contract and assume the risk associated with his and the subcontractors performance. If a subcontractor does not perform or is substandard in its performance, the prime is responsible. If a subcontractor quits or is dismissed, the prime must find a substitute. Assuming this management role, and more importantly, the risk, is one of the reasons for the time and management contract and the blended payment arrangement.

Of particular concern to me about the Levin amendment is its potential impact on small business. The proposed amendment would be counter to the President's mandate to promote small business participation in government acquisitions by de-incentivizing prime contractors from engaging subcontractors—most of whom are small businesses—in the fulfillment of their contracts.

Finally, Mr. President, I am told that the administration is about to initiate a rule making to revise how time and materials contracts are managed. Federal contracting is a very complex process which is best resolved through a thorough review among all the parties and through the regulatory process. If there are abuses, I am the first to stand and say that they should be stopped. But it is very difficult for the Senate today to understand fully the implications of the Levin amendment and whether it will even resolve any alleged abuses in contracting.

I would like to work with Senator LEVIN and others to encourage the administration to issue its proposed rule promptly, put it out for comment so that all the impacted parties would have the opportunity to comment. If the Senate continues to have concerns once the rule making is completed, that is the appropriate time for us to act.

I ask unanimous consent that several letters I received on this subject be printed in the RECORD.

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

PROFESSIONAL SERVICES COUNCIL,
JULY 25, 2005.

Hon. JOHN WARNER,
Chairman, Committee on Armed Services, Senate, Washington, DC.

DEAR MR. CHAIRMAN: As the Senate continues with its debate on S. 1042, the fiscal year 2006 National Defense Authorization Act, we understand that Senator LEVIN may offer an amendment to dictate the method for pricing time and materials and labor-hour (T&M) contracts and subcontracts on Defense Department contracts and purchases through non-defense agencies. On behalf of the Professional Services Council (PSC), I am writing to urge you to oppose the amendment in its current form.

PSC is the leading national trade association that represents more than 185 companies of all business sizes providing professional and technical services to virtually every agency of the federal government, including information technology, engineering, logistics, operations and maintenance, consulting, international development, scientific environmental and social sciences.

We strongly disagree with the characterization contained in the amendment's title that it is necessary to limit ''excess

charges.'' Nothing in the DCAA work or in the contract negotiation process supports the allegation that there are ''excess charges'' on these T&M contracts. Furthermore, if the Levin amendment was adopted, we believe it would significantly restrict defense agencies' flexibilities to select the best contract type to meet its mission needs. The amendment will also directly affect prime contractor-subcontractor relationships, particularly where the agency's procurement needs are addressed through a task order under an existing multiple-award contract or through purchases from the GSA schedules. It could also particularly affect small business subcontractors and the ability of prime contractors to manage those subcontracts, as well as a contractor's ability to meet existing small business subcontracting requirements.

Finally, because the amendment applies to new task orders under already awarded contracts, all of the government's approved pricing agreements would have to be renegotiated to adopt the regulatory changes that would flow from the legislative prescription. This is a significant administrative task for the department and would significantly slow up new work under these task orders until these actions can be completed.

Over a year ago, the Defense Contract Audit Agency (DCAA) identified a potential ambiguity between provisions in the Federal Acquisition Regulation and the terms and conditions of T&M type contracts, particularly under the GSA Schedules program. Since then, both DCAA and GSA have been meeting to resolve the matter. This discussion should be allowed to continue to timely resolution. In addition, the Federal Acquisition Regulation (FAR) Council is reviewing proposed clarifications to the FAR and that process would, importantly and appropriately, provide an opportunity for public comment on any changes. We strongly encourage the Senate to not preclude the regulatory process from considering the full implications of this important contracting matter.

We appreciate the importance of transparency in the contracting process and believe it can be accomplished through appropriate administrative policies and contract negotiations. The Levin amendment would be a step in the wrong direction.

Thank you for your attention to this matter. If you have any questions or need any additional information, please do not hesitate to call Alan Chvotkin, PSC's senior vice president and counsel, or me. We can be reached at (703) 875–8059.

Sincerely,

STAN SOLOWAY,
President.

ITAA,
July 25, 2005.

U.S. Senate,
Washington, DC.

ATTENTION: VOTE TODAY ON LEVIN AMENDMENT TO S. 1042, DOD AUTHORIZATION BILL

DEAR SENATOR: possible as early as this afternoon, Senator CARL LEVIN, (D–MI) will offer an amendment to S. 1042, the Defense Authorization Bill, which will be detrimental to federal contractors pursuing Time & Material contracts, especially small and mid-sized businesses working as subcontractors.

The government uses Time & Material contracts when outcomes are open ended and therefore difficult to price accurately. The Levin amendment requires prime contractors to ''pass through'' subcontractor rates to the government, with no allowance for risk or overhead.

ITAA believes that this amendment is very harmful in that it undermines the concept of prime contractors offering total solutions to the government. No prime will accept the work of subcontractors if they cannot properly price risk and yet still be held accountable for total performance. The losers will probably be the small- to mid-size businesses that are now flourishing, since the integrators will do the work themselves at possibly higher rates. The government will have to take on the additional role of the systems integrator and then contract separately with these smaller firms.

While the Levin amendment allows initial subcontractor rates to be included with some overhead and profit considerations, additional future subcontractors could only be added at their labor rates, thus not allowing the prime to price for risk and overhead. The prime contractors, however, would still be held responsible for their performance. Since many of these contracts run 3 to 5 years or more, this would be very disruptive for federal contractors. Also, the amendment seems to go into effect immediately, so that contracts already in place could be affected. The IT industry is very dynamic with new businesses entering the market. The Levin Amendment would freeze the contract to the original participants and take away the flexibility of adding new technology to government contracts.

To summarize the situation, the prime contractor serves the same role as the general contractor when building a new house. It is the company's role to guarantee that a total solution is provided by managing the subcontractors, overseeing the delivery of supplies, and thus presenting the homeowner with a completed building. This amendment singles out future subcontractors and applies different pricing rules to them while still holding the prime contractor responsible for the total project.

We urge your opposition to the Levin Amendment.

Sincerely,

HARRIS N. MILLER,
President.

COMMENTS ON TIME AND MATERIALS CONTRACT AMENDMENT

RISK AND SMALL BUSINESS IMPACTS

This is a problem more for the small to medium size service firms that have to use significant subcontract labor to obtain the appropriate expertise. Larger firms will opt to self-perform rather than subcontract for labor, which will serve to reduce subcontract opportunities. In the final analysis, it is the SB/SDB that will be impacted.

The proposed amendment would not allow prime contractor risk to be added to the subcontractor rate. This likely will militate against using T&M subcontracts in favor of cost type contracts. This may be a problem for subcontractors that do not have CAS compliant systems that would be required under cost reimbursable contracts. This would probably impact commercial sources and small businesses the most.

ADMINISTRATIVE BURDEN

Most large services contracts over the last few years have included large teams of subcontractors (20 + companies). There will be a large administrative burden to the Government (and the contractor) if each subcontractor labor category must be billed out at a separate rate. This will require extensive invoice reconciliation. Also, as subcontractors are added to the team over time for specific requirements a new set of rates will be required to be negotiated and added to the contract. Since the Government is likely to be reluctant to negotiate and administer multiple sets of rates, primes will retain more work in house and small business participation will be reduced.

The use of a single rate per category, eases administration, increases contractor risk and opportunity, and provides labor at commercially competitive rates. If the Government truly believes that the use of subcontractor specific rates is necessary, the solution is already available through the use of a cost type contract.

If enacted, this amendment would slow proposal preparation and submission to a crawl, as no competent prime contractor will conclude a T&M contract containing subcontractor costs until the subcontractor is selected and costs are fully-priced.

The amendment would limit contractor flexibility to cope promptly with changed circumstances without processing a contract modification. Changed circumstances include unanticipated surges in requirements to react to an emergent situation necessitating the hiring of subcontract personnel, the need to substitute for a poor performing subcontractor listed in the contract, and the need to add a subcontractor to meet small business goals.

The legislation is silent on how a contractor would be reimbursed if it reacted to an emergent situation by using subcontracted effort, to the benefit of the Government, when the subcontractor's rates are not listed in the contract. Some labor hour contracts extend over multiple years and have goals for the utilization of small and small disadvantaged businesses, all of which may not be known at the time of contract award.

This requirement would inhibit changing from one subcontractor to another subcontractor for underperformance. The contractor would potentially have to propose the new subcontractor to the contracting officer and have the appropriate rate included in the contract before the change could be made. This would be particularly problematic for contractors working in a deployed situation where completion/delivery may directly impact mission success and the safety/welfare of military personnel.

IMPACT ON COMMERCIAL PRACTICES

The proposed legislation fails to exclude ''commercial'' T&M purchases. Commercial pricing is not cost-based but is market driven. The legislation would require that certain elements of cost plus profit be included in the specified rates. Commercial contractors will be reluctant or refuse not propose elements of cost which would seem to be required by the proposed legislation.

This revision would preclude the use of commercial T&M contracts which was specifically authorized by legislation just last year.

OTHER CONCERNS

Section (d)(2), which applies the requirement retroactively to task or delivery orders under existing contracts, may be unconstitutional under Winstar. (Supreme Court case that ruled that Congress cannot change laws that will affect contracts retroactively.)

AMENDMENT NO. 1425

Mr. LEVIN. Mr. President, there is one more matter. I was handed this. On behalf of Senator HARKIN, I ask unanimous consent that the pending amendment be laid aside so an amendment of his relating to the Armed Forces network could be introduced at this time.

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

The clerk will report.

The legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for Mr. HARKIN and Mr. DORGAN, proposes an amendment numbered 1425.

The amendment is as follows:

At the end of subtitle A of title IX, add the following:

SEC. 903. AMERICAN FORCES NETWORK.

(a) MISSION.—The American Forces Network (AFN) shall provide members of the Armed Forces, civilian employees of the Department of Defense, and their families stationed outside the continental United States and at sea with the same type and quality of American radio and television news, information, sports, and entertainment as is available in the continental United States.

(b) POLITICAL PROGRAMMING.—

(1) FAIRNESS AND BALANCE.—All political programming of the American Forces Network shall be characterized by its fairness and balance.

(2) FREE FLOW OF PROGRAMMING.—The American Forces Network shall provide in its programming a free flow of political programming from United States commercial and public radio and television stations.

(c) OMBUDSMAN OF THE AMERICAN FORCES NETWORK.—

(1) ESTABLISHMENT.—There is hereby established the Office of the Ombudsman of the American Forces Network.

(2) HEAD OF OFFICE.—

(A) OMBUDSMAN.—The head of the Office of the Ombudsman of the American Forces Network shall be the Ombudsman of the American Forces Network (in this subsection referred to as the ''Ombudsman''), who shall be appointed by the Secretary of Defense.

(B) QUALIFICATIONS.—Any individual nominated for appointment to the position of Ombudsman shall have recognized expertise in the field of mass communications, print media, or broadcast media.

(C) PART-TIME STATUS.—The position of Ombudsman shall be a part-time position.

(D) TERM.—The term of office of the Ombudsman shall be five years.

(E) REMOVAL.—The Ombudsman may be removed from office by the Secretary only for malfeasance.

(3) DUTIES.—

(A) IN GENERAL.—The Ombudsman shall ensure that the American Forces Network adheres to the standards and practices of the Network in its programming.

(B) PARTICULAR DUTIES.—In carrying out the duties of the Ombudsman under this paragraph, the Ombudsman shall—

(i) initiate and conduct, with such frequency as the Ombudsman considers appropriate, reviews of the integrity, fairness, and balance of the programming of the American Forces Network;

(ii) initiate and conduct, upon the request of Congress or members of the audience of the American Forces Network, reviews of the programming of the Network;

(iii) identify, pursuant to reviews under clause (i) or (ii) or otherwise, circumstances in which the American Forces Network has not adhered to the standards and practices of the Network in its programming, including circumstances in which the programming of the Network lacked integrity, fairness, or balance; and

(iv) make recommendations to the American Forces Network on means of correcting the lack of adherence identified pursuant to clause (iii).

(C) LIMITATION.—In carrying out the duties of the Ombudsman under this paragraph, the Ombudsman may not engage in any pre-broadcast censorship or pre-broadcast review of the programming of the American Forces Network.

(4) RESOURCES.—The Secretary of Defense shall provide the Office of the Ombudsman of the American Forces Network such personnel and other resources as the Secretary and the Ombudsman jointly determine appropriate to permit the Ombudsman to carry out the duties of the Ombudsman under paragraph (3).

(5) INDEPENDENCE.—The Secretary shall take appropriate actions to ensure the complete independence of the Ombudsman and the Office of the Ombudsman of the American Forces Network within the Department of Defense.

(6) ANNUAL REPORTS.—

(A) IN GENERAL.—The Ombudsman shall submit to the Secretary of Defense and the congressional defense committees each year a report on the activities of the Office of the Ombudsman of the American Forces Network during the preceding year.

(B) AVAILABILITY TO PUBLIC.—The Ombudsman shall make available to the public each report submitted under subparagraph (A) through the Internet website of the Office of the Ombudsman of the American Forces Network and by such other means as the Ombudsman considers appropriate.

Mr. LEVIN. Mr. President, this amendment relates to the Armed Forces network. It is provided in this amendment that the Armed Forces network would provide members of the Armed Forces, civilian employees of the Defense Department, and their families stationed outside of the continental U.S. and at sea with the same type and quality of American radio and television news, information, sports, and entertainment that is available in the continental U.S. There are other provisions about fairness, balance, free flow of programming, et cetera. I am not familiar with the details.

I yield the floor.

MORNING BUSINESS

Mr. WARNER. Mr. President, I ask unanimous consent that there now be a period of morning business with Senators permitted to speak therein for up to 10 minutes each.

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

HONORING OUR ARMED FORCES

CHIEF PETTY OFFICER DANIEL R. HEALY

Mr. GREGG. Mr. President, I rise today to remember and honor Senior Chief Petty Officer Daniel Healy of Exeter, NH for his service and supreme sacrifice for his country.

Daniel exhibited a willingness and enthusiasm to serve and defend his country by joining the United States Navy. He was dedicated to a cause much greater than himself, demonstrated by his decision to join the U.S. Navy SEALs, one of the most challenging, rigorous, and elite fighting organizations in the history of the world. Navy SEALs are named after the environment in which they operate, the Sea, Air, and Land, and are the foundation of Naval Special Warfare combat forces. They are organized, trained and equipped to conduct a variety of Special Operations missions in all operational environments. SEAL training is extremely demanding, both mentally and physically, and produces the world's best maritime warriors that live by the motto of ''the only easy day was yesterday.'' Daniel knew that he would be continually challenged and surely would face dangerous assignments when he signed up for this premier fighting organization. He was a stellar example of today's elite warriors that are upholding the values of freedom and democracy around the world.

Daniel graduated from Exeter High School in 1986, and answered the call to serve our great Nation when he enlisted in the Navy on June 5, 1990. He attended Basic Underwater Demolition/SEAL School and Basic Airborne School from 1991–1992, and then was assigned to SEAL Delivery Vehicle Team ONE for four years. After attending a year of extensive language training in California, Daniel was assigned to SEAL Delivery Team TWO in 1998 and was most recently stationed in Pearl Harbor, HI, again with SEAL Delivery Team ONE. Daniel dutifully and confidently led a training platoon in submerged delivery vehicles. He was deployed to the Middle East in March of 2005, for what should have been a six-month tour. Tragically, on June 28, 2005, Daniel made the ultimate sacrifice for this great Nation. Daniel and 16 other service members were killed while conducting combat operations when the MH–47 helicopter that they were aboard crashed in the vicinity of Asadabad, Afghanistan in Kumar Province.

Throughout his career, Daniel earned a series of awards which testify to the dedication and devotion he held for his fellow SEALS, the Navy, and his country. Daniel's hard work and perseverance contributed greatly to his unit's successes and placed him among many of the great heroes and citizens that have paid the ultimate price for their country. Daniel was recognized throughout his distinguished career by receiving the Navy/Marine Corps Achievement Medal, Joint Meritorious Unit Award, Meritorious Unit Commendation, three Good Conduct Medals, and three National Defense Service Medals. He also attended the Basic Airborne School and was a graduate of language training at the Defense Language Institute, Monterey, CA.

Daniel was truly an exceptional special operations warrior with more than 15 years of service and an unparalleled dedication to serve his county and fellow Navy SEALs. Daniel was also a noble and selfless family man, being a compassionate husband and father of four. He leaves behind a family proud of all that he had accomplished throughout his distinguished life and career in the military. His valor and service cost him his life, but his sacrifice will live on forever among the many dedicated heroes this Nation has sent abroad to defend freedom.

My condolences and prayers go out to Daniel's family, and I offer them my deepest sympathies and most heartfelt thanks for the service, sacrifice, and example of their Navy SEAL, Senior Chief Petty Officer Daniel Healy. He was respected and admired by all those

around him, and continually performed above and beyond all expectations while in U.S. Navy. Because of his efforts, the liberty of this country is made more secure.

TRIBUTE TO ADMIRAL VERN CLARK

Mr. WARNER. Mr. President, I rise today to recognize and honor ADM Vern Clark, U.S. Navy, our 27th Chief of Naval Operations, who last week turned over the helm of the U.S. Navy to his successor. As former Secretary of the Navy and a member of the Armed Services Committee for 27 years, I have worked closely with every Chief of Naval Operations since Admiral Clark was Ensign Clark.

A child of the Midwest, Admiral Clark is a graduate of Evangel College and holds a master's degree in business administration from the University of Arkansas. It is this Nation's great fortune that Admiral Clark heard the call of the sea and attended Officer's Candidate School, receiving his commission in August 1968.

His first sea duty tour was aboard USS *John W. Weeks*, DD 701. One of the first things Admiral Clark did upon assuming his present post was to obtain the picture that formally hung in the wardroom of USS *John W. Weeks* to remind him of where he came from and to keep his focus on the fleet.

Admiral Clark has had the good fortune to spend more than half of his career in command. The Navy recognized early on his potential for leadership when as a lieutenant he commanded USS *Grand Rapids*, PG98. He would go on command USS *McCloy*, FF 1038, USS *Spruance*, DD 963, the Fleet Anti-Submarine Training Center Atlantic, Destroyer Squadron One Seven, Destroyer Squadron Five, Cruiser Destroyer Group Three, Second Fleet, and the U.S. Atlantic Fleet.

On those rare occasions when Admiral Clark was not in command, he served in a series of increasingly challenging shore assignments. He completed assignments as the Special Assistant to the Director of the Systems Analysis Division in the Office of the Chief of Naval Operations, the Administrative Assistant to the Deputy Chief of Naval Operations, Surface Warfare, and as the Administrative Aide to the Vice Chief of Naval Operations. He served as head of the Cruiser-Destroyer Combat Systems Requirements Section and Force Anti-Submarine Warfare Officer for the Commander, Naval Surface Force, U.S. Atlantic Fleet, and he directed the Joint Staff's Crisis Action Team for Desert Shield and Desert Storm.

Admiral Clark first hoisted his flag aboard the U.S. Transportation Command where he was Director of both Plans and Policy, J5 and Financial Management and Analysis, J8. While commanding the Carl Vinson Battle Group, he deployed to the Arabian Gulf and later served as the Deputy Commander, Joint Task Force Southwest Asia. Admiral Clark has also served as the Deputy and Chief of Staff, United States Atlantic Fleet; the Director of Operations, J3 and subsequently Director of the Joint Staff.

Admiral Clark assumed his duties in peacetime on July 21, 2000. Sitting in his office on September 11, 2001, war came to Admiral Clark's Navy when American Airlines flight 77 hit the Pentagon just a few yards from where he was sitting. Since that day he has skillfully led the Navy in the global war against terrorism. Throughout this time, he has continued to focus on his top five priorities manpower, current readiness, future readiness, quality of service and alignment. Chief among those priorities is manpower. Admiral Clark is fond of saying that the Navy is winning the war for people. That is due in no small part to his leadership during this difficult time.

Standing beside this officer throughout his superb career has been his wife Connie, a woman to whom he owes much. She has been his key supporter, devoting her life to her husband, to her family, and to the men and women of the Navy family. She has traveled by his side for these many years visiting the fleet. Her sacrifice and devotion have served as an example and inspiration for others. This team has served our Navy well and we will miss them both.

With these words before the Senate, I seek to recognize Admiral Clark for his unswerving loyalty to the Navy and this great Nation. We thank him and wish Vern, his wife Connie, and his sons Jeffery and Christopher fair winds and following seas as they continue forward in what will most assuredly remain lives of service to our country.

ADDITIONAL STATEMENTS

CONGRATULATING KANSAN ANDREW WOJTANIK

• Mr. BROWNBACK. Mr. President, it is a great honor for me to recognize today a young Kansan who has been nationally recognized for his intelligence and outstanding participation in the 16th annual National Geographic World Championship Geography Bee in Budapest, Hungary. Andrew Wojtanik, of Overland Park, KS, won gold for the 2004 National Geographic Bee, and has also published a book, called Afghanistan to Zimbabwe: Country Facts that Helped Me Win the National Geographic Bee.

Then 14-year old-Andrew was among three young Americans to compete against over 5 million students from all over the world. In preparation for the 5 day world championship, Andrew compiled a 432-page study guide with information on 193 countries around the world. After Andrew's guide was published by National Geographic Society, he was congratulated by the United States Congress on the floor of the House of Representatives. The House passed House Resolution 815 in honor of Andrew as the champion of the National Geographic World Championship.

Andrew Wojtanik's recognition for the Geographic Bee is well deserved. His commitment to understanding the world helped America defend its championship title in the 2004 National Geographic Bee.

Today, I join the United States Congress in recognizing and paying tribute to this extraordinary young American. Andrew Wojtanik is a true champion, and I ask my colleagues to join me in recognizing this young man for his outstanding achievement in the 2004 National Geographic World Championship.•

125TH ANNIVERSARY OF THE TURNER COUNTY FAIR

• Mr. JOHNSON. Mr. President, today I wish to honor and publicly recognize the 125th anniversary of the Turner County Fair. From August 14 through August 18, 2005, the citizens of Turner County will gather in Parker, SD, to celebrate their proud past as well as their hope for a promising future.

The Turner County Fair is South Dakota's oldest fair, first organized by the Turner County Agricultural Society and held on October 13 and 14 of 1880.

Since then, the fair has grown into a major event. This year, more than 65,000 people are expected to visit during the 4 days of festivities, and fairgoers will be treated to a rich variety of entertainment. Scheduled activities include a parade, races, concerts, a carnival, a livestock show, and a rodeo. The fair will end with a fireworks display that the local newspaper, the Southeast Trumpet, has advertised as ''bigger and better than ever.''

I would especially like to recognize the Turner County 4–H Club for their part in this event. Turner County 4–H has played a leading role in the fair for the last 103 years and will figure prominently again this year. The local Jaycees Club, fire department, and a number of other community organizations also deserve recognition for their participation in organizing and producing this event.

For 125 years, the Turner County Fair has brought citizens together to celebrate their heritage, their communities, and their shared hopes. It is indeed a privilege for me to officially recognize its anniversary today, and to wish the citizens of Turner County another 125 years of prosperity and happiness.•

JUNKO CUSHMAN

• Mr. KERRY. Mr. President, I wish to submit to the record the following resolution regarding the passing of Junko Cushman. Beloved by all her friends and neighbors, Junko always found time to serve her community. Whether

working to bring arts and culture to her community, or improving the quality of healthcare, Junko always showed uncommon passion and determination in her efforts. She discovered very young that the key to a fulfilling life is a life of helping others. Junko's community may be weaker for her loss, but is no doubt stronger for her service. It is my privilege to honor her on the Senate floor today.

The resolution follows:

Whereas, the passing, at 60, of a distinguished California resident, Junko Cushman, whose good deeds earned her the respect and admiration of her colleagues and the countless individuals whose lives she touched, brought immense sorrow and loss to people throughout the state; and

Whereas, although she never sought attention, Junko Cushman's natural sense of style and hands-on commitment to charitable causes were impossible to overlook; and

Whereas, a Japanese-born San Diegan, she entertained with international flair, excelled at multicultural floral arrangements, and took a leadership role in the Union of Pan Asian Communities; and

Whereas, Mrs. Cushman served as chairwoman of events benefiting the San Diego Museum of Art and the Arthritis Foundation and had been on the boards of the Old Globe Theatre, San Diego Foundation, and Burnham Cancer Institute; and

Whereas, Mrs. Cushman dedicated her time and service to San Diego State University's Japanese Cultural Fair in Balboa Park; and

Whereas, in 1987, Mrs. Cushman served as Chairwoman of a Union of Pan Asian Communities dinner dance on Harbor Island and, in 1989, she played a similar role for the Arthritis Foundation; and

Whereas, Over the years, Mrs. Cushman has shown her strong support for California's political system through her affiliation with the Democratic Party; and

Whereas, in 1989, Mrs. Cushman and her husband, Larry, were honored for their community service at a Meals on Wheels dinner dance; and

Whereas, born in Nagano, Japan, and raised in Tokyo, Mrs. Cushman graduated from the prominent Tamagawa High School and, at age 19, she moved to Los Angeles, California, where she studied English for two years before returning to Japan; and

Whereas, she leaves to mourn her passing and celebrate her legacy her husband; Larry; her brother, Hisato Hara; her stepdaughters, Diane Cushman and Janice Ziegler; her grandson, Zachary; her two granddaughters, Ashley and Sarah; her niece Mari; and her nephew Yasuto; now, therefore, be it

Resolved by Assembly Member Juan Vargas, That he expresses his deepest regret at the passing of Junko Cushman, and extends his heartfelt sympathy to her bereaved family and friends.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the PRESIDING OFFICER laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE

At 7:28 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, without amendment:

S. 571. An act to designate the facility of the United States Postal Service located at 1915 Fulton Street in Brooklyn, New York, as the ''Congresswoman Shirley A. Chisholm Post Office Building''.

S. 775. An act to designate the facility of the United States Postal Service located at 123 W. 7th Street in Holdenville, Oklahoma, as the ''Boone Pickens Post Office''.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 3070. An act to reauthorize the human space flight, aeronautics, and science programs of the National Aeronautics and Space Administration, and for other purposes.

H.R. 3199. An act to extend and modify authorities needed to combat terrorism, and for other purposes.

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. 128. Concurrent resolution expressing the sense of Congress that the Government of the Russian Federation should issue a clear and unambiguous statement of admission and condemnation of the illegal occupation and annexation by the Soviet Union from 1940 to 1991 of the Baltic countries of Estonia, Latvia, and Lithuania.

MEASURES REFERRED

The following bill was read the first and the second times by unanimous consent, and referred as indicated:

H.R. 3070. An act to reauthorize the human space flight, aeronautics, and science programs of the National Aeronautics and Space Administration, and for other purposes; to the Committee on Commerce, Science, and Transportation.

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 128. Concurrent resolution expressing the sense of Congress that the Government of the Russian Federation should issue a clear and unambiguous statement of admission and condemnation of the illegal occupation and annexation by the Soviet Union from 1940 to 1991 of the Baltic countries of Estonia, Latvia, and Lithuania; to the Committee on Foreign Relations.

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–3137. A communication from the Executive Secretary and Chief of Staff, U.S. Agency for International Development, transmitting, pursuant to law, the report of a vacancy and a nomination for the position of Assistant Administrator, received on July 21, 2005; to the Committee on Foreign Relations.

EC–3138. A communication from the Executive Secretary and Chief of Staff, U.S. Agency for International Development, transmitting, pursuant to law, the report of a vacancy in the position of USAID, Office of the General Counsel, received on July 21, 2005; to the Committee on Foreign Relations.

EC–3139. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to the Case-Zablocki Act, 1 U.S.C. 112b, the report of the texts and background statements of international agreements, other than treaties; to the Committee on Foreign Relations.

EC–3140. A communication from the Chief, Regulations Management, Veterans Benefits Administration, Department of Veterans Affairs, transmitting, pursuant to law, the report of a rule entitled ''Presumptions of Service Connection for Diseases Associated with Service Involving Detention or Internment as a Prisoner of War'' (RIN2900–AM09) received on July 21, 2005; to the Committee on Veterans' Affairs.

EC–3141. A communication from the Acting Director, Division for Strategic Human Resources Policy, Office of Personnel Management, transmitting, pursuant to law, the report of a rule entitled ''Changes in Health Benefits Enrollment'' (RIN3206–AK04) received on July 21, 2005; to the Committee on Homeland Security and Governmental Affairs.

EC–3142. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''The Feasibility of Using Preferred Provider Organization (PPO) Networks to Reduce the Costs of Acquiring Eyeglasses for Medicare Beneficiaries Following Cataract Surgery'' to the Committee on Finance.

EC–3143. A communication from the Regulations Officer, Office of Disability and Income Security Programs, Social Security Administration, transmitting, pursuant to law, the report of a rule entitled ''Technical Revisions to the Supplemental Security Income (SSI) Regulations on Income and Resources'' (RIN0960–AE79) received on July 21, 2005; to the Committee on Finance.

EC–3144. A communication from the Regulations Officer, Social Security Administration, transmitting, pursuant to law, the report of a rule entitled ''Continuation of Benefit Payments to Certain Individuals Who Are Participating in a Program of Vocational Rehabilitation Services, Employment Services, or Other Support Services'' (RIN0960–AF86) received on July 21, 2005; to the Committee on Finance.

EC–3145. A communication from the Regulations Officer, Social Security Administration, transmitting, pursuant to law, the report of a rule entitled ''Revised Medical Criteria for Evaluating Genitourinary Impairments'' (RIN0906–AF30) received on July 21, 2005; to the Committee on Finance.

EC–3146. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled ''July–September 2005 Bond Factor Amounts'' (Rev. Rul. 2005–44) received on July 21 2005; to the Committee on Finance.

EC–3147. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled ''Student/Teacher Claims for Exemption from Withholding Tax'' (Rev. Proc. 2005–44) received on July 21, 2005; to the Committee on Finance.

EC–3148. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled

''Applicable Federal Rates—August 2005'' (Rev. Rul. 2005–54) received on July 21, 2005; to the Committee on Finance.

EC–3149. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled ''Modification of Notice 2005–51'' (Notice 2005–57) received on July 21, 2005; to the Committee on Finance.

EC–3150. A communication from the Deputy Executive Director, Pension Benefit Guaranty Corporation, transmitting, pursuant to law, the report of a rule entitled ''Benefits Payable in Terminated Single-Employer Plans; Allocation of Assets in Single-Employer Plans; Interest Assumptions for Valuing and Paying Benefits'' (29 CFR Parts 4022 and 4044) received on July 21 2005; to the Committee on Health, Education, Labor, and Pensions.

EC–3151. A communication from the Director, Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Food Additives Permitted for Direct Addition to Food for Human Consumption; Vitamin D3'' (Docket No. 2003F–0370) received on July 21, 2005; to the Committee on Health, Education, Labor, and Pensions.

EC–3152. A communication from the Director, Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Electronic Products; Performance Standard for Diagnostic X-Ray Systems and Their Major Components'' ((RIN0910–AC34) (Docket No. 2001N–0275)) received on July 21, 2005; to the Committee on Health, Education, Labor, and Pensions.

EC–3153. A communication from the Director, Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Medical Devices; Medical Device Reporting; Confirmation of Effective Date'' (Docket No. 2004N–0527) received on July 21, 2005; to the Committee on Health Education, Labor, and Pensions.

EC–3154. A communication from the Director, Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Food Additives Permitted for Direct Addition to Food for Human Consumption; Vitamin D3'' (Docket No. 2002F–0160) received on July 21, 2005; to the Committee on Health, Education, Labor, and Pensions.

EC–3155. A communication from the Secretary of Energy, transmitting, pursuant to law, a report concerning storage at the Department's Savannah River Site, located near Aiken, South Carolina; to the Committee on Energy and Natural Resources.

EC–3156. A communication from the Secretary of Energy, transmitting, pursuant to law, a report entitled ''U.S. Department of Energy Fleet Alternative Fuel Vehicle Acquisition Report''; to the Committee on Energy and Natural Resources.

EC–3157. A communication from the Attorney, Office of Legislation and Regulatory Law, Strategic Petroleum Reserve, Department of Energy, transmitting, pursuant to law, the report of a rule entitled ''Price Competitive Sale of Strategic Petroleum Reserve Petroleum; Standard Sales Provisions'' (RIN1901–AB15) received on July 21, 2005; to the Committee on Energy and Natural Resources.

EC–3158. A communication from the Attorney, Office of Legislation and Regulatory Law, Office of Science, Department of Energy, transmitting, pursuant to law, the report of a rule entitled ''Policy on Research Misconduct'' (RIN1901–AA89) received on July 21, 2005; to the Committee on Energy and Natural Resources.

EC–3159. A communication from the General Counsel, Federal Energy Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled ''Revision of FERC Form No. 73, Oil Pipeline Data Filing Instructions RM05–14–000'' received on July 21, 2005; to the Committee on Energy and Natural Resources.

EC–3160. A communication from the Administrator, Foreign Agricultural Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Emerging Markets Program'' (RIN0551–AA62) received on July 21, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3161. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Highly Pathogenic Avian Influenza; Additional Restrictions'' (APHIS Docket No. 04–011–3) received on July 21, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3162. A communication from the Administrator, Risk Management Agency, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Common Crop Insurance Regulations; Nursery Crop Insurance Provisions'' (RIN0563–AB80) received on July 21, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3163. A communication from the Acting Administrator, Food Safety and Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Termination of Designation of the State of North Dakota with Respect to the Inspection of Poultry Products'' (RIN0583–AD13) received on July 21, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3164. A communication from the Acting Chief Financial Officer, Department of the Treasury, transmitting, pursuant to law, the Department's Fleet Alternative Fuel Vehicle Acquisition Report for Fiscal Year 2004; to the Committee on Banking, Housing and Urban Affairs.

EC–3165. A communication from the Chairman and President, Export-Import Bank of the United States, transmitting, pursuant to law, a report of transactions involving exports to New Zealand; to the Committee on Banking, Housing, and Urban Affairs.

EC–3166. A communication from the Acting Under Secretary for Domestic Finance, Department of the Treasury, transmitting, pursuant to law, the annual report on the Resolution Funding Corporation for the calendar year 2004; to the Committee on Banking, Housing, and Urban Affairs.

EC–3167. A communication from the Deputy General Counsel for Equal Opportunity and Administrative Law, Department of Housing and Urban Development, transmitting, pursuant to law, the report of action on a nomination for the position of Assistant Secretary for Housing/Federal Housing Commissioner, received on July 21, 2005; to the Committee on Banking, Housing, and Urban Affairs.

EC–3168. A communication from the Deputy General Counsel for Equal Opportunity and Administrative Law, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a vacancy in the position of Director, Office of Federal Housing Enterprise Oversight, received on July 21, 2005; to the Committee on Banking, Housing, and Urban Affairs.

EC–3169. A communication from the Counsel for Legislation and Regulations, Office of Housing, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a rule entitled ''Up-Front Mortgage Insurance Premiums for Loans Insured Under Sections 203(k) and 234(c) of the National Housing Act'' ((RIN2502–AH82) (FR–4749–F–02)) received July 21, 2005; to the Committee on Banking, Housing, and Urban Affairs.

EC–3170. A communication from the General Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Changes in Flood Elevation Determinations'' (Docket No. FEMA–D–7573; 44 CFR 65) received on July 21, 2005; to the Committee on Banking, Housing, and Urban Affairs.

EC–3171. A communication from the General Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Changes in Flood Elevation Determinations 70 FR 35540'' (44 CFR 65) received on July 21, 2005; to the Committee on Banking, Housing, and Urban Affairs.

EC–3172. A communication from the General Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Changes in Flood Elevation Determinations'' (Docket No. FEMA–B–7452; 44 CFR 65) received on July 21, 2005; to the Committee on Banking, Housing, and Urban Affairs.

EC–3173. A communication from the General Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Changes in Flood Elevation Determinations'' (Docket No. FEMA–P–7644; 44 CFR 65) received on July 21, 2005; to the Committee on Banking, Housing, and Urban Affairs.

EC–3174. A communication from the General Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Final Flood Elevation Determinations'' (70 FR 35542) received on July 21, 2005; to the Committee on Banking, Housing, and Urban Affairs.

EC–3175. A communication from the General Counsel, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Final Flood Elevation Determinations'' (70 FR 37054) received on July 21, 2005; to the Committee on Banking, Housing, and Urban Affairs.

EC–3176. A communication from the Acting Chief Counsel, Office of Foreign Assets Control, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''31 CFR Chapter V, Appendix A'' received on July 21, 2005; to the Committee on Banking, Housing, and Urban Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. ENZI, from the Committee on Health, Education, Labor, and Pensions, with an amendment in the nature of a substitute:

S. 1420. A bill to amend the Federal Food, Drug, and Cosmetic Act with respect to medical device user fees (Rept. No. 109–107).

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. MARTINEZ:

S. 1477. A bill to make funds generated form the Caribbean National Forest in the Commonwealth of Puerto Rico available to the Secretary of Agriculture for land acquisition intended to protect the integrity of the buffer zone surrounding the Caribbean National Forest, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. DOMENICI:

S. 1478. A bill to amend the Higher Education Act of 1965 regarding the definition of a high need local educational agency, the definition of a Hispanic-serving institution, and the 2-year wait out period for certain grant recipients; to the Committee on Health, Education, Labor, and Pensions.

By Mr. DODD (for himself and Mr. SANTORUM):

S. 1479. A bill to provide for the expansion of Federal efforts concerning the prevention, education, treatment, and research activities related to Lyme and other tick-borne diseases, including the establishment of a Tick-Borne Diseases Advisory Committee; to the Committee on Health, Education, Labor, and Pensions.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. HARKIN (for himself, Mr. KENNEDY, Mr. HATCH, Mr. REID, Mrs. CLINTON, Mr. DEWINE, Mr. JEFFORDS, Mr. MCCAIN, Mr. CHAFEE, Mr. LAUTENBERG, Mr. SMITH, Ms. MIKULSKI, Mrs. DOLE, Mr. DURBIN, Mr. LEVIN, Mr. LIEBERMAN, Mrs. BOXER, Ms. COLLINS, Ms. STABENOW, Mr. OBAMA, Mr. AKAKA, Mr. SALAZAR, Mr. DAYTON, Mr. BINGAMAN, Mr. WYDEN, Mr. PRYOR, Mr. BIDEN, Mr. FEINGOLD, Mr. REED, Mr. ISAKSON, Mr. JOHNSON, Mr. NELSON of Florida, Mr. BROWNBACK, Mr. BURR, Ms. SNOWE, Mr. MARTINEZ, Ms. CANTWELL, Mr. VOINOVICH, Mr. HAGEL, and Mr. COLEMAN):

S. Res. 207. A resolution recognizing and honoring the 15th anniversary of the enactment of the Americans with Disabilities Act of 1990; considered and agreed to.

By Mr. SPECTER (for himself and Mr. LEAHY):

S. Res. 208. A resolution commemorating the 25th anniversary of the National Citizens' Crime Prevention Campaign; to the Committee on the Judiciary.

By Mr. CONRAD (for himself and Mr. MCCAIN):

S. Res. 209. A resolution to strengthen fiscal responsibility by improving Senate consideration of conference reports; to the Committee on Rules and Administration.

By Mr. FRIST (for himself and Mr. REID):

S. Res. 210. A resolution expressing sympathy for the people of Egypt in the aftermath of the deadly terrorist attacks on Sharm el-Sheik, Egypt on July 23, 2005; considered and agreed to.

ADDITIONAL COSPONSORS

S. 7

At the request of Mr. KYL, the name of the Senator from Mississippi (Mr. LOTT) was added as a cosponsor of S. 7, a bill to increase American jobs and economic growth by making permanent the individual income tax rate reductions, the reduction in the capital gains and dividend tax rates, and the repeal of the estate, gift, and generation-skipping transfer taxes.

S. 151

At the request of Mr. COLEMAN, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 151, a bill to amend title 38, United States Code, to require an annual plan on outreach activities of the Department of Veterans Affairs.

S. 246

At the request of Mr. BUNNING, the names of the Senator from Utah (Mr. HATCH) and the Senator from Georgia (Mr. ISAKSON) were added as cosponsors of S. 246, a bill to repeal the sunset of the Economic Growth and Tax Relief Reconciliation Act of 2001 with respect to the expansion of the adoption credit and adoption assistance programs.

S. 319

At the request of Mr. DOMENICI, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 319, a bill to amend the Public Health Service Act to revise the amount of minimum allotments under the Projects for Assistance in Transition from Homelessness program.

S. 372

At the request of Mr. LEAHY, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 372, a bill to amend the Internal Revenue Code of 1986 to provide that a deduction equal to fair market value shall be allowed for charitable contributions of literacy, musical, artistic, or scholarly compositions created by the donor.

S. 392

At the request of Mr. LEVIN, the names of the Senator from Mississippi (Mr. COCHRAN) and the Senator from Mississippi (Mr. LOTT) were added as cosponsors of S. 392, a bill to authorize the President to award a gold medal on behalf of Congress, collectively, to the Tuskegee Airmen in recognition of their unique military record, which inspired revolutionary reform in the Armed Forces.

S. 397

At the request of Mr. CRAIG, the name of the Senator from West Virginia (Mr. BYRD) was added as a cosponsor of S. 397, a bill to prohibit civil liability actions from being brought or continued against manufacturers, distributors, dealers, or importers of firearms or ammunition for damages, injunctive or other relief resulting from the misuse of their products by others.

S. 457

At the request of Ms. COLLINS, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 457, a bill to require the Director of the Office of Management and Budget to issue guidance for, and provide oversight of, the management of micropurchases made with Governmentwide commercial purchase cards, and for other purposes.

S. 470

At the request of Mr. DODD, the names of the Senator from Illinois (Mr. DURBIN) and the Senator from Iowa (Mr. HARKIN) were added as cosponsors of S. 470, a bill to amend the Public Health Service Act to expand the clinical trials drug data bank.

S. 512

At the request of Mr. SANTORUM, the names of the Senator from Pennsylvania (Mr. SPECTER) and the Senator from Maine (Ms. COLLINS) were added as cosponsors of S. 512, a bill to amend the Internal Revenue Code of 1986 to classify automatic fire sprinkler systems as 5-year property for purposes of depreciation.

S. 558

At the request of Mr. REID, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 558, a bill to amend title 10, United States Code, to permit certain additional retired members of the Armed Forces who have a service-connected disability to receive both disability compensation from the Department of Veterans Affairs for their disability and either retired pay by reason of their years of military service or Combat-Related Special compensation and to eliminate the phase-in period under current law with respect to such concurrent receipt.

S. 828

At the request of Mr. HARKIN, the names of the Senator from Washington (Mrs. MURRAY) and the Senator from New Jersey (Mr. LAUTENBERG) were added as cosponsors of S. 828, a bill to enhance and further research into paralysis and to improve rehabilitation and the quality of life for persons living with paralysis and other physical disabilities, and for other purposes.

S. 914

At the request of Mr. ALLARD, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 914, a bill to amend the Public

Health Service Act to establish a competitive grant program to build capacity in veterinary medical education and expand the workforce of veterinarians engaged in public health practice and biomedical research.

S. 1014

At the request of Ms. SNOWE, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S. 1014, a bill to provide additional relief for small business owners ordered to active duty as members of reserve components of the Armed Forces, and for other purposes.

S. 1081

At the request of Mr. KYL, the name of the Senator from Nebraska (Mr. NELSON) was added as a cosponsor of S. 1081, a bill to amend title XVIII of the Social Security Act to provide for a minimum update for physicians' services for 2006 and 2007.

S. 1089

At the request of Mr. AKAKA, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 1089, a bill to establish the National Foreign Language Coordination Council to develop and implement a foreign language strategy, and for other purposes.

S. 1110

At the request of Mr. ALLARD, the name of the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 1110, a bill to amend the Federal Hazardous Substances Act to require engine coolant and antifreeze to contain a bittering agent in order to render the coolant or antifreeze unpalatable.

S. 1158

At the request of Mr. KENNEDY, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 1158, a bill to impose a 6-month moratorium on terminations of certain plans instituted under section 4042 of the Employee Retirement Income Security Act of 1974 in cases in which reorganization of contributing sponsors is sought in bankruptcy or insolvency proceedings.

S. 1172

At the request of Mr. SPECTER, the names of the Senator from Massachusetts (Mr. KENNEDY), the Senator from Maine (Ms. COLLINS) and the Senator from Maine (Ms. SNOWE) were added as cosponsors of S. 1172, a bill to provide for programs to increase the awareness and knowledge of women and health care providers with respect to gynecologic cancers.

S. 1179

At the request of Mr. KENNEDY, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 1179, a bill to amend title XVIII of the Social Security Act to ensure that benefits under part D of such title have no impact on benefits under other Federal programs.

S. 1191

At the request of Mr. SALAZAR, the names of the Senator from Mississippi (Mr. COCHRAN) and the Senator from Alaska (Mr. STEVENS) were added as cosponsors of S. 1191, a bill to establish a grant program to provide innovative transportation options to veterans in remote rural areas.

S. 1308

At the request of Mr. BAUCUS, the names of the Senator from Alaska (Mr. STEVENS), the Senator from West Virginia (Mr. ROCKEFELLER), the Senator from New York (Mr. SCHUMER) and the Senator from Indiana (Mr. BAYH) were added as cosponsors of S. 1308, a bill to establish an Office of Trade Adjustment Assistance, and for other purposes.

S. 1309

At the request of Mr. BAUCUS, the names of the Senator from Maine (Ms. SNOWE), the Senator from New Jersey (Mr. CORZINE), the Senator from West Virginia (Mr. ROCKEFELLER), the Senator from New Mexico (Mr. BINGAMAN), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Massachusetts (Mr. KERRY), the Senator from Michigan (Ms. STABENOW) and the Senator from Indiana (Mr. BAYH) were added as cosponsors of S. 1309, a bill to amend the Trade Act of 1974 to extend the trade adjustment assistance program to the services sector, and for other purposes.

S. 1321

At the request of Mr. SANTORUM, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. 1321, a bill to amend the Internal Revenue Code of 1986 to repeal the excise tax on telephone and other communications.

S. 1380

At the request of Mr. VITTER, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 1380, a bill to eliminate unsafe railway-road grade crossings, to enhance railroad safety through new safety technology, safety inspections, accident investigations, and for other purposes.

S. 1405

At the request of Mr. NELSON of Nebraska, the names of the Senator from Illinois (Mr. DURBIN) and the Senator from New Mexico (Mr. BINGAMAN) were added as cosponsors of S. 1405, a bill to extend the 50 percent compliance threshold used to determine whether a hospital or unit of a hospital is an inpatient rehabilitation facility and to establish the National Advisory Council on Medical Rehabilitation.

S. 1408

At the request of Mr. SMITH, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 1408, a bill to strengthen data protection and safeguards, require data breach notification, and further prevent identity theft.

S. 1411

At the request of Ms. SNOWE, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S. 1411, a bill to direct the Administrator of the Small Business Administration to establish a pilot program to provide regulatory compliance assistance to small business concerns, and for other purposes.

S. 1414

At the request of Mr. BENNETT, his name was added as a cosponsor of S. 1414, a bill to provide for the conduct of a study of the suitability and feasibility of establishing the Trail of the Ancients National Heritage Area in the Four Corners region of the States of Utah, Colorado, Arizona, and New Mexico.

At the request of Mr. DOMENICI, his name was added as a cosponsor of S. 1414, supra.

At the request of Mr. BINGAMAN, his name was added as a cosponsor of S. 1414, supra.

At the request of Mr. ALLARD, his name was added as a cosponsor of S. 1414, supra.

S. 1429

At the request of Mrs. MURRAY, the names of the Senator from Massachusetts (Mr. KERRY) and the Senator from Louisiana (Ms. LANDRIEU) were added as cosponsors of S. 1429, a bill to amend the Higher Education Act of 1965 to assist homeless students in obtaining postsecondary education, and for other purposes.

S. RES. 104

At the request of Mr. FEINGOLD, the name of the Senator from Colorado (Mr. SALAZAR) was added as a cosponsor of S. Res. 104, a resolution expressing the sense of the Senate encouraging the active engagement of Americans in world affairs and urging the Secretary of State to take the lead and coordinate with other governmental agencies and non-governmental organizations in creating an online database of international exchange programs and related opportunities.

S. RES. 198

At the request of Ms. MIKULSKI, the names of the Senator from Georgia (Mr. ISAKSON) and the Senator from Alaska (Ms. MURKOWSKI) were added as cosponsors of S. Res. 198, a resolution commemorating the 25th anniversary of the 1980 worker's strike in Poland and the birth of the Solidarity Trade Union, the first free and independent trade union established in the Soviet-dominated countries of Europe.

AMENDMENT NO. 1313

At the request of Mr. INHOFE, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of amendment No. 1313 proposed to S. 1042, an original bill to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

AMENDMENT NO. 1337

At the request of Mr. REID, the name of the Senator from Minnesota (Mr.

DAYTON) was added as a cosponsor of amendment No. 1337 intended to be proposed to S. 1042, an original bill to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

AMENDMENT NO. 1345

At the request of Ms. COLLINS, the names of the Senator from Massachusetts (Mr. KENNEDY) and the Senator from Maryland (Mr. SARBANES) were added as cosponsors of amendment No. 1345 intended to be proposed to S. 1042, an original bill to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

AMENDMENT NO. 1348

At the request of Mrs. MURRAY, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of amendment No. 1348 proposed to S. 1042, an original bill to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

AMENDMENT NO. 1369

At the request of Mr. DAYTON, the names of the Senator from Washington (Mrs. MURRAY) and the Senator from New Jersey (Mr. LAUTENBERG) were added as cosponsors of amendment No. 1369 intended to be proposed to S. 1042, an original bill to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

AMENDMENT NO. 1402

At the request of Mr. AKAKA, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of amendment No. 1402 intended to be proposed to S. 1042, an original bill to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

AMENDMENT NO. 1410

At the request of Mrs. FEINSTEIN, the names of the Senator from New Jersey (Mr. LAUTENBERG) and the Senator from Indiana (Mr. BAYH) were added as cosponsors of amendment No. 1410 intended to be proposed to S. 1042, an original bill to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

AMENDMENT NO. 1415

At the request of Mr. KENNEDY, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of amendment No. 1415 proposed to S. 1042, an original bill to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

AMENDMENT NO. 1418

At the request of Mr. BUNNING, his name was added as a cosponsor of amendment No. 1418 proposed to S. 1042, an original bill to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

AMENDMENT NO. 1422

At the request of Mr. SALAZAR, the names of the Senator from New Mexico (Mr. BINGAMAN) and the Senator from Washington (Mrs. MURRAY) were added as cosponsors of amendment No. 1422 proposed to S. 1042, an original bill to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

AMENDMENT NO. 1423

At the request of Mr. SALAZAR, the names of the Senator from Connecticut (Mr. LIEBERMAN) and the Senator from Georgia (Mr. CHAMBLISS) were added as cosponsors of amendment No. 1423 proposed to S. 1042, an original bill to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

AMENDMENT NO. 1425

At the request of Mr. HARKIN, the names of the Senator from Illinois (Mr. OBAMA), the Senator from Maryland (Ms. MIKULSKI), the Senator from Connecticut (Mr. DODD), the Senator from New Jersey (Mr. LAUTENBERG) and the Senator from Massachusetts (Mr. KENNEDY) were added as cosponsors of amendment No. 1425 proposed to S. 1042, an original bill to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

AMENDMENT NO. 1433

At the request of Mr. LIEBERMAN, the names of the Senator from New Jersey (Mr. LAUTENBERG) and the Senator from Delaware (Mr. BIDEN) were added as cosponsors of amendment No. 1433 intended to be proposed to S. 1042, an original bill to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

AMENDMENT NO. 1435

At the request of Ms. STABENOW, the names of the Senator from Hawaii (Mr. AKAKA), the Senator from Washington (Mrs. MURRAY), the Senator from Minnesota (Mr. DAYTON), the Senator from Florida (Mr. NELSON), the Senator from New Jersey (Mr. LAUTENBERG), the Senator from Colorado (Mr. SALAZAR), the Senator from Arkansas (Mrs. LINCOLN) and the Senator from New Jersey (Mr. CORZINE) were added as cosponsors of amendment No. 1435 proposed to S. 1042, an original bill to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DOMENICI:

S. 1478. A bill to amend the Higher Education Act of 1965 regarding the definition of a high need local educational agency, the definition of a Hispanic-serving institution, and the 2-year wait out period for certain grant recipients; to the Committee on Health, Education, Labor, and Pensions.

Mr. DOMENICI. Mr. President, the Higher Education Act of 1965 was signed into law for the purpose of increasing access to higher education for all citizens of the United States and to strengthen the capacity of higher education institutions to better serve their communities. The reauthorization of the Higher Education Act during the 109th Congress presents a powerful opportunity for the Nation to address the higher education needs of our constituencies and it is for this reason that I rise today to introduce the Improving Educational Opportunities for All Act. This bill will make changes to definitions located within title II, teacher quality enhancement grants, and title V, the development institutions sections of the Higher Education Act.

When the Higher Education Act was reauthorized in 1998, Congress responded to the Nation's critical need for high-quality teachers by creating grants to help States invest in the recruitment, preparation, licensing, and support of teachers. Title II of the Higher Education Act, the teacher quality enhancement grants initiative, encourages States to improve the quality of their teaching force through such reforms as strengthening teacher certification standards; holding institutions of higher education accountable for preparing teachers with strong teaching skills and knowledge of their content areas; and reducing shortages of qualified teachers in high-need areas. I believe that these grants have been very effective in meeting their goals, but I also want to make sure that this money is targeted to our highest need local education agencies.

The changes I am proposing to title II of the Higher Education Act will enhance the definition of high need local education agencies to include local education agencies that have a high percentage of students who are minority or of limited English proficiency, residing in rural areas as defined by the Bureau of Census, or have high percentages of Naïve American students.

Nationwide, studies show the most disadvantaged children are the ones most likely to be taught by the newest, least-qualified and lowest-scoring teachers. We need to attract good teachers who are committed to their profession, and reward teachers who are qualified and want to teach in areas of most critical need. We need teachers to be well-prepared to teach all students to the highest standards and I hope that the changes I am proposing will help States develop and implement programs to meet these needs.

Another positive addition to the Higher Education Act, has been the creation of title V grants to developing institutions. Title V of the Higher Education Act is the primary vehicle used to target urgently needed funds to Hispanic serving institutions, HSIs. HSI's use grants under this section to strengthen academic quality, improve institutional management, and increase financial stability. These grants are essential to institutions that provide and increase the number of educational opportunities available to Hispanic students.

Under current guidelines, in order to qualify for a grant under title V, an institution must, have at least 25 percent full time, Hispanic undergraduate student enrollment, and not less than 50 percent of its Hispanic student population must be low income. Title V grants are awarded for 5 years, with a minimum 2-year wait out period after the termination of a grant period before eligibility to apply for another grant.

The first change I am proposing is a change to title V's current ''50 percent'' low-income assurance requirement. I believe that this requirement is an unnecessary bureaucratic regulation that constrains Hispanic serving institutions abilities to implement programs designed to provide long range solutions to Hispanic higher education challenges. Currently, there are no Government authorized means to collect student financial data, and, although some information can be extrapolated from student financial aid forms, it is not enough information to complete the title V forms.

The bill I am introducing today will improve the HSI eligibility requirements by allowing applicants for title V funding to satisfy the 50 percent low-income Hispanic student population criterion with appropriate evidence of student eligibility for title IV, need-based, aid. The revised title V section will retain the requirement that to be eligible for title V funds, an institution must have an enrollment of needy students. However, rather than conditioning grant qualification upon the cumbersome requirement that institutions prove 50 percent of their Hispanic students are low income, it will allow institutions to qualify for title V money if 50 percent of the students are receiving need-based assistance under title IV or a substantial percentage of the students are receiving Pell grants.

Another unnecessary regulation under title V is the minimum 2-year wait out period after the termination of a grant period before eligibility to apply for another grant. Title V's 2-year wait out period impedes Hispanic Serving Institutions efforts to implement continuing programs with long range solutions to Hispanic higher education challenges. Eliminating the 2-year wait out period will be of great importance to equipping our Nation's Hispanic serving institutions with the continuous funding that they need to best answer complex challenges. In 2000, Congress eliminated the wait out period for tribally controlled colleges and universities, Alaskan Native and Native Hawaiian-serving institutions. Historically Black colleges and universities also do not have a wait out period. It is now time for us to eliminate the wait out period for Hispanic serving institutions.

Hispanic serving institutions provide the quality education essential to full participation in today's society. Many students in my home State of New Mexico have benefited from the academic excellence that Hispanic serving institutions seek to provide. Title V grants are intended to provide assistance to these less advantaged, developing institutions. However, by convoluting the application process, Congress is preventing these institutions from applying for grants and obstructing their development.

I know that the chairman and ranking member of the Health, Education, Labor and Pensions committee have been working very hard on the reauthorization of the Higher Education Act. I appreciate their efforts, and hope they will consider making the changes I am recommending.

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. 1478

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 ''Improving Educational Opportunities for All Act''.

SEC. 2. HIGH NEED LOCAL EDUCATIONAL AGENCY.

Section 201(b)(2) of the Higher Education Act of 1965 (20 U.S.C. 1021(b)(2)) is amended—

(1) in subparagraph (B), by striking ''or'' after the semicolon;

(2) in subparagraph (C), by striking the period and inserting a semicolon; and

(3) by adding at the end the following:

''(D) a high percentage of students who are—

''(i) minority students; or

''(ii) of limited English proficiency;

''(E) a rural population, as defined by the Bureau of the Census; or

''(F) a high percentage of Native American students.''.

SEC. 3. DEFINITION OF A HISPANIC-SERVING INSTITUTION.

Section 502(a)(5) of the Higher Education Act of 1965 (20 U.S.C. 1101a(a)(5)) is amended—

(1) in subparagraph (A), by inserting ''and'' after the semicolon;

(2) in subparagraph (B), by striking ''; and'' and inserting a period; and

(3) by striking subparagraph (C).

SEC. 4. ELIMINATION OF THE 2-YEAR WAIT OUT PERIOD FOR GRANT RECIPIENTS.

Section 504(a) of the Higher Education Act of 1965 (20 U.S.C. 1101c(a)) is amended—

(1) by striking ''PERIOD.—'' and all that follows through ''The Secretary'' and inserting ''PERIOD.—The Secretary''; and

(2) by striking paragraph (2).

By Mr. DODD (for himself and Mr. SANTORUM):

S. 1479. A bill to provide for the expansion of Federal efforts concerning the prevention, education, treatment, and research activities related to Lyme and other tick-borne diseases, including the establishment of a Tick-Borne Diseases Advisory Committee; to the Committee on Health, Education, Labor, and Pensions.

Mr. DODD. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 1479

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 ''Lyme and Tick-borne Disease Prevention, Education, and Research Act of 2005''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Lyme disease is a common but frequently misunderstood illness that, if not caught early and treated properly, can cause serious health problems.

(2) Lyme disease is a bacterial infection that is transmitted by a tick bite. Early signs of infection may include a rash and flu-

like symptoms such as fever, muscle aches, headaches, and fatigue.

(3) Although Lyme disease can be treated with antibiotics if caught early, the disease often goes undetected because it mimics other illnesses or may be misdiagnosed. Untreated, Lyme disease can lead to severe heart, neurological, eye, and joint problems because the bacteria can affect many different organs and organ systems.

(4) If an individual with Lyme disease does not receive treatment, such individual can develop severe heart, neurological, eye, and joint problems.

(5) Although Lyme disease accounts for 90 percent of all vector-borne infections in the United States, the ticks that spread Lyme disease also spread other diseases, such as ehrlichiosis, babesiosis, and other strains of Borrelia. All of these diseases in 1 patient makes diagnosis and treatment more difficult.

(6) Studies indicate that the actual number of tick-borne disease cases are approximately 10 times the amount reported.

(7) Persistence of symptomatology in many patients without reliable testing makes treatment of patients more difficult.

SEC. 3. ESTABLISHMENT OF A TICK-BORNE DISEASES ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Health and Human Services (referred to in this Act as the ''Secretary'') shall establish within the Office of the Secretary an advisory committee to be known as the Tick-Borne Diseases Advisory Committee (referred to in this section as the ''Committee'').

(b) DUTIES.—The Committee shall advise the Secretary and the Assistant Secretary for Health regarding the manner in which such officials can—

(1) ensure interagency coordination and communication and minimize overlap regarding efforts to address tick-borne diseases;

(2) identify opportunities to coordinate efforts with other Federal agencies and private organizations addressing such diseases;

(3) ensure interagency coordination and communication with constituency groups;

(4) ensure that a broad spectrum of scientific viewpoints are represented in public health policy decisions and that information disseminated to the public and physicians is balanced; and

(5) advise relevant Federal agencies on priorities related to the Lyme and tick-borne diseases.

(c) MEMBERSHIP.—

(1) APPOINTED MEMBERS.—

(A) IN GENERAL.—From among individuals who are not officers or employees of the Federal Government, the Secretary shall appoint to the Committee, as voting members, an equal number of individuals from each of the groups described in clauses (i) through (v) of subparagraph (B).

(B) GROUPS.—The groups described in this subparagraph include the following:

(i) Scientific community members representing the broad spectrum of viewpoints held within the scientific community related to Lyme and other tick-borne diseases.

(ii) Representatives of tick-borne disease voluntary organizations.

(iii) Health care providers, including at least 1 full-time practicing physician, with relevant experience providing care for individuals with a broad range of acute and chronic tick-borne diseases.

(iv) Patient representatives who are individuals who have been diagnosed with a tick-borne disease or who have had an immediate family member diagnosed with such a disease.

(v) Representatives of State and local health departments and national organizations that represent State and local health professionals.

(C) DIVERSITY.—In appointing members under this paragraph, the Secretary shall ensure that such members, as a group, represent a diversity of scientific perspectives relevant to the duties of the Committee.

(2) EX OFFICIO MEMBERS.—The Secretary shall designate, as nonvoting, ex officio members of the Committee, representatives overseeing tick-borne disease activities from each of the following Federal agencies:

(A) The Centers for Disease Control and Prevention.

(B) The National Institutes of Health.

(C) The Agency for Healthcare Research and Quality.

(D) The Food and Drug Administration.

(E) The Office of the Assistant Secretary for Health.

(F) Such additional Federal agencies as the Secretary determines to be appropriate.

(3) CO-CHAIRPERSONS.—The Secretary shall designate the Assistant Secretary of Health as the co-chairperson of the Committee. The appointed members of the Committee shall also elect a public co-chairperson. The public co-chairperson shall serve a 2-year term.

(4) TERM OF APPOINTMENT.—The term of service for each member of the Committee appointed under paragraph (1) shall be 4 years.

(5) VACANCY.—A vacancy in the membership of the Committee shall be filled in the same manner as the original appointment. Any member appointed to fill a vacancy for an unexpired term shall be appointed for the remainder of that term. Members may serve after the expiration of their terms until their successors have taken office.

(d) MEETINGS.—The Committee shall hold public meetings, except as otherwise determined by the Secretary, after providing notice to the public of such meetings, and shall meet at least twice a year with additional meetings subject to the call of the co-chairpersons. Agenda items with respect to such meetings may be added at the request of the members of the Committee, including the co-chairpersons. Meetings shall be conducted, and records of the proceedings shall be maintained, as required by applicable law and by regulations of the Secretary.

(e) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there is authorized to be appropriated $250,000 for each of the fiscal years 2006 through 2009. Amounts appropriated under the preceding sentence shall be used for the expenses and per diem costs incurred by the Committee under this section in accordance with the Federal Advisory Committee Act, except that no voting member of the Committee shall be a permanent salaried employee.

SEC. 4. FEDERAL ACTIVITIES RELATED TO THE DIAGNOSIS, SURVEILLANCE, PREVENTION, AND RESEARCH OF LYME AND OTHER TICK-BORNE DISEASES.

(a) IN GENERAL.—The Secretary, acting as appropriate through the Director of the Centers for Disease Control and Prevention, the Director of the National Institutes of Health, the Commissioner of Food and Drugs, and the Director of the Agency for Healthcare Research and Quality, as well as additional Federal agencies as the Secretary determines to be appropriate, and in consultation with the Tick-Borne Diseases Advisory Committee, shall provide for the coordination of all Federal programs and activities related to Lyme and other tick-borne diseases, including the activities described in paragraphs (1) through (4) of subsection (a).

(b) ACTIVITIES.—The activities described in this subsection are the following:

(1) DEVELOPMENT OF DIAGNOSTIC TESTS.—Such activities include—

(A) the development of sensitive and more accurate diagnostic tools and tests, including a direct detection test for Lyme disease capable of distinguishing active infection from past infection;

(B) improving the efficient utilization of diagnostic testing currently available to account for the multiple clinical manifestations of both acute and chronic Lyme disease; and

(C) providing for the timely evaluation of promising emerging diagnostic methods.

(2) SURVEILLANCE AND REPORTING.—Such activities include surveillance and reporting of Lyme and other tick-borne diseases—

(A) to accurately determine the prevalence of Lyme and other tick-borne disease;

(B) to evaluate the feasibility of developing a reporting system for the collection of data on physician-diagnosed cases of Lyme disease that do not meet the surveillance criteria of the Centers of Disease Control and Prevention in order to more accurately gauge disease incidence; and

(C) to evaluate the feasibility of creating a national uniform reporting system including required reporting by laboratories in each State.

(3) PREVENTION.—Such activities include—

(A) the provision and promotion of access to a comprehensive, up-to-date clearinghouse of peer-reviewed information on Lyme and other tick-borne disease;

(B) increased public education related to Lyme and other tick-borne diseases through the expansion of the Community Based Education Programs of the Centers for Disease Control and Prevention to include expansion of information access points to the public;

(C) the creation of a physician education program that includes the full spectrum of scientific research related to Lyme and other tick-borne diseases; and

(D) the sponsoring of scientific conferences on Lyme and other tick-borne diseases, including reporting and consideration of the full spectrum of clinically-based knowledge, with the first of such conferences to be held not later than 24 months after the date of enactment of this Act.

(4) CLINICAL OUTCOMES RESEARCH.—Such activities include—

(A) the establishment of epidemiological research objectives to determine the long term course of illness for Lyme disease; and

(B) determination of the effectiveness of different treatment modalities by establishing treatment outcome objectives.

(c) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of carrying out this section, and for the purposes of providing for additional research, prevention, and educational activities for Lyme and other tick-borne diseases, there is authorized to be appropriated $20,000,000 for each of the fiscal years 2006 through 2010. Such authorization is in addition to any other authorization of appropriations available for such purpose.

SEC. 5. REPORTS ON LYME AND OTHER TICK-BORNE DISEASES.

(a) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, and annually thereafter, the Secretary shall submit to Congress a report on the activities carried out under this Act.

(b) CONTENT.—Reports under subsection (a) shall contain—

(1) significant activities or developments related to the surveillance, diagnosis, treatment, education, or prevention of Lyme or other tick-borne diseases, including suggestions for further research and education;

(2) a scientifically qualified assessment of Lyme and other tick-borne diseases, including both acute and chronic instances, related to the broad spectrum of empirical evidence

of treating physicians, as well as published peer reviewed data, that shall include recommendations for addressing research gaps in diagnosis and treatment of Lyme and other tick-borne diseases and an evaluation of treatment guidelines and their utilization;

(3) progress in the development of accurate diagnostic tools that are more useful in the clinical setting for both acute and chronic disease; and

(4) the promotion of public awareness and physician education initiatives to improve the knowledge of health care providers and the public regarding clinical and surveillance practices for Lyme disease and other tick-borne diseases.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 207—RECOGNIZING AND HONORING THE 15TH ANNIVERSARY OF THE ENACTMENT OF THE AMERICANS WITH DISABILITIES ACT OF 1990

Mr. HARKIN (for himself, Mr. KENNEDY, Mr. HATCH, Mr. REID, Mrs. CLINTON, Mr. DEWINE, Mr. JEFFORDS, Mr. MCCAIN, Mr. CHAFEE, Mr. LAUTENBERG, Mr. SMITH, Ms. MIKULSKI, Mrs. DOLE, Mr. DURBIN, Mr. LEVIN, Mr. LIEBERMAN, Mrs. BOXER, Ms. COLLINS, Ms. STABENOW, Mr. OBAMA, Mr. AKAKA, Mr. SALAZAR, Mr. DAYTON, Mr. BINGAMAN, Mr. WYDEN, Mr. PRYOR, Mr. BIDEN, Mr. FEINGOLD, Mr. REED, Mr. ISAKSON, Mr. JOHNSON, Mr. NELSON of Florida, Mr. BROWNBACK, Mr. BURR, Ms. SNOWE, Mr. MARTINEZ, Ms. CANTWELL, Mr. VOINOVICH, Mr. HAGEL, and Mr. COLEMAN) submitted the following resolution; which was considered and agreed to:

S. RES. 207

Whereas July 26, 2005, marks the 15th anniversary of the enactment of the Americans with Disabilities Act of 1990;

Whereas prior to the passage of the Americans with Disabilities Act, it was commonplace for individuals with disabilities to experience discrimination in all aspects of their everyday lives—in employment, housing, public accommodations, education, transportation, communication, recreation, voting, and access to public services;

Whereas prior to the passage of the Americans with Disabilities Act, individuals with disabilities often were the subject of stereotypes and prejudices that did not reflect their abilities, talents, and eagerness to fully contribute to our society and economy;

Whereas the dedicated efforts of disability rights advocates, such as Justin Dart, Jr. and others too numerous to mention, served to awaken Congress and the American people to the discrimination and prejudice faced by individuals with disabilities;

Whereas Congress worked in a bipartisan manner to craft legislation making such discrimination illegal and opening doors of opportunity to individuals with disabilities;

Whereas Congress passed the Americans with Disabilities Act and President George Herbert Walker Bush signed the Act into law on July 26, 1990;

Whereas the Americans with Disabilities Act pledged to fulfill the Nation's goals of equality of opportunity, economic self-sufficiency, full participation, and independent living for individuals with disabilities;

Whereas the Americans with Disabilities Act prohibited employers from discriminating against qualified individuals with disabilities, required that State and local governmental entities accommodate qualified individuals with disabilities, encouraged places of public accommodation to take reasonable steps to make their goods and services accessible to individuals with disabilities, and required that new trains and buses be accessible;

Whereas since 1990, the Americans with Disabilities Act has played an historic role in allowing some 54,000,000 Americans with disabilities to participate more fully in our national life by removing barriers in employment, transportation, public services, telecommunications, and public accommodations;

Whereas accommodations such as curb cuts, ramps, accessible trains and buses, accessible stadiums, accessible telecommunications, and accessible Web sites have become commonplace since passage of the Americans with Disabilities Act, benefitting not only individuals with disabilities but all Americans; and

Whereas the Americans with Disabilities Act is our Nation's landmark civil rights legislation for people with disabilities: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes and honors the 15th anniversary of the enactment of the Americans with Disabilities Act of 1990;

(2) salutes all people whose efforts contributed to the enactment of such Act; and

(3) encourages all Americans to celebrate the advance of freedom and the opening of opportunity made possible by the enactment of such Act.

SENATE RESOLUTION 208—COMMEMORATING THE 25TH ANNIVERSARY OF THE NATIONAL CITIZENS' CRIME PREVENTION CAMPAIGN

Mr. SPECTER (for himself and Mr. LEAHY) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 208

Whereas crime prevention improves the quality of life in every community;

Whereas crime prevention is central to maintaining a sound criminal justice system at the national, State, and local level and to ensuring safer and more secure communities;

Whereas 2005 marks the 25th anniversary of the National Citizens' Crime Prevention Campaign, featuring McGruff the Crime Dog, conducted by the National Crime Prevention Council;

Whereas McGruff the Crime Dog is an icon, recognized as the Nation's symbol for crime prevention;

Whereas the National Citizens' Crime Prevention Campaign has inspired and directed millions of citizens to take action, individually and collectively, to reduce crime, drug abuse, and the fear of crime;

Whereas the National Citizens' Crime Prevention Campaign has led a multitude of community organizations, including law enforcement, other State and local agencies, civic and community groups, faith-based organizations, schools, and businesses, to play a vital role in reducing crime and building safer communities; and

Whereas the National Citizens' Crime Prevention Campaign is a leading example of a campaign conducted by public and private individuals and entities on a national, State, and local level to improve the quality of life throughout the Nation: Now, therefore, be it

Resolved, That the Senate—

(1) commemorates the 25th anniversary of the National Citizens' Crime Prevention Campaign, and commends all individuals and organizations involved in the campaign for advancing the principles and practice of effective crime prevention;

(2) asks the people of the United States to join in the celebration of the 25th anniversary of the National Citizens' Crime Prevention Campaign, and of the campaign's icon (McGruff the Crime Dog), and of the campaign's managing organization (National Crime Prevention Council); and

(3) encourages the National Crime Prevention Council and the Crime Prevention Coalition of America to continue to promote, through the National Citizens' Crime Prevention Campaign, individual and collective action, in collaboration with law enforcement and other supporting agencies, to reduce crime and build safer communities throughout the United States.

Mr. SPECTER. Mr. President, I seek recognition today to submit a Senate Resolution commemorating the 25th anniversary of the National Citizens' Crime Prevention Campaign. This effort is being led by the National Crime Prevention Council, NCPC, and its icon, McGruff the Crime Dog.

NCPC is a private, nonprofit educational organization. NCPC is well known by the general public for coordinating the public service advertising efforts featuring McGruff. Yet the National Crime Prevention Council provides comprehensive crime prevention technical assistance and training to communities throughout the United States; develops and implements highly acclaimed and innovative programs; and disseminates information on effective crime prevention practices to thousands of individuals and organizations every year. The council also publishes books, program kits, posters, and consumer education materials that can be localized by crime prevention activists everywhere.

On July 1, 2005, the National Citizens' Crime Prevention Campaign and McGruff the Crime Dog celebrated their 25th anniversary. I, along with Senator LEAHY, acknowledge this significant milestone with a resolution that: 1. Commemorates the 25th anniversary and commends all individuals and organizations involved in the Campaign for advancing the principles and practices of effective crime prevention; 2. Asks all Americans to join in the celebration of the 25th anniversary; and 3. Encourages the efforts of the National Citizens' Crime Prevention Campaign to promote individual and collective action, in collaboration with law enforcement and other supporting agencies, to reduce crime and build safer communities throughout the United States of America.

Mr. LEAHY. Mr. President, I am proud to join my friend and colleague, Senator SPECTER, in submitting this bipartisan resolution commemorating the 25th anniversary of the National Citizens' Crime Prevention Campaign, which is managed by the National Crime Prevention Council. I applaud all individuals and organizations involved in the Campaign for their efforts to advance the principles and practice of effective crime prevention throughout the United States.

We have all been urged over the years by McGruff the Crime Dog, the Campaign's icon, to ''Take A Bite Out Of Crime'' a simple and effective slogan to help begin to educate and make the public aware of the importance of crime prevention. Through their leadership, the Campaign and McGruff have played vital roles in reducing crime and making our communities safer.

The Campaign was the first public education program on crime prevention in the country. It is designed to stimulate community involvement, generate confidence in comprehensive crime prevention activities and provide a national focus and resource for crime prevention programs nationwide. When it was formally launched in 1979, most Americans viewed crime as inevitable and its prevention as the job of the police. Today, three out of four Americans believe that they can personally take actions to reduce crime and that their neighborhoods and communities can act to prevent crime. A major force behind this shift to a more positive attitude is the National Citizens' Crime Prevention Campaign.

Crime prevention is central to maintaining a sound criminal justice system at the national, State, and local levels, and to ensuring safer and more secure communities. Making prevention a priority through the National Citizens' Crime Prevention Campaign is a collective effort. This alliance of national, State and Federal organizations works with businesses, civic groups, individuals and law enforcement to generate crime prevention awareness and action throughout the country through a variety of mechanisms.

The National Citizens' Crime Prevention Campaign has inspired and directed millions of citizens to take action, individually and collectively, to reduce crime, drug abuse and the fear of crime. I look forward to another 25 years and beyond of McGruff and the Campaign, under the skilled leadership of its President and CEO, Al Lenhardt, who is the former Sergeant At Arms of the U.S. Senate, continuing to be national leaders in improving the quality of life in every community through crime prevention. I have no doubt that together they will continue to promote individual and collective action, in collaboration with law enforcement and other supporting agencies, to reduce crime and build safer communities throughout the United States.

SENATE RESOLUTION 209—TO STRENGTHEN FISCAL RESPONSIBILITY BY IMPROVING SENATE CONSIDERATION OF CONFERENCE REPORTS

Mr. CONRAD (for himself and Mr. MCCAIN) submitted the following resolution; which was referred to the Committee on Rules and Administration:

Mr. CONRAD. Mr. President, I am pleased that Senator MCCAIN is joining me today in submitting a bipartisan Senate resolution to strengthen fiscal responsibility and restore some common sense to the consideration of conference reports in the Senate.

Last November the Senate received an omnibus appropriations conference report that totaled 3,646 pages. It included nine different appropriations bills, seven of which had never been debated, amended or voted on by the Senate. It spent more than $388 billion. And it also included a miscellaneous title with several extraneous provisions that had nothing to do with appropriations. Like the appropriations titles, many of these non-appropriations items had never been considered in the Senate.

Even though the vast majority of the Senate had never had a chance to review these provisions, the conference report was rushed to the Senate floor just hours after a handful of members and their staff had finished their work putting it together behind closed doors.

Throughout the day, I and several members of my staff read and analyzed the provisions of this bill. During the examination, we discovered a particularly egregious provision. It would have allowed an agent of the Chairman of the House or Senate Appropriations Committee to look at the tax return of anyone in America. And, further, it would have allowed them to release the private information contained in those returns without any civil or criminal penalty. That would have created the opportunity for an abuse of power almost unprecedented in our history.

Thankfully, my staff and I were able to catch this, and after strenuous debate the provision was nullified. But this is an indication of how completely flawed this process has become. None of us could know when the time came to vote, just a few hours after the bill was released, what other inappropriate provisions it contained. There simply had not been enough time to thoroughly scour the more than 3,600 pages in this bill.

Unfortunately, this is not an isolated example. Over the past several years, we have seen increased abuses of the conference process. There has been a trend toward a handful of members writing legislation in secret, without full opportunity for minority participation or thorough debate in the Senate. In addition to the omnibus appropriations bills we have seen in the past several years, there are several other examples of this trend.

Last year, for example, the majority leadership was unwilling or unable to move a bill through the Senate to extend expiring tax provisions. Apparently, the leadership did not want to vote on amendments to pay for these provisions, and it did not want to debate the fiscal irresponsibility of its tax policy.

So what did the leadership do? It took a modest tax relief measure aimed at making the child tax credit more useful to low- and middle-income families that had languished in conference for over a year, and turned it into a $146 billion revenue loser that extended the 2001 tax cuts relating to the child credit, marriage penalty, and the 10 percent marginal rate bracket through 2010. The conferees also tacked on traditional extenders, R&D, work opportunity tax credit, etc., added a year of AMT relief, and dropped the revenue offsets that had covered all but about $250 million of the original cost. No Democrats participated in the conference, and the Senate had no opportunity to debate the merits of these individual provisions or offer amendments to offset their costs.

But it is not just tax and appropriations bills that have been hijacked in conference. On issue after issue, we have had conferences where the minority was excluded so that the majority could ram through unpopular provisions as part of an un-amendable conference report.

That is not right. We should not be writing brand new legislation in conference in order to bypass Senate consideration. We should not be bundling together 3,646 page conference reports in the middle of the night and asking Senators to vote on them without the opportunity for thorough review and debate. It is clear to me the conference process is broken. Former President Ronald Reagan in his 1988 State of the Union Address told us we should not do business this way, in omnibus conference reports that no Senator has an opportunity to fully understand before they are voted on. He was right.

The Conrad-McCain resolution would address these problems. It would improve Senate consideration of conference reports in five simple, commonsense ways.

First, our resolution would require conference reports to be filed and made available for at least 48 hours prior to Senate consideration. Under our resolution, all Senators would have the opportunity to know what is in each and every conference report that comes before this body.

Second, our resolution would require a written cost estimate or table by the Congressional Budget Office prior to Senate consideration of any conference report. Senators desereve to know before they vote on a bill how much it will cost.

Third, our resolution would require that a bill coming out of conference be primarily in the jurisdiction of the same committee, or appropriations subcommittee, as the Senate-passed bill that was submitted to conference. We should not be sending a $19 billion foreign operations appropriations bill to conference and having it come back as a close-to $400 billion bill that includes Labor-Health and Human Services and other domestic spending. This will help ensure that the Senate considers each bill before it comes back from conference.

If any of those three conditions are not met, our resolution would allow any Senator to raise a point of order

against the conference report. That point of order be waived only with a vote of 60 Senators.

In addition, the Conrad-McCain resolution would strengthen current rules that are designed to prohibit extraneous provisions in conference reports. Extraneous provisions are those that are either outside the scope of the bills that the House and Senate sent to conference, or in the jurisdiction of some other committee.

Provisions that are either outside the scope of conference or in another committee's jurisdiction could be stricken from the conference report on a point of order made by any Senator. That point of order could be waived only with a vote of 60 Senators. Importantly, the point of order would not bring down the entire conference report. Instead, it will only remove the extraneous matter, leaving the rest of the conference report intact. This change—similar to the application of the Byrd rule on reconciliation bills—will remove a significant impediment to challenging attempts to push unpopular riders through the Senate on unrelated but otherwise popular legislation.

This common-sense legislation is long overdue. Our political process has become too bogged down with bloated spending bills and special-interest tax break legislation. Too often, it is not until after a conference report has passed that its true cost comes to light. Massive and unwieldy bills have become almost routine in the Senate. This has to stop.

Our resolution would improve the legislative process while strengthening fiscal responsibility in a way that is simple, straightforward, and reasonable. I urge my colleagues to support it.

S. RES. 209

SECTION 1. CONFERENCE REPORTS OUT OF ORDER.

(a) AVAILABILITY.—It shall not be in order to consider a report of a committee of conference under paragraph 1 of rule XXVIII of the Standing Rules of the Senate unless such report is filed and made available 48 hours prior to presentation.

(b) COST ESTIMATE OR TABLE.—It shall not be in order to consider a report of a committee of conference under paragraph 1 of rule XXVIII of the Standing Rules of the Senate unless an official written cost estimate or table by the Congressional Budget Office is available at the time of consideration.

(c) JURISDICTION.—It shall not be in order to consider a report of a committee of conference under paragraph 1 of rule XXVIII of the Standing Rules of the Senate if the preponderance of matter in the conference report is not in the jurisdiction of the committee (or Appropriations subcommittee for one of the regular appropriation bills) that had jurisdiction of the Senate passed bill submitted to conference.

(d) SUPERMAJORITY WAIVER AND APPEAL.—This section may be waived or suspended in the Senate only by an affirmative vote of ⅗ of the Members, duly chosen and sworn. An affirmative vote of ⅗ of the Members of the Senate, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under this section.

SEC. 2. EXTRANEOUS PROVISIONS OF CONFERENCE REPORTS OUT OF ORDER.

(a) PROVISIONS OUTSIDE SCOPE OF CONFERENCE.—It shall not be in order to consider a report of a committee of conference under paragraph 1 of rule XXVIII of the Standing Rules of the Senate if it contains extraneous material outside the scope of conference under rule XXVIII of the Standing Rules of the Senate.

(b) PROVISIONS OUTSIDE JURISDICTION.—It shall not be in order to consider a report of a committee of conference under paragraph 1 of rule XXVIII of the Standing Rules of the Senate if it contains extraneous material in the jurisdiction of a committee other than a committee from whom conferees were appointed.

(c) FORM OF POINT OF ORDER.—It shall be in order for a Senator to raise a single point of order that several provisions of a bill, resolution, amendment, motion, or conference report violate this section. The Presiding Officer may sustain the point of order as to some or all of the provisions against which the Senator raised the point of order. If the Presiding Officer so sustains the point of order as to some of the provisions against which the Senator raised the point of order, then only those provisions against which the Presiding Officer sustains the point of order shall be deemed stricken pursuant to this section. Before the Presiding Officer rules on such a point of order, any Senator may move to waive such a point of order as it applies to some or all of the provisions against which the point of order was raised. Such a motion to waive is amendable in accordance with the rules and precedents of the Senate. After the Presiding Officer rules on such a point of order, any Senator may appeal the ruling of the Presiding Officer on such a point of order as it applies to some or all of the provisions on which the Presiding Officer ruled.

(d) POINT OF ORDER SUSTAINED.—When the Senate is considering a conference report, upon a point of order being made by any Senator against extraneous material described in subsection (a) or (b), and such point of order being sustained, such material shall be deemed stricken as provided in subsection (c) and the Senate shall proceed, without intervening action or motion, to consider the question of whether the Senate shall recede from its amendment and concur with a further amendment, or concur in the House amendment with a further amendment, as the case may be, which further amendment shall consist of only that portion of the conference report or House amendment, as the case may be, not so stricken.

(e) NO FURTHER AMENDMENT.—In any case in which such point of order is sustained against a conference report (or Senate amendment derived from such conference report by operation of this subsection), no further amendment shall be in order.

(f) SUPERMAJORITY WAIVER AND APPEAL.—This section may be waived or suspended in the Senate only by an affirmative vote of ⅗ of the Members, duly chosen and sworn. An affirmative vote of ⅗ of the Members of the Senate, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under this section.

SENATE RESOLUTION 210—EXPRESSING SYMPATHY FOR THE PEOPLE OF EGYPT IN THE AFTERMATH OF THE DEADLY TERRORIST ATTACKS ON SHARM EL-SHEIK, EGYPT ON JULY 23, 2005.

Mr. FRIST (for himself and Mr. REID) submitted the following resolution; which was considered and agreed to:

S. RES. 210

Whereas on July 23, 2005, terrorists struck the Red Sea resort city of Sharm el-Sheik, Egypt, detonating explosives in a crowded hotel that killed dozens of the people of Egypt and foreign tourists from around the world, including a citizen of the United States, and injured approximately 200 others;

Whereas the terrorist attacks on Sharm el-Sheik, Egypt were senseless, barbaric, and cowardly acts carried out against innocent civilians;

Whereas Egypt is a friend and ally of the United States and in the past has endured terrorism against its innocent civilians;

Whereas the people of the United States stand in solidarity with the people of Egypt in fighting terrorism;

Whereas President George W. Bush immediately condemned the terrorist attacks on Sharm el-Sheik, Egypt and extended to the people of Egypt his personal condolences and the support of the United States; and

Whereas Secretary of State Condoleezza Rice denounced the terrorist attacks on Sharm el-Sheik, Egypt and stated, ''we continue, all of us in the civilized world, to face great challenges in terrorism, and we continue to be united in the view that terrorism must be confronted and that they will not succeed in destroying our way of life'': Now, therefore, be it

Resolved, That the Senate—

(1) expresses deep sympathies and condolences to the people of Egypt and the victims and the families of the victims for the heinous terrorist attacks that occurred in Sharm el-Sheik, Egypt on July 23, 2005;

(2) condemns the barbaric and unwarranted terrorist attacks that killed and injured innocent people in Sharm el-Sheik, Egypt;

(3) expresses strong and continued solidarity with the people of Egypt and pledges to remain shoulder-to-shoulder with the people of Egypt to bring the terrorists responsible for the brutal attacks on Sharm el-Sheik, Egypt to justice; and

(4) calls upon the international community to renew and strengthen efforts to—

(A) defeat terrorists by dismantling terrorist networks and exposing the violent and nihilistic ideology of terrorism;

(B) increase international cooperation to advance personal and religious freedom, ethnic and racial tolerance, political liberty and pluralism, and economic prosperity; and

(C) combat the social injustice, oppression, poverty, and extremism that breeds sympathy for terrorism.

AMENDMENTS SUBMITTED AND PROPOSED

SA 1439. Mr. BINGAMAN (for himself and Mr. DOMENICI) submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table.

SA 1440. Mr. BINGAMAN submitted an amendment intended to be proposed by him

to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1441. Mr. BAYH submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1442. Mr. KENNEDY (for himself and Mr. CHAMBLISS) submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1443. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1444. Mrs. CLINTON (for herself and Mr. KENNEDY) submitted an amendment intended to be proposed by her to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1445. Mr. SARBANES (for himself and Ms. MIKULSKI) submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1446. Mr. CORZINE submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1447. Mr. HARKIN (for himself and Mr. DORGAN) submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1448. Mr. BIDEN (for himself, Mr. CARPER, and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1449. Mr. KERRY submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1450. Mr. OBAMA (for himself and Mr. SALAZAR) submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1451. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1452. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1453. Mr. OBAMA submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1454. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1455. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1456. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1457. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1458. Mr. NELSON, of Florida submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1459. Mr. NELSON, of Florida submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1460. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1461. Mr. JOHNSON submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1462. Mr. LAUTENBERG (for himself, Mrs. MURRAY, Mr OBAMA, Mr. CORZINE, and Mrs. FEINSTEIN) submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1463. Mr. HARKIN (for himself and Mr. GRASSLEY) submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1464. Mr. LOTT submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1465. Mr. LOTT (for himself, Mr. COCHRAN, and Mr. NELSON, of Florida) submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1466. Mr. LOTT (for himself and Mr. COCHRAN) submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1467. Mr. SHELBY submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1468. Mr. THOMAS submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1469. Mr. THOMAS (for himself and Mr. ENZI) submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1470. Mr. BENNETT submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1471. Mr. VITTER submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1472. Mr. SPECTER submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1473. Mr. CRAIG submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1474. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1475. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1476. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 1042, supra.

SA 1477. Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill S. 1042, supra.

SA 1478. Mrs. HUTCHISON (for herself and Ms. MIKULSKI) submitted an amendment intended to be proposed by her to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1479. Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1480. Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1481. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1482. Mr. OBAMA (for himself, Mr. BYRD, and Mr. DURBIN) submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1483. Mr. REED submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1484. Mr. REID submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1485. Mr. REID submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1486. Mr. REID (for himself and Mr. OBAMA) submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1487. Mr. REID submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1488. Mr. REID submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1489. Ms. COLLINS (for Mr. THUNE) proposed an amendment to the bill S. 1042, supra.

SA 1490. Ms. COLLINS (for Mr. THUNE) proposed an amendment to the bill S. 1042, supra.

SA 1491. Ms. COLLINS (for Mr. THUNE (for himself, Mr. LIEBERMAN, Ms. COLLINS, Mr. LAUTENBERG, Mr. SUNUNU, Ms. SNOWE, Mr. JOHNSON, Mr. DODD, Mr. CORZINE, Mr. BINGAMAN, and Mr. DOMENICI)) proposed an amendment to the bill S. 1042, supra

SA 1492. Mr. REED (for Mr. LEVIN (for himself and Mr. REED)) proposed an amendment to the bill S. 1042, supra.

SA 1493. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1494. Mr. LEVIN (for himself, Mr. KENNEDY, Mr. ROCKEFELLER, and Mr. REED) submitted an amendment intended to be proposed by him to the bill S. 1042, supra.

SA 1495. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1496. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill S. 1042, supra.

SA 1497. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill S. 1042, supra.

SA 1498. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1499. Mr. KERRY submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1500. Mr. KERRY submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1501. Mr. KERRY submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1502. Mr. KERRY submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1503. Mr. KERRY submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1504. Mr. KERRY submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1505. Mr. GRAHAM (for himself, Mr. WARNER, and Mr. MCCAIN) submitted an amendment intended to be proposed by him to the bill S. 1042, supra.

SA 1506. Mr. ALLARD (for himself and Mr. SALAZAR) submitted an amendment intended to be proposed by him to the bill S. 1042, supra.

SA 1507. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1508. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1509. Mr. HATCH (for himself, Mr. INHOFE, Mr. BENNETT, and Mr. CHAMBLISS) submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1510. Mr. HATCH (for himself and Mr. CHAMBLISS) submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1511. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1512. Mr. SARBANES submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1513. Mr. BYRD (for himself, Mr. BIDEN, Mr. ROCKEFELLER, Mr. LIEBERMAN, Mrs. CLINTON, Mr. OBAMA, and Mr. SCHUMER) submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1514. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1515. Mr. DAYTON submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1516. Mr. HATCH (for himself, Mr. INHOFE, Mr. BENNETT, and Mr. CHAMBLISS) proposed an amendment to the bill S. 1042, supra.

SA 1517. Mr. BAYH submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1518. Mr. BAYH submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1519. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1520. Mr. OBAMA submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1521. Mr. COLEMAN (for himself and Mr. LEVIN) submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1522. Mrs. DOLE submitted an amendment intended to be proposed by her to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1523. Mrs. DOLE (for herself, Mr. DURBIN, and Mr. NELSON, of Florida) submitted an amendment intended to be proposed by her to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1524. Mrs. DOLE (for herself, Mr. LAUTENBERG, Mr. KENNEDY, Mr. DEWINE, Ms. LANDRIEU, Mr. CHAFEE, Ms. MIKULSKI, Mr. CHAMBLISS, and Mr. DURBIN) submitted an amendment intended to be proposed by her to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1525. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1526. Mrs. DOLE submitted an amendment intended to be proposed by her to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1527. Mrs. BOXER (for herself and Ms. SNOWE) submitted an amendment intended to be proposed by her to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1528. Mr. KERRY submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1529. Mr. VOINOVICH submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1530. Mr. MARTINEZ (for himself and Mr. NELSON, of Florida) submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1531. Mr. LIEBERMAN submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1532. Mr. DORGAN (for himself and Ms. SNOWE) submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1533. Mr. MARTINEZ (for himself and Mr. NELSON, of Florida) submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1534. Mr. DEWINE (for himself, Mr. BIDEN, and Mr. LIEBERMAN) submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1535. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1536. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1537. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1538. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1539. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1540. Ms. SNOWE (for herself and Mr. KERRY) submitted an amendment intended to be proposed by her to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1541. Ms. SNOWE (for herself and Mr. KERRY) submitted an amendment intended to be proposed by her to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1542. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1543. Mr. DOMENICI (for himself and Mr. GRAHAM) submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1544. Mr. DOMENICI (for himself and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1545. Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1546. Mr. DOMENICI (for himself, Mrs. HUTCHISON, and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1547. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1548. Mr. CONRAD submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1549. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1550. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1551. Mr. BAYH submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1552. Mrs. LINCOLN submitted an amendment intended to be proposed by her to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1553. Mr. CONRAD (for himself, Mr. BAUCUS, Mr. BURNS, Mr. THOMAS, and Mr. ENZI) submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1554. Mr. CONRAD submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1555. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1556. Mr. MCCAIN (for himself, Mr. WARNER, Mr. GRAHAM, and Ms. COLLINS) proposed an amendment to the bill S. 1042, supra.

SA 1557. Mr. MCCAIN (for himself, Mr. WARNER, Mr. GRAHAM, Ms. COLLINS, and Mr. LEVIN) proposed an amendment to the bill S. 1042, supra.

SA 1558. Mr. WARNER submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1559. Mr. WARNER submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1560. Mr. WARNER submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1561. Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1562. Mr. WARNER (for himself and Mr. LEAHY) submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1563. Mr. WARNER submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1564. Mr. WARNER submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1565. Mr. WARNER submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1566. Mr. WARNER proposed an amendment to the bill S. 1042, supra.

SA 1567. Mr. WARNER submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1568. Mr. BYRD submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1569. Mr. NELSON, of Nebraska (for himself and Mr. WYDEN) submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1570. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1571. Mr. DURBIN (for himself, Ms. MIKULSKI, Mr. ALLEN, Mr. GRAHAM, Ms. LANDRIEU, Mr. LEAHY, Mr. SARBANES, Mr. LAUTENBERG, Mr. BINGAMAN, Mr. KERRY, Mr. SALAZAR, Mr. CORZINE, Mr. CHAFEE, Mrs. LINCOLN, Mr. BIDEN, Mr. KENNEDY, Mrs. MURRAY, and Mr. NELSON, of Florida) submitted an amendment intended to be proposed by him to the bill S. 1042, supra.

SA 1572. Mr. KOHL submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1573. Ms. SNOWE (for herself and Ms. COLLINS) submitted an amendment intended to be proposed by her to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1574. Mr. VOINOVICH (for himself and Mr. DEWINE) submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1575. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1576. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1577. Mr. NELSON, of Nebraska submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1578. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 1579. Mr. CORZINE (for himself, Mr. KENNEDY, Mr. LAUTENBERG, Mr. DODD, Mr. JEFFORDS, and Mr. FEINGOLD) submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 1439. Mr. BINGAMAN (for himself and Mr. DOMENICI) submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle B of title II, add the following:

SEC. 213. FIELD PROGRAMMABLE GATE ARRAY.

(a) ADDITIONAL AMOUNT FOR RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, AIR FORCE.—The amount authorized to be appropriated by section 201(3) for research, development, test, and evaluation for the Air Force is hereby increased by $3,000,000.

(b) AVAILABILITY OF AMOUNT.—Of the amount authorized to be appropriated by section 201(3) for research, development, test, and evaluation for the Air Force, as increased by subsection (a), $3,000,000 may be available for Space Technology (PE # 0602601F) for research and development on the reliability of field programmable gate arrays for space applications, including design of an assurance strategy, reference architectures, research and development on reliability and radiation hardening, and outreach to industry and localities to develop core competencies.

(c) OFFSET.—The amount authorized to be appropriated by section 301(4) for operation and maintenance for the Air Force is hereby reduced by $3,000,000.

SA 1440. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 48, between lines 5 and 6, insert the following:

SEC. 244. NATIONAL CRITICAL TECHNOLOGIES PANEL.

(a) ESTABLISHMENT.—The Director of the Office of Science and Technology Policy shall establish within that office a National Critical Technologies Panel (referred to in this section as the ''panel''). The panel shall prepare the biennial national critical technologies report required by subsection (c).

(b) MEMBERSHIP.—

(1) COMPOSITION AND APPOINTMENT.—The panel shall consist of 13 members appointed from among persons who are experts in science and engineering as follows:

(A) DIRECTOR.—The Director of the Office of Science and Technology Policy shall appoint 5 members, of whom—

(i) 2 shall be Federal Government officials; and

(ii) 3 shall be appointed from persons in private industry and higher education.

(B) CONGRESSIONAL APPOINTMENTS.—The leadership of the Senate and the House of Representatives shall appoint 4 members, of whom—

(i) 1 shall be appointed by the Majority Leader of the Senate;

(ii) 1 shall be appointed by the Minority Leader of the Senate;

(iii) 1 shall be appointed by the Speaker of the House of Representatives; and

(iv) 1 shall be appointed by the Minority Leader of the House of Representatives.

(C) AGENCY APPOINTMENTS.—Of the remaining 4 members of the panel—

(i) 1 shall be appointed by the Secretary of Defense, who shall be an official of the Department of Defense;

(ii) 1 shall be appointed by the Secretary of Energy, who shall be an official of the Department of Energy;

(iii) 1 shall be appointed by the Secretary of Commerce, who shall be an official of the Department of Commerce; and

(iv) 1 shall be appointed by the Administrator of the National Aeronautics and Space Administration, who shall be an official of the National Aeronautics and Space Administration.

(2) TERM OF OFFICE; VACANCIES.—

(A) TERM.—

(i) IN GENERAL.—Except as provided in clause (ii), members shall serve for the duration of the panel.

(ii) PRIVATE PERSONS.—Members appointed under paragraph (1)(A)(ii) shall serve for a term of 2 years.

(B) VACANCIES.—Any vacancy in the membership of the panel shall be filled in the same manner as the original appointment.

(3) CHAIRMAN.—The Director of the Office of Science and Technology Policy shall designate 1 of the members appointed under paragraph (1)(A)(i) as chairman of the panel.

(c) BIENNIAL NATIONAL CRITICAL TECHNOLOGIES REPORT.—

(1) IN GENERAL.—The panel shall submit to the President and Congress a biennial report on national critical technologies.

(2) TECHNOLOGIES CONSIDERED NATIONAL CRITICAL TECHNOLOGIES.—For purposes of this subsection, a product technology or process technology may be considered to be a national critical technology if the panel determines it to be a technology that it is essential for the United States to develop to further the long-term national security or economic prosperity of the United States.

(3) CONTENTS.—

(A) IN GENERAL.—Each report under paragraph (1) shall identify those product technologies and process technologies that the panel considers to be national critical technologies. The number of the such technologies identified in any such report may not exceed 30, but shall include the most economically important emerging civilian technologies during the 10-year period following such report, together with the estimated current and future size of domestic and international markets for products derived from these technologies.

(B) TECHNOLOGIES IDENTIFIED.—Each report under paragraph (1) shall include, with respect to each technology identified in the report—

(i) the reasons the panel selected that technology;

(ii) the state of the development of that technology in the United States and in other countries; and

(iii) an estimate of the current and anticipated level of research and development effort in the United States, including anticipated milestones or specific accomplishments, by—

(I) the Federal Government;

(II) State and local governments;

(III) private industry; and

(IV) colleges and universities.

(C) TYPES OF RESEARCH AND DEVELOPMENT NEEDED.—Each report under paragraph (1) shall—

(i) identify the types of research and development needed to close any significant gaps or deficiencies in the technology base of the United States, as compared with the technology bases of major trading partners; and

(ii) list the technologies and markets targeted by major trading partners for development or capture.

(4) TIMING.—

(A) IN GENERAL.—The panel shall submit a report to the President not later than October 1 of each even-numbered year.

(B) SUBMISSION TO CONGRESS.—Not later than 30 days after the date on which a report is submitted to the President under subparagraph (A), the President shall transmit the report, together with any comments that the President considers appropriate, to Congress.

(d) ADMINISTRATION AND FUNDING OF PANEL.—

(1) IN GENERAL.—The Director of the Office of Science and Technology Policy shall provide administrative support for the panel.

(2) PANEL EXPENSES.—

(A) IN GENERAL.—Funds for necessary expenses of the panel shall be provided for fiscal years after fiscal year 2006 from funds appropriated for that Office.

(B) FISCAL YEAR 2006.—The Secretary of Defense shall reimburse the Director of the Office of Science and Technology Policy for the reasonable expenses, not to exceed $1,000,000, incurred by the panel during fiscal year 2006.

(e) EXPIRATION.—The panel shall terminate on December 31, 2010.

SA 1441. Mr. BAYH submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle B of title I, add the following:

SEC. 114. TACTICAL WHEELED VEHICLES.

(a) ADDITIONAL AMOUNT FOR OTHER PROCUREMENT, ARMY.—The amount authorized to be appropriated by section 101(5) for other procurement for the Army is hereby increased by $390,100,000.

(b) AVAILABILITY OF AMOUNT.—Of the amount authorized to be appropriated by section 101(5) for other procurement for the Army, as increased by subsection (a)—

(1) $281,000,000 may be available for the procurement of armored Tactical Wheeled Vehicles to reconstitute Army Prepositioned Stocks–5, including the procurement of armored Light Tactical Vehicles (LTVs), armored Medium Tactical Vehicles (MTVs), and armored Heavy Tactical Vehicles (HTVs) for purposes of equipping one heavy brigade, one infantry brigade, and two infantry battalions; and

(2) $109,100,000 may be available for the procurement of armored Tactical Wheeled Vehicles for the Joint Readiness Training Center at Fort Polk, Louisiana, including the procurement of armored Light Tactical Vehicles, armored Medium Tactical Vehicles, and armored Heavy Tactical Vehicles for purposes of equipping one infantry brigade combat team in order to permit such vehicles to be used for the training and preparation of troops, prior to deployment, on the use of such vehicles.

SA 1442. Mr. KENNEDY (for himself and Mr. CHAMBLISS) submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 213, between lines 2 and 3, insert the following:

SEC. 807. PUBLIC-PRIVATE COMPETITION FOR WORK PERFORMED BY CIVILIAN EMPLOYEES OF THE DEPARTMENT OF DEFENSE.

(a) LIMITATION.—Section 2461(b) of title 10, United States Code, is amended by adding at the end the following new paragraph:

''(5)(A) Notwithstanding subsection (d), a function of the Department of Defense performed by 10 or more civilian employees may not be converted, in whole or in part, to performance by a contractor unless the conversion is based on the results of a public-private competition process that—

''(i) formally compares the cost of civilian employee performance of that function with the costs of performance by a contractor;

''(ii) creates an agency tender, including a most efficient organization plan, in accordance with Office of Management and Budget Circular A–76, as implemented on May 29, 2003; and

''(iii) requires continued performance of the function by civilian employees unless the competitive sourcing official concerned determines that, over all performance periods stated in the solicitation of offers for performance of the activity or function, the cost of performance of the activity or function by a contractor would be less costly to the Department of Defense by an amount that equals or exceeds the lesser of $10,000,000 or 10 percent of the most efficient organization's personnel-related costs for performance of that activity or function by Federal employees.

''(B) Any function that is performed by civilian employees of the Department of Defense and is proposed to be reengineered, reorganized, modernized, upgraded, expanded, or changed in order to become more efficient shall not be considered a new requirement for the purpose of the competition requirements in subparagraph (A) or the requirements for public-private competition in Office of Management and Budget Circular A–76.

''(C) A function performed by more than 10 Federal Government employees may not be separated into separate functions for the purposes of avoiding the competition requirement in subparagraph (A) or the requirements for public-private competition in Office of Management and Budget Circular A–76.

''(D) The Secretary of Defense may waive the requirement for a public-private competition under subparagraph (A) in specific instances if—

''(i) the written waiver is prepared by the Secretary of Defense or the relevant Assistant Secretary of Defense, Secretary of a military department, or head of a Defense Agency;

''(ii) the written waiver is accompanied by a detailed determination that national security interests are so compelling as to preclude compliance with the requirement for a public-private competition; and

''(iii) a copy of the waiver is published in the Federal Register within 10 working days after the date on which the waiver is granted, although use of the waiver need not be delayed until its publication.''.

(b) INAPPLICABILITY TO BEST-VALUE SOURCE SELECTION PILOT PROGRAM.—Paragraph (5) of section 2461(b) of title 10, United States Code, as added by subsection (a), shall not apply with respect to the pilot program for best-value source selection for performance of information technology services authorized by section 336 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1444; 10 U.S.C. 2461 note).

(c) REPEAL OF SUPERSEDED LAW.—Section 327 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 10 U.S.C. 2461 note) is repealed.

SEC. 808. PERFORMANCE OF CERTAIN WORK BY FEDERAL GOVERNMENT EMPLOYEES.

(a) GUIDELINES.—

(1) IN GENERAL.—The Secretary of Defense shall prescribe guidelines and procedures for ensuring that consideration is given to using Federal Government employees on a regular basis for work that is performed under Department of Defense contracts and could be performed by Federal Government employees.

(2) CRITERIA.—The guidelines and procedures prescribed under paragraph (1) shall provide for special consideration to be given to contracts that—

(A) have been performed by Federal Government employees at any time on or after October 1, 1980;

(B) are associated with the performance of inherently governmental functions;

(C) were not awarded on a competitive basis; or

(D) have been determined by a contracting officer to be poorly performed due to excessive costs or inferior quality.

(b) NEW REQUIREMENTS.—

(1) LIMITATION ON REQUIRING PUBLIC-PRIVATE COMPETITION.—No public-private competition may be required under Office of Management and Budget Circular A–76 or any other provision of law or regulation before the performance of a new requirement by Federal Government employees commences, the performance by Federal Government employees of work pursuant to subsection (a) commences, or the scope of an existing activity performed by Federal Government employees is expanded. Office of Management and Budget Circular A–76 shall be revised to ensure that the heads of all Federal agencies give fair consideration to the performance of new requirements by Federal Government employees.

(2) CONSIDERATION OF FEDERAL GOVERNMENT EMPLOYEES.—The Secretary of Defense shall, to the maximum extent practicable, ensure that Federal Government employees are fairly considered for the performance of new requirements, with special consideration given to new requirements that include functions that—

(A) are similar to functions that have been performed by Federal Government employees at any time on or after October 1, 1980; or

(B) are associated with the performance of inherently governmental functions.

(c) USE OF FLEXIBLE HIRING AUTHORITY.—The Secretary shall include the use of the flexible hiring authority available through the National Security Personnel System in order to facilitate performance by Federal Government employees of new requirements and work that is performed under Department of Defense contracts.

(d) INSPECTOR GENERAL REPORT.—Not later than 180 days after the enactment of this Act, the Inspector General of the Department of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the compliance of the Secretary of Defense with the requirements of this section.

(e) DEFINITIONS.—In this section:

(1) The term ''National Security Personnel System'' means the human resources management system established under the authority of section 9902 of title 5, United States Code.

(2) The term ''inherently governmental function'' has the meaning given that term in section 5 of the Federal Activities Inventory Reform Act of 1998 (Public Law 105–270; 112 Stat. 2384; 31 U.S.C. 501 note).

SA 1443. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle H of title V, add the following:

SEC. 596. SENSE OF CONGRESS ON WOMEN IN COMBAT.

It is the sense of Congress that—

(1) women play a critical role in the accomplishment of the mission of the Armed Forces; and

(2) there should be no change to existing statutes, regulations, or policy that would

have the effect of decreasing the roles or positions available to women in the Armed Forces.

SA 1444. Mrs. CLINTON (for herself and Mr. KENNEDY) submitted an amendment intended to be proposed by her to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle G of title X, add the following:

SEC. 1073. RETENTION OF REIMBURSEMENT FOR PROVISION OF RECIPROCAL FIRE PROTECTION SERVICES.

Section 5 of the Act of May 27, 1955 (chapter 105; 69 Stat. 67; 42 U.S.C. 1856d) is amended—

(1) by striking ''Funds'' and inserting ''(a) Funds''; and

(2) by adding at the end the following new subsection:

''(b) Notwithstanding the provisions of subsection (a), all sums received for any Department of Defense activity for fire protection rendered pursuant to this Act shall be credited to the appropriation fund or account from which the expenses were paid. Amounts so credited shall be merged with funds in such appropriation fund or account and shall be available for the same purposes and subject to the same limitations as the funds with which the funds are merged.''.

SA 1445. Mr. SARBANES (for himself and Ms. MIKULSKI) submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle G of title X, add the following:

SEC. 1073. GRANT OF FEDERAL CHARTER TO KOREAN WAR VETERANS ASSOCIATION, INCORPORATED.

(a) GRANT OF CHARTER.—Part B of subtitle II of title 36, United States Code, is amended—

(1) by striking the following:

"CHAPTER 1201—[RESERVED]";

and

(2) by inserting after chapter 1103 the following new chapter:

"CHAPTER 1201—KOREAN WAR VETERANS ASSOCIATION, INCORPORATED 120101".

''Sec.
''120101. Organization.
''120102. Purposes.
''120103. Membership.
''120104. Governing body.
''120105. Powers.
''120106. Restrictions.
''120107. Tax-exempt status required as condition of charter.
''120108. Records and inspection.
''120109. Service of process.
''120110. Liability for acts of officers and agents.
''120111. Annual report.
''120112. Definition.

"§ 120101. Organization

''(a) FEDERAL CHARTER.—Korean War Veterans Association, Incorporated (in this chapter, the 'corporation'), a nonprofit organization that meets the requirements for a veterans service organization under section 501(c)(19) of the Internal Revenue Code of 1986 and that is organized under the laws of the State of New York, is a federally chartered corporation.

''(b) EXPIRATION OF CHARTER.—If the corporation does not comply with the provisions of this chapter, the charter granted by subsection (a) expires.

"§ 120102. Purposes

''The purposes of the corporation are those provided in its articles of incorporation and shall include the following:

''(1) Organize as a veterans service organization in order to maintain a continuing interest in the welfare of veterans of the Korean War, and rehabilitation of the disabled veterans of the Korean War to include all that served during active hostilities and subsequently in defense of the Republic of Korea, and their families.

''(2) To establish facilities for the assistance of all veterans and to represent them in their claims before the Department of Veterans Affairs and other organizations without charge.

''(3) To perpetuate and preserve the comradeship and friendships born on the field of battle and nurtured by the common experience of service to our nation during the time of war and peace.

''(4) To honor the memory of those men and women who gave their lives that a free America and a free world might live by the creation of living memorial, monuments, and other forms of additional educational, cultural, and recreational facilities.

''(5) To preserve for ourselves and our posterity the great and basic truths and enduring principles upon which this nation was founded.

"§ 120103. Membership

''Eligibility for membership in the corporation, and the rights and privileges of members of the corporation, are as provided in the bylaws of the corporation.

"§ 120104. Governing body

''(a) BOARD OF DIRECTORS.—The composition of the board of directors of the corporation, and the responsibilities of the board, are as provided in the articles of incorporation of the corporation.

''(b) OFFICERS.—The positions of officers of the corporation, and the election of the officers, are as provided in the articles of incorporation.

"§ 120105. Powers

''The corporation has only those powers provided in its bylaws and articles of incorporation filed in each State in which it is incorporated.

"§ 120106. Restrictions

''(a) STOCK AND DIVIDENDS.—The corporation may not issue stock or declare or pay a dividend.

''(b) POLITICAL ACTIVITIES.—The corporation, or a director or officer of the corporation as such, may not contribute to, support, or participate in any political activity or in any manner attempt to influence legislation.

''(c) LOAN.—The corporation may not make a loan to a director, officer, or employee of the corporation.

''(d) CLAIM OF GOVERNMENTAL APPROVAL OR AUTHORITY.—The corporation may not claim congressional approval, or the authority of the United States, for any of its activities.

''(e) CORPORATE STATUS.—The corporation shall maintain its status as a corporation incorporated under the laws of the State of New York.

"§ 120107. Tax-exempt status required as condition of charter

''If the corporation fails to maintain its status as an organization exempt from taxation under the Internal Revenue Code of 1986, the charter granted under this chapter shall terminate.

"§ 120108. Records and inspection

''(a) RECORDS.—The corporation shall keep—

''(1) correct and complete records of account;

''(2) minutes of the proceedings of its members, board of directors, and committees having any of the authority of its board of directors; and

''(3) at its principal office, a record of the names and addresses of its members entitled to vote on matters relating to the corporation.

''(b) INSPECTION.—A member entitled to vote on matters relating to the corporation, or an agent or attorney of the member, may inspect the records of the corporation for any proper purpose, at any reasonable time.

"§ 120109. Service of process

''The corporation shall have a designated agent in the District of Columbia to receive service of process for the corporation. Notice to or service on the agent is notice to or service on the Corporation.

"§ 120110. Liability for acts of officers and agents

''The corporation is liable for the acts of its officers and agents acting within the scope of their authority.

"§ 120111. Annual report

''The corporation shall submit to Congress an annual report on the activities of the corporation during the preceding fiscal year. The report shall be submitted at the same time as the report of the audit required by section 10101(b) of this title. The report may not be printed as a public document.

"§ 120112. Definition

''For purposes of this chapter, the term 'State' includes the District of Columbia and the territories and possessions of the United States.''.

(b) CLERICAL AMENDMENT.—The item relating to chapter 1201 in the table of chapters at the beginning of subtitle II of title 36, United States Code, is amended to read as follows:

''**1201. Korean War Veterans Association, Incorporated** ..... 120101''

SA 1446. Mr. CORZINE submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

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

SEC. 538. REDUCTION IN AGE FOR RECEIPT OF MILITARY RETIRED PAY FOR NON-REGULAR SERVICE.

(a) REDUCTION IN AGE.—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) APPLICATION TO EXISTING PROVISIONS OF LAW OR POLICY.—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 serivces 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) EFFECTIVE DATE.— 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 1447. Mr. HARKIN (for himself and Mr. DORGAN) submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle A of title IX, add the following:

SEC. 903. AMERICAN FORCES NETWORK.

(a) MISSION.—The American Forces Network (AFN) shall provide members of the Armed Forces, civilian employees of the Department of Defense, and their families stationed outside the continental United States and at sea with the same type and quality of American radio and television news, information, sports, and entertainment as is available in the continental United States.

(b) POLITICAL PROGRAMMING.—

(1) FAIRNESS AND BALANCE.—All political programming of the American Forces Network shall be characterized by its fairness and balance.

(2) FREE FLOW OF PROGRAMMING.—The American Forces Network shall provide in its programming a free flow of political programming from United States commercial and public radio and television stations.

(c) OMBUDSMAN OF THE AMERICAN FORCES NETWORK.—

(1) ESTABLISHMENT.—There is hereby established the Office of the Ombudsman of the American Forces Network.

(2) HEAD OF OFFICE.—

(A) OMBUDSMAN.—The head of the Office of the Ombudsman of the American Forces Network shall be the Ombudsman of the American Forces Network (in this subsection referred to as the ''Ombudsman''), who shall be appointed by the Secretary of Defense.

(B) QUALIFICATIONS.—Any individual nominated for appointment to the position of Ombudsman shall have recognized expertise in the field of mass communications, print media, or broadcast media.

(C) PART-TIME STATUS.—The position of Ombudsman shall be a part-time position.

(D) TERM.—The term of office of the Ombudsman shall be five years.

(E) REMOVAL.—The Ombudsman may be removed from office by the Secretary only for malfeasance.

(3) DUTIES.—

(A) IN GENERAL.—The Ombudsman shall ensure that the American Forces Network adheres to the standards and practices of the Network in its programming.

(B) PARTICULAR DUTIES.—In carrying out the duties of the Ombudsman under this paragraph, the Ombudsman shall—

(i) initiate and conduct, with such frequency as the Ombudsman considers appropriate, reviews of the integrity, fairness, and balance of the programming of the American Forces Network;

(ii) initiate and conduct, upon the request of Congress or members of the audience of the American Forces Network, reviews of the programming of the Network;

(iii) identify, pursuant to reviews under clause (i) or (ii) or otherwise, circumstances in which the American Forces Network has not adhered to the standards and practices of the Network in its programming, including circumstances in which the programming of the Network lacked integrity, fairness, or balance; and

(iv) make recommendations to the American Forces Network on means of correcting the lack of adherence identified pursuant to clause (iii).

(C) LIMITATION.—In carrying out the duties of the Ombudsman under this paragraph, the Ombudsman may not engage in any pre-broadcast censorship or pre-broadcast review of the programming of the American Forces Network.

(4) RESOURCES.—The Secretary of Defense shall provide the Office of the Ombudsman of the American Forces Network such personnel and other resources as the Secretary and the Ombudsman jointly determine appropriate to permit the Ombudsman to carry out the duties of the Ombudsman under paragraph (3).

(5) INDEPENDENCE.—The Secretary shall take appropriate actions to ensure the complete independence of the Ombudsman and the Office of the Ombudsman of the American Forces Network within the Department of Defense.

(6) ANNUAL REPORTS.—

(A) IN GENERAL.—The Ombudsman shall submit to the Secretary of Defense and the congressional defense committees each year a report on the activities of the Office of the Ombudsman of the American Forces Network during the preceding year.

(B) AVAILABILITY TO PUBLIC.—The Ombudsman shall make available to the public each report submitted under subparagraph (A) through the Internet website of the Office of the Ombudsman of the American Forces Network and by such other means as the Ombudsman considers appropriate.

SA 1448. Mr. BIDEN (for himself, Mr. CARPER, and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle B of title VII, add the following:

SEC. 718. RESPONSE TO MEDICAL NEEDS ARISING FROM MANDATORY MILITARY VACCINATIONS.

(a) IN GENERAL.—The Secretary of Defense shall maintain a joint military medical center of excellence focusing on the medical needs arising from mandatory military vaccinations.

(b) ELEMENTS.—The joint military medical center of excellence under subsection (a) shall consist of the following:

(1) The current Vaccine Health Care Centers of the Department of Defense, which shall be the principle elements of the center.

(2) Any other elements that the Secretary considers appropriate.

(c) AUTHORIZED ACTIVITIES.—In acting as the principle elements of the joint military medical center under subsection (a), the Vaccine Health Care Centers referred to in subsection (b)(1) may carry out the following:

(1) Medical assistance and care to individuals receiving mandatory military vaccines and their dependents, including long-term case management for adverse events where necessary.

(2) Evaluations to identify and treat potential and actual health effects from vaccines before and after their use in the field.

(3) The development and sustainment of a long-term vaccine safety and efficacy registry.

(4) Support for an expert clinical advisory board for case reviews related to disability assessment questions.

(5) Long-term and short-term studies to identify unanticipated benefits and adverse events from vaccines.

(6) Educational outreach for immunization providers and those requiring immunizations.

(7) The development, dissemination, and validation of educational materials for Department of Defense healthcare workers relating to vaccine safety, efficacy, and acceptability.

SA 1449. Mr. KERRY submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 237, after line 17, insert the following:

SEC. 846. DISASTER RELIEF FOR SMALL BUSINESS CONCERNS DAMAGED BY DROUGHT.

(a) DROUGHT DISASTER AUTHORITY.—

(1) DEFINITION OF DISASTER.—Section 3(k) of the Small Business Act (15 U.S.C. 632(k)) is amended—

(A) by inserting ''(1)'' after ''(k)''; and

(B) by adding at the end the following:

''(2) For purposes of section 7(b)(2), the term 'disaster' includes—

''(A) drought; and

''(B) below average water levels in the Great Lakes, or on any body of water in the United States that supports commerce by small business concerns.''.

(2) DROUGHT DISASTER RELIEF AUTHORITY.—Section 7(b)(2) of the Small Business Act (15 U.S.C. 636(b)(2)) is amended—

(A) by inserting ''(including drought), with respect to both farm-related and nonfarm-related small business concerns,'' before ''if the Administration''; and

(B) in subparagraph (B), by striking ''the Consolidated Farmers Home Administration Act of 1961 (7 U.S.C. 1961)'' and inserting the following: ''section 321 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961), in which case, assistance under this paragraph may be provided to farm-related and nonfarm-related small business concerns, subject to the other applicable requirements of this paragraph''.

(b) LIMITATION ON LOANS.—From funds otherwise appropriated for loans under section 7(b) of the Small Business Act (15 U.S.C. 636(b)), not more than $9,000,000 may be used during each of fiscal years 2005 through 2008, to provide drought disaster loans to nonfarm-related small business concerns in accordance with this section and the amendments made by this section.

(c) PROMPT RESPONSE TO DISASTER REQUESTS.—Section 7(b)(2)(D) of the Small

Business Act (15 U.S.C. 636(b)(2)(D)) is amended by striking ''Upon receipt of such certification, the Administration may'' and inserting ''Not later than 30 days after the date of receipt of such certification by a Governor of a State, the Administration shall respond in writing to that Governor on its determination and the reasons therefore, and may''.

(d) RULEMAKING.—Not later than 45 days after the date of enactment of this Act, the Administrator of the Small Business Administration shall promulgate final rules to carry out this section and the amendments made by this section.

SA 1450. Mr. OBAMA (for himself and Mr. SALAZAR) submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle E of title VI, add the following:

SEC. 653. LIMITATIONS ON INQUIRIES BY EMPLOYERS REGARDING SERVICE IN THE UNIFORMED SERVICES OF PROSPECTIVE EMPLOYEES.

Section 4311 of title 38, United States Code, is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively;

(2) by inserting after subsection (b) the following new subsection (c):

''(c) A prospective employer shall not ask or inquire, whether orally or in writing, about the membership in the uniformed services of a person seeking employment with such employer unless—

''(1) such membership is a condition of employment; or

''(2) such employer has a formal written policy of providing preference in hiring to current members of the uniformed services, veterans, or both.''; and

(3) in subsection (d), as redesignated by paragraph (1) of this section—

(A) in paragraph (1), by striking ''or'' at the end;

(B) in paragraph (2), by striking the period at the end and inserting ''; or''; and

(C) by adding at the end the following new paragraph:

''(4) under subsection (c), if the employer makes an inquiry prohibited by that subsection.''.

SA 1451. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle F of title V, add the following:

SEC. 573. MENTAL HEALTH SCREENINGS OF MEMBERS OF THE ARMED FORCES FOR POST TRAUMATIC STRESS DISORDER AND OTHER MENTAL HEALTH CONDITIONS.

(a) MENTAL HEALTH SCREENINGS.—

(1) IN GENERAL.—Under regulations prescribed by the Secretary of Defense, the Secretary concerned shall perform mental health screenings of each member of the Armed Forces who is deployed in a combat operation or to a combat zone.

(b) NATURE OF SCREENINGS.—The first mental health screening of a member under this section shall be designed to determine the mental state of such member before deployment. Each other mental health screening of a member under this section shall be designated to detect symptoms or other evidence in such member of Post Traumatic Stress Disorder (PTSD) or other mental health condition relating to combat.

(c) TIME OF SCREENINGS.—A member shall receive a mental health screening under this section at times as follows:

(1) Prior to deployment in a combat operation or to a combat zone.

(2) Not later than 30 days after the date of the member's return from such deployment.

(3) Whenever the member is screened for human immunodeficiency virus (HIV) or acquired immune deficiency syndrom (AIDS).

(4) Whenever the member receives any other medical examination through the Department of Defense.

SA 1452. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

SEC. ___. TAX CHECK-OFF FOR CERTAIN CONTRIBUTIONS TO ARMED FORCES RELIEF TRUST.

(a) TAX CHECK-OFF.—

(1) IN GENERAL.—In the case of an individual, with respect to each taxpayer's return for the taxable year of the tax imposed by chapter 1, such individual may designate that a contribution has been made for such taxable year to the Armed Forces Relief Trust.

(2) MANNER AND TIME OF DESIGNATION.—A designation under paragraph (1) may be made with respect to any taxable year only at the time of filing the return of the tax imposed by chapter 1 for such taxable year. Such designation shall be made in such manner as the Secretary prescribes by regulations except that such designation shall be made on the first page of the return in the area below the designation for income tax payments to the Presidential Election Campaign Fund.

(3) EXPLANATION OF TAX TREATMENT OF CONTRIBUTIONS TO ARMED FORCES RELIEF TRUST.—The Secretary shall provide taxpayers with an explanation that an above-the-line deduction under section 62(a)(22) of the Internal Revenue Code of 1986 is allowed for any taxable year with respect to any contribution designated under paragraph (1) for such taxable year in an amount not to exceed $1,000, that any amount of such contribution in excess of $1,000 may be taken as an additional deduction for such taxable year by any taxpayer who itemizes deductions, and that such above-the-line deduction is not includible in the determination of the alternative minimum tax under section 55 of such Code.

(b) ABOVE-THE-LINE DEDUCTION.—Section 62(a) of the Internal Revenue Code of 1986 (defining adjusted gross income) is amended by redesignating paragraph (20) (as added by section 703(a) of the American Jobs Creation Act of 2004) as paragraph (21) and by inserting after paragraph (21) (as so redesignated) the following new paragraph:

''(v) CERTAIN CONTRIBUTIONS TO ARMED FORCES RELIEF TRUST.—The deduction allowed by section 170 which is attributable to contributions to the Armed Forces Relief Trust not in excess of $1,000.''.

(c) TREATMENT OF CHARITABLE CONTRIBUTIONS TO ARMED FORCES RELIEF TRUST.—

(1) IN GENERAL.—Notwithstanding any other provision of law, any contribution made by any of the societies associated with the Armed Forces Relief Trust shall not be commingled with any charitable contribution made to the Trust Fund for which a deduction under section 170 of the Internal Revenue Code of 1986 is allowable.

(2) ADMINISTRATION OF CHARITABLE CONTRIBUTIONS.—The administration and distribution of any charitable contributions described in paragraph (1) shall be made by the Armed Forces Relief Trust subject to the advice of a board of directors the establishment and operation of which is determined under subsection (d).

(d) ADVISORY BOARD OF DIRECTORS.—

(1) APPOINTMENT.—

(A) IN GENERAL.—Within the Armed Forces Relief Trust there is established an advisory board of directors the members of which are appointed as follows:

(i) One individual appointed by the Chairman of the Committee on Finance of the Senate.

(ii) One individual appointed by the Chairman of the Committee on Armed Services of the Senate.

(iii) One individual appointed by the Chairman of the Committee on Veterans' Affairs of the Senate.

(iv) One individual appointed by the Chairman of the Committee on Appropriations of the Senate.

(v) One individual appointed by the Chairman of the Joint Committee on Taxation.

(vi) One individual appointed by the Chairman of the Committee on Armed Services of the House of Representatives.

(vii) One individual appointed by the Chairman of the Committee on Veterans' Affairs of the House of Representatives.

(viii) One individual appointed by the Chairman of the Committee on Appropriations of the House of Representatives.

(ix) One individual appointed by the President from each of the following: the Army Emergency Relief Society, the Navy Marine Corps Relief Society, the Air Force Aid Society, and the Coast Guard Mutual Assistance Relief Society.

(x) Two individuals appointed by the President from 2 veterans service organizations.

(B) TERM.—The term of each member of the advisory board shall be 3 years, except that any member whose term of office has expired shall continue to serve until such member's successor is appointed. No member shall serve more than two 3-year terms.

(C) APPOINTMENT OF SUCCESSORS.—The appointment of any successor member shall be made in the same manner as the original appointment. If a member dies or resigns before the expiration of the member's term, a successor shall be appointed for the unexpired portion of the term in the same manner as the original appointment.

(D) PROHIBITION.—No member of the advisory board may be an employee of the Federal Government.

(2) CHAIRMAN; VICE CHAIRMAN.—

(A) DESIGNATION.—The President shall designate a chairman for the advisory board. The advisory board shall not later than its second meeting, by majority vote, designate a vice chairman, who shall perform the duties of the chairman in the absence of the chairman.

(B) DUTIES OF CHAIRMAN.—The chairman shall call the meetings of the advisory board, propose meeting agendas, chair the meetings, and establish, with the approval of a majority of the members, the rules and procedures for such meetings.

(3) OPERATIONS OF THE BOARD.—The advisory board shall meet semi-annually, for the purpose of providing ongoing advice to the Armed Forces Relief Trust regarding the distribution of contributed funds, policies governing said distribution, and the administrative costs and operations of the Armed Forces Relief Trust. A majority of the members shall constitute a quorum. Advisory board members shall serve without compensation. While performing duties as a member of the advisory board, each member shall be reimbursed under Federal Government travel regulations for travel expenses. Such reimbursements and any other reasonable expenses of the advisory board shall be provided by the budget of the Executive Office of the President.

(4) AUDIT.—The General Accountability Office shall audit the distribution and management of funds of the Armed Forces Relief Trust on an annual basis to ensure compliance with statutory and administrative directives. The Comptroller General of the United States shall report to the advisory board and Congress on the results of such audit.

(5) REPORTS.—Within 60 days after its semi-annual meeting, the advisory board shall submit a written report to the President of its action, and of its views and recommendations. Any report other than the semi-annual report, shall, if approved by a majority of the members of the advisory board, be submitted to the President within 60 days after such approval.

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

SA 1453. Mr. OBAMA submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

In subtitle B of title VII of the bill, add the following at the end:

SEC. 718. PANDEMIC AVIAN FLU PREPAREDNESS.

(a) STUDY.—The Secretary of Defense, in collaboration with the Secretary of Health and Human Services, shall conduct an ongoing study on efforts within the Department of Defense to prepare for pandemic influenza, including pandemic avian influenza. In conducting such study the Secretary shall address the following, with respect to military and civilian personnel—

(1) the procurement of vaccines, antivirals and other medicines, and medical supplies, including personal protective equipment, particularly those that must be imported;

(2) protocols for the allocation and distribution of vaccines and medicines among high priority populations;

(3) public health containment measures that may be implemented on military bases and other facilities, including quarantine, travel restrictions and other isolation precautions;

(4) communication with Department of Defense affiliated health providers about pandemic preparedness and response;

(5) surge capacity for the provision of medical care during pandemics;

(6) the availability and delivery of food and basic supplies and services;

(7) surveillance efforts domestically and internationally, including those utilizing the Global Emerging Infections Systems (GEIS), and how such efforts are integrated with other ongoing surveillance systems;

(8) the integration of pandemic and response planning with those of other Federal departments, including the Department of Health and Human Services, Department of the Veterans Affairs, Department of State, and USAID; and

(9) collaboration (as appropriate) with international entities engaged in pandemic preparedness and response.

(b) SUBMISSION OF REPORT.—Not later than 120 days after the date of enactment of this Act, and annually thereafter, the Secretary of Defense shall submit to the Committee on Armed Services and the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Armed Services and Committee on Energy and Commerce of the House of Representatives, a report concerning the results of the study conducted under subsection (a).

SA 1454. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle B of title VIII, add the following:

SEC. 815. COMPLIANCE WITH BERRY AMENDMENT REGARDING CERTAIN SPECIALTY METALS.

Section 2533a of title 10, United States Code, is amended—

(1) in subsection (a), by striking ''(h)'' and inserting ''(i)'';

(2) by redesignating subsections (f), (g), (h), (i), and (j) as subsections (g), (h), (i), (j), and (k), respectively; and

(3) by inserting after subsection (e) the following new subsection (f):

''(f) EXCEPTION FOR SPECIALTY METALS TO FACILITATE CIVIL-MILITARY INTEGRATION.—(1) Subsection (a) does not preclude the procurement of an item containing specialty metals produced outside the United States if the contractor or subcontractor that produces the item (or, in the case of a component that contains specialty metals, the producer of such component)—

''(A) uses the same production processes for the production of the item or component being delivered to the Department of Defense as it uses for similar items or components to be delivered to other customers;

''(B) notifies the contracting officer before the award of the contract that it will purchase during the period specified in paragraph (2) an amount of domestically-melted specialty metals equivalent in quality and amount to that which would have been used to produce the item or component for delivery to the Department of Defense; and

''(C) purchases the amount of domestically-melted specialty metals specified in the notice under subparagraph (B) during the period specified in paragraph (2).

''(2) The period specified in the subparagraph (1)(B) with respect to an item or component covered by paragraph (1) is the period ending on the date of the delivery of the item or component to the Department of Defense and beginning on—

''(A) the date of the of the award of the contract for the delivery of the item or component to the Department of Defense; or

''(B) any other date agreed upon by the Department of Defense consistent with the production process of the producer under subparagraph (1)(A).''.

SA 1455. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title VII, add the following:

Subtitle D—Post Traumatic Stress Disorder

SEC. 741. SHORT TITLE.

This subtitle may be cited as the ''Peace of Mind for Our Armed Forces and Their Family Members Act of 2005''.

SEC. 722. MENTAL HEALTH SCREENINGS FOR POST TRAUMATIC STRESS DISORDER AND OTHER MENTAL HEALTH CONDITIONS.

(a) SCREENINGS OF MEMBERS OF ARMED FORCES.—

(1) IN GENERAL.—Under regulations prescribed by the Secretary of Defense, the Secretary concerned shall perform mental health screenings of each member of the Armed Forces who is deployed in a combat operation or to a combat zone.

(2) NATURE OF SCREENINGS.—The first mental health screening of a member under this subsection shall be designed to determine the mental state of such member before deployment. Each other mental health screening of a member under this subsection shall be designated to detect symptoms or other evidence in such member of Post Traumatic Stress Disorder (PTSD) or other mental health condition relating to combat.

(3) TIME OF SCREENINGS.—A member shall receive a mental health screening under this subsection at times as follows:

(A) Prior to deployment in a combat operation or to a combat zone.

(B) Not later than 30 days after the date of the member's return from such deployment.

(C) Not later than 90 days after the date of the member's return from such deployment.

(D) Not later than 180 days after the date of the member's return from such deployment.

(E) Not later than one year after the date of the member's return from such deployment, and every year thereafter until such time as the Secretary concerned determines appropriate.

(b) SCREENING OF DEPENDENTS.—Subject to the availability of facilities and resources, the Secretary concerned may perform mental health screenings of any dependent of a member of the Armed Forces deployed in a combat operation or to a combat zone who requests such screenings under this section.

(c) OTHER SCREENINGS.—Nothing in this section shall be construed to prohibit the Secretary concerned from performing other mental health screenings or assessments of a member of the Armed Forces, or of a dependent of a member of the Armed Forces, if circumstances so warrant.

SEC. 743. LEADERSHIP TRAINING ON POST TRAUMATIC STRESS DISORDER.

(a) TRAINING REQUIRED.—Each Secretary concerned shall provide training on the causes, symptoms, and effects of Post Traumatic Stress Disorder (PTSD) to members of

the Armed Forces who serve as commanders of military units at the company level and above.

(b) ELEMENTS.—The training provided under subsection (a) shall include the following:

(1) Information on the availability of mental health screenings under section 2 for members of the Armed Forces and their dependents.

(2) Information on various means of encouraging members of the Armed Forces who may be experiencing Post Traumatic Stress Disorder to seek evaluation and treatment.

(3) Such other information on Post Traumatic Stress Disorder, and the identification, evaluation, and treatment of Post Traumatic Stress Disorder, as the Secretary concerned considers appropriate.

SEC. 744. TRAINING AND EDUCATION OF MEMBERS OF THE ARMED FORCES AND THEIR DEPENDENTS ON POST TRAUMATIC STRESS DISORDER.

(a) TRAINING FOR MEMBERS OF ARMED FORCES.—Each Secretary concerned shall provide training on the causes, symptoms, and effects of Post Traumatic Stress Disorder (PTSD) to members of the Armed Forces.

(b) EDUCATION FOR DEPENDENTS.—Each Secretary concerned shall take appropriate actions to make available to the dependents of members of the Armed Forces information on the causes, symptoms, and effects of Post Traumatic Stress Disorder in members of the Armed Forces.

SEC. 745. TREATMENT PROGRAMS FOR POST TRAUMATIC STRESS DISORDER AND OTHER MENTAL HEALTH CONDITIONS.

(a) PROGRAMS REQUIRED.—The Secretary of Defense shall implement programs, and enhance existing programs, in order to improve the treatment provided by the Department of Defense to members of the Armed Forces for Post Traumatic Stress Disorder (PTSD) and other mental health conditions associated with service in combat. Such programs shall facilitate the participation of dependents of members of the Armed Forces in the treatment of such members for such conditions.

(b) REPORT ON PROGRAMS.—Not later than one year after the date of the enactment of this Act, the Secretary shall submit to Congress a report on the actions taken by the Secretary under subsection (a). The report shall include—

(1) a description of the programs implemented or enhanced under that subsection, including a description of how such programs will improve the treatment of members of the Armed Forces for Post Traumatic Stress Disorder; and

(2) information on the participation of members of the Armed Forces and their dependents in such programs.

SEC. 746. DEFINITIONS.

In this subtitle:

(1) DEPENDENT.—The term ''dependent'', with respect to a member of the Armed Forces, has the meaning given such term in section 1072(2) of title 10, United States Code.

(2) SECRETARY CONCERNED.—The term ''Secretary concerned'' has the meaning given such term in section 101(a) of title 10, United States Code.

SA 1456. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

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

SEC. 358. SENSE OF SENATE ON TAX RELIEF FOR EMPLOYERS WHO COVER PAY GAP OF MOBILIZED EMPLOYEES WHO ARE MEMBERS OF THE NATIONAL GUARD AND RESERVES.

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

(1) More than 137,000 members of the National Guard and the Reserves have been called or ordered to active duty.

(2) 74,700 members of the National Guard and the Reserves are serving bravely in the war on terrorism.

(3) When a member of the National Guard or the Reserves is called or ordered to active duty, the member faces a loss of income in the difference between the amount of the member's civilian pay and the member's military pay (often referred to as a ''pay gap'') because military salaries are less than civilian salaries. More than 51 percent of our citizen soldiers take a pay cut when they are deployed, and 11 percent of them lose more than $2,500 per month.

(4) The pay gap can make it difficult for military families to make ends meet while a member of the National Guard or the Reserves is mobilized.

(5) There are hundreds, if not thousands, of patriotic employers that continue to pay the salaries of members of the National Guard and the Reserves who are called or ordered to active duty.

(6) Some of these employers not only continue to pay salaries to their employees who are members of the National Guard or the Reserves on active duty, they often need to hire a temporary employee to keep their businesses going while such employees are on active duty.

(7) While these patriotic employers make this sacrifice, there are thousands more who cannot afford to do so.

(b) SENSE OF SENATE.—It is the sense of the Senate that the tax provisions under budget reconciliation should contain provisions to provide tax relief to employers who make up the pay gap for their employees who are called or ordered to active duty in the National Guard or the Reserves.

SA 1457. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

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

SEC. 330. CHAPLAIN PROGRAM.

(a) ADDITIONAL AMOUNT FOR OPERATION AND MAINTENANCE, ARMY RESERVE.—The amount authorized to be appropriated by section 301(6) for operation and maintenance for the Army Reserve is hereby increased by $7,600,000.

(b) AVAILABILITY OF AMOUNT.—Of the amount authorized to be appropriated by section 301(6) for operation and maintenance for the Army Reserve, as increased by subsection (a), $7,600,000 may be available for the Chaplain Program, of which—

(1) $2,400,000 may be available for trainers;

(2) $1,000,000 may be available for augmentation personnel;

(3) $4,200,000 may be available for spouses, facilities, and materials.

SA 1458. Mr. NELSON submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 378, between lines 10 and 11, insert the following:

SEC. 3114. COMPENSATION OF ENERGY EMPLOYEES EXPOSED TO RESIDUAL BERYLLIUM CONTAMINATION.

(a) AMENDMENTS TO ENERGY EMPLOYEES OCCUPATIONAL ILLNESS PROGRAM.—The Energy Employees Occupational Illness Compensation Program Act of 2000 (title XXXVI of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398)) is amended as follows:

(1) EMPLOYEES COVERED UNDER PROGRAM.—Section 3621(7)(C) (42 U.S.C. 7384l(7)(C)) is amended by striking ''during a period when the vendor was engaged in activities related to the production or processing of beryllium for sale to, or use by, the Department of Energy'' and inserting the following: ''during a period when—

''(i) the vendor was engaged in activities related to the production or processing of beryllium for sale to, or use by, the Department of Energy; or

''(ii) there existed a potential for significant residual beryllium contamination at a facility after the vendor ceased to be engaged in such activities, according to the Report on Residual Radioactive Contamination and Beryllium Contamination at Atomic Weapons Employer Facilities and Beryllium Vendors, published by the National Institute for Occupational Safety and Health in October 2003, or any update of such report, including updates required under section 3169 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 42 U.S.C. 7384 note).''.

(2) DETERMINATION OF BERYLLIUM EXPOSURE.—Section 3623(a) (42 U.S.C. 7384n(a)) is amended—

(A) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(B) by striking ''A covered beryllium employee'' and inserting ''(1) A covered beryllium employee'';

(C) by inserting after ''such facility'' the following: ''or significant residual beryllium remained after the termination at such facility of activities related to the production or processing of beryllium''; and

(D) by adding at the end the following new paragraph:

''(2) A covered beryllium employee exposed to residual beryllium while present in a facility that engaged in activities related to the production or processing of beryllium for sale to, or use by, the Department of Energy and one or more other entities shall be determined to have been exposed to beryllium in the performance of duty for the purposes of the compensation program regardless of whether the source of such exposure can be distinguished through reliable documentation.''.

(3) REQUIREMENT TO EXPAND LIST OF BERYLLIUM VENDORS.—Section 3622 (42 U.S.C. 7384m) is amended by striking ''Not later than December 31, 2002, the President may'' and inserting ''Not later than December 31,

2005, and annually thereafter until December 31, 2008, the President shall''.

(b) UPDATES OF REPORTS ON RESIDUAL CONTAMINATION.—

(1) UPDATES REQUIRED.—Subsection (a) of section 3169 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2191; 42 U.S.C. 7384 note) is amended to read as follows:

''(a) UPDATES OF REPORT.—Not later than 14 days after a residual beryllium report is completed for a facility and the Director of the National Institute for Occupational Safety and Health completes an internal review of such report, the Director shall submit to Congress an update to the report required by section 3151(b) of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 42 U.S.C. 7384 note) that includes with respect to such facility the applicable elements described in subsection (b).''.

(2) CONFORMING AMENDMENTS.—Such section is further amended—

(A) in subsection (b), by striking ''The update'' and inserting ''Each update submitted under subsection (a)'';

(B) in subsection (c), by striking ''the report'' and inserting ''each report''; and

(C) in the heading, by striking ''update'' and inserting ''updates''.

SA 1459. Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 378, between lines 10 and 11, insert the following:

SEC. 3114. SENSE OF THE SENATE REGARDING INTERIM REPORTS ON RESIDUAL BERYLLIUM CONTAIMINATION AT DEPARTMENT OF ENERGY VENDOR FACILITIES.

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

(1) Section 3169 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 42 U.S.C. 7384 note) requires the National Institute for Occupational Safety and Health to submit, not later than December 31, 2006, an update to the October 2003 report of the Institute on residual beryllium contamination at Department of Energy vendor facilities.

(2) The American Beryllium Company, Tallevast, Florida, machined beryllium for the Department of Energy's Oak Ridge Y-12, Tennessee, and Rocky Flats, Colorado, facilities from 1967 until 1992.

(3) The National Institute for Occupational Safety and Health has completed its evaluation of residual beryllium contamination at the American Beryllium Company.

(4) Claimants from American Beryllium Company need to know whether residual beryllium was present at the American Beryllium Company facility before or after the dates of coverage established by the Department of Energy and the Department of Labor in order to evaluate the need for further legislative action.

(b) SENSE OF THE SENATE.—It is the sense of the Senate to urge the Director of the National Institute for Occupational Safety and Health—

(1) to provide to Congress interim reports of residual beryllium contamination at facilities not later than 14 days after completing the internal review of such reports; and

(2) to publish in the Federal Register summaries of the findings of such reports, including the dates of any significant residual beryllium contamination, at such time as the reports are provided to Congress under paragraph (1).

SA 1460. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 286, between lines 7 and 8, insert the following:

Subtitle H—Convention Against Torture Implementation

SEC. 1081. SHORT TITLE.

This subtitle may be cited as the ''Convention Against Torture Implementation Act of 2005''.

SEC. 1082. PROHIBITION ON CERTAIN TRANSFERS OF PERSONS.

(a) PROHIBITION.—No person in the custody or control of a department, agency, or official of United States Government, or of any contractor of any such department or agency, shall be expelled, returned, or extradited to another country, whether directly or indirectly, if—

(1) the country is included on the most recent list submitted to Congress by the Secretary of State under section 1083; or

(2) there are otherwise substantial grounds for believing that the person would be in danger of being subjected to torture.

(b) EXCEPTIONS.—

(1) WAIVERS.—

(A) AUTHORITY.—The Secretary of State may waive the prohibition in subsection (a)(1) with respect to a country if the Secretary certifies to the appropriate congressional committees that—

(i) the acts of torture that were the basis for including that country the list have ended; and

(ii) there is in place a mechanism that assures the Secretary in a verifiable manner that a person expelled, returned, or extradited to that country will not be tortured in that country, including, at a minimum, immediate, unfettered, and continuing access, from the point of return, to such person by an independent humanitarian organization.

(B) REPORTS ON WAIVERS.—

(i) REPORTS REQUIRED.—For each person expelled, returned, or extradited under a waiver provided under subparagraph (A), the head of the appropriate government agency making such transfer shall submit to the appropriate congressional committees a report that includes the name and nationality of the person transferred, the date of transfer, the reason for such transfer, and the name of the receiving country.

(ii) FORM.—Each report under this subparagraph shall be submitted, to the extent practicable, in unclassified form, but may include a classified annex as necessary to protect the national security of the United States.

(2) EXTRADITION OR REMOVAL.—The prohibition in subsection (a)(1) may not be construed to apply to the legal extradition of a person under a bilateral or multilateral extradition treaty or to the legal removal of a person under the immigration laws of the United States if, before such extradition or removal, the person has recourse to a United States court of competent jurisdiction to challenge such extradition or removal.

(e) ASSURANCES INSUFFICIENT.—Written or verbal assurances made to the United States by the government of a country that persons in its custody or control will not be tortured are not sufficient for believing that a person is not in danger of being subjected to torture for purposes of subsections (a)(2) and (b)(2), or for meeting the requirements of subsection (b)(1)(A)(ii).

SEC. 1083. REPORTS ON COUNTRIES USING TORTURE.

Not later than 30 days after the effective date or this subtitle, and annually thereafter, the Secretary of State shall submit to the appropriate congressional committees a report listing each country where torture is known to be used. The list shall be compiled on the basis of the information contained in the most recent annual report of the Secretary of State submitted to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate under section 116(d) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151n(d)).

SEC. 1084. REGULATIONS.

(a) INTERIM REGULATIONS.—Not later than 60 days after the effective date of this subtitle, the heads of the appropriate government agencies shall prescribe interim regulations for the purpose of carrying out this subtitle and implementing the obligations of the United States under Article 3 of the Convention Against Torture, subject to any reservations, understandings, declarations, and provisos contained in the Senate resolution advising and consenting to the ratification of the Convention Against Torture, and consistent with the provisions of this subtitle.

(b) FINAL REGULATIONS.—Not later than 180 days after interim regulations are prescribed under subsection (a), and following a period of notice and opportunity for public comment, the heads of the appropriate government agencies sha11 prescribe final regulations for the purposes described in subsection (a).

SEC. 1085. SAVINGS CLAUSE.

Nothing in this subtitle shall be construed to eliminate, limit, or constrain in any way the obligations of the United States or the rights of any individual under the Convention Against Torture or any other applicable law.

SEC. 1086. REPEAL OF SUPERSEDED AUTHORITY.

Section 2242 of the Foreign Affairs Reform and Restructuring Act of 1998 (Public Law 105–277; 8 U.S.C. 1231 note) is repealed. Regulations promulgated under such section that are in effect on the date this subtitle becomes effective shall remain in effect until the heads of the appropriate government agencies issue interim regulations under section 1084(a).

SEC. 1087. DEFINITIONS.

(a) DEFINED TERMS.—In this subtitle:

(1) APPROPRIATE GOVERNMENT AGENCIES.—The term ''appropriate government, agencies'' means—

(A) the intelligence community (as defined in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4))); and

(B) elements of the Department of State, the Department of Defense, the Department of Homeland Security, the Department of Justice, the United States Secret Service, the United States Marshals Service, and any other Federal law enforcement, national security, intelligence, or homeland security agency that takes or assumes custody or control or persons or transports persons in its custody or control outside the United States, other than those elements listed or designated as elements of the intelligence

community under section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4))).

(2) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ''appropriate congressional committees'' means—

(A) the Committees on Armed Services, Homeland Security and Government Affairs, Judiciary, Foreign Relations, and the Select Committee on Intelligence of the Senate; and

(B) the Committees on Armed Services, Homeland Security, Judiciary, International Relations, and the Permanent Select Committee on Intelligence of the House of Representatives.

(3) CONVENTION AGAINST TORTURE.—The term ''Convention Against Torture'' means the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York on December 10, 1984, entered into force on June 26, 1987, signed by the United States on April 18, 1988, and ratified by the United States on October 21, 1994 (T. Doc. 100–20).

(4) EXPELLED PERSON.—A person who is expelled is a person who is involuntarily transferred from the territory of any country, or a port of entry thereto, to the territory of another country, or a port of entry thereto.

(5) EXTRADITED PERSON.—A person who is extradited is an accused person who, in accordance with chapter 209 of title 18, United States Code, is surrendered or delivered to another country with jurisdiction to try and punish the person.

(6) RETURNED PERSON.—A person who is returned is a person who is transferred from the territory of any country, or a port of entry thereto, to the territory of another country of which the person is a national or where the person has previously resided, or a port of entry thereto.

(b) SAME TERMS AS IN THE CONVENTION AGAINST TORTURE—Except as otherwise provided, the terms used in this subtitle have the meanings given those terms in the Convention Against Torture, subject to any reservations, understandings, declarations, and provisos contained in the Senate resolution advising and consenting to the ratification of the Convention Against Torture.

SEC. 1088. EFFECTIVE DATE.

This subtitle shall take effect on the date that is 30 days after the date of the enactment of this subtitle.

SEC. 1089. CLASSIFICATION IN UNITED STATES CODE.

This subtitle shall be classified to the United States Code as a new chapter of title 50, United States Code.

SA 1461. Mr. JOHNSON submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE ____—FULL RECOGNITION OF SACRIFICE AND VALOR OF UNITED STATES SERVICE MEMBERS

Subtitle A—Findings

SEC. ____01. FINDINGS.

Congress makes the following findings:

(1) In his prepared testimony for the June 28, 2005, hearing of the Committee on Veterans' Affairs of the Senate, Secretary R. James Nicholson reported that over 103,000 veterans of the Global War on Terrorism, including operations in Iraq, are projected to seek health care from the Department of Veterans Affairs during fiscal year 2005.

(2) In his prepared testimony for the May 19, 2005, hearing of the Committee on Veterans' Affairs of the House of Representatives, Department of Veterans Affairs Seamless Transition Office Director John Brown testified that—

(A) over 85,000 veterans of the Global War on Terrorism, including operations in Iraq, had already sought care from the Department of Veterans Affairs; and

(B) 24 percent of all veterans returning from these operations were seeking health care from the Department of Veterans Affairs.

(3) In his testimony before the Subcommittee on Defense of the Committee on Appropriations of the Senate on May 11, 2005, Air Force Surgeon General Lieutenant General George Peach Taylor, Jr. testified that over 55,000 service members had been medically evacuated since the beginning of Operation Iraqi Freedom.

(4) The Department of Defense reports that, through July 22, 2005—

(A) 13,559 service members had been wounded in action in Operation Iraqi Freedom; and

(B) 511 service members had been wounded in action in Operation Enduring Freedom.

(5) The number of wounded service members reported wounded by the Department of Defense constitute less than ⅙ of the number of veterans reported to have already sought health care from the Department of Veterans' Affairs, a number which excludes wounded service members still serving on active duty in the Armed Services and wounded service members who sought health care from private physicians.

(6) In his testimony before the June 28, 2005, hearing of the Committee on Veterans' Affairs of the Senate, Secretary Nicholson estimated that the Department of Veterans Affairs will experience a $1,300,000,000 funding shortfall for fiscal year 2005 and a $1,700,000,000 funding shortfall for fiscal year 2006, in large part because of the Department's inability to plan for the increased workload experienced as a result of large numbers of veterans returning from Operations Iraqi Freedom and Enduring Freedom and seeking health care from the Department.

(7) It is impossible for the Department of Veterans Affairs to estimate, and for Congress to appropriate, the resources necessary to ensure that the Department of Veterans Affairs can adequately provide quality health care to veterans returning home from Operation Iraqi Freedom and other critical operations if the number of wounded and disabled service members is not accurately reported.

Subtitle B—Accounting for Casualties Incurred in the Prosecution of the Global War on Terrorism

SEC. __11. MONTHLY ACCOUNTING.

Not later than 5 days after the end of each calendar month, the Secretary of Defense shall publish, for each operation described in section __12, a full accounting of the casualties among the members of the Armed Forces that were incurred in such operation during that month.

SEC. __12. OPERATIONS COVERED.

The operations referred to in section __11 are as follows:

(1) Operation Iraqi Freedom.

(2) Operation Enduring Freedom.

(3) Each other operation undertaken by the Armed Forces in the prosecution of the Global War on Terrorism.

SEC. __13. COMPREHENSIVE CONTENT OF ACCOUNTING.

For the purpose of providing a full and complete accounting of casualties covered by a report under section __11, the Secretary of Defense shall include in the report the number of casualties in each casualty status in accordance with section __14.

SEC. __14. CASUALTY STATUS.

(a) STATUS TYPES.—In a report under this title, each casualty among members of the Armed Forces shall be characterized by the most specific casualty status applicable to the member as follows:

(1) Killed in action.

(2) Killed in non-hostile duty.

(3) Killed, self-inflicted.

(4) Wounded in action, not returned to duty.

(5) Wounded in action, returned to duty (to the extent that data is available to support this characterization of casualty status).

(6) Evacuated for medical reasons.

(b) DEFINITIONS.—In this section:

(1) KILLED IN ACTION.—The term ''killed in action'', with respect to a member of the Armed Forces, means that the member incurred one or more mortal wounds while involved in an action against a hostile force, whether or not the wounds are inflicted by the hostile force.

(2) KILLED IN NON-HOSTILE DUTY.—The term ''killed in non-hostile duty'', with respect to a member of the Armed Forces, means that the member incurred one or more mortal wounds that were not self-inflicted and not inflicted during an action against a hostile force.

(3) KILLED, SELF-INFLICTED.—The term ''killed, self-inflicted'', with respect to a member of the Armed Forces, means a suicide of the member or the death of the member as a result of one or more self-inflicted injuries.

(4) WOUNDED IN ACTION, NOT RETURNED TO DUTY.—The term ''wounded in action, not returned to duty'', with respect to a member of the Armed Forces, means that the member, while involved in an action against a hostile force, incurred one or more non-mortal injuries that required medical attention and that prevented the member from returning to duty within 72 hours after incurring the injury or injuries.

(5) WOUNDED IN ACTION, RETURNED TO DUTY.—The term ''wounded in action, returned to duty'', with respect to a member of the Armed Forces, means that the member, while involved in an action against a hostile force, incurred one or more non-mortal injuries that required medical attention but did not prevent the member from returning to duty within 72 hours after incurring the injury or injuries.

(6) EVACUATED FOR MEDICAL REASONS.—The term ''evacuated for medical reasons'', with respect to a member of the Armed Forces, means that the member was evacuated from a theater of operations for medical reasons, including psychological reasons.

SEC. __15. PUBLICATION AND RELEASE OF REPORT.

The Secretary of Defense shall—

(1) transmit a copy of the report under section __11 to the Secretary of Veterans Affairs;

(2) transmit a copy of the report to the chairman and ranking member of—

(A) the Committee on Armed Services of the Senate;

(B) the Committee on Armed Services of the House of Representatives;

(C) the Committee on Veterans' Affairs of the Senate; and

(D) the Committees on Veterans' Affairs of the House of Representatives; and

(3) place the report on the official website of the Department of Defense.

SEC. __16. SENSE OF CONGRESS.

It is the sense of Congress that full and accurate reporting of casualties among the members of the Armed Forces is essential to the ability of the Federal Government to plan for and provide the resources necessary to ensure that the Department of Veterans Affairs can provide sufficient health care and treatment to members of the Armed Services returning from theaters of conflict.

SA 1462. Mr. LAUTENBERG (for himself, Mrs. MURRAY, Mr. OBAMA, Mr. CORZINE, and Mrs. FEINSTEIN) submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle A of title VII, add the following:

SEC. 705. RESTORATION OF PREVIOUS POLICY REGARDING RESTRICTIONS ON USE OF MEDICAL TREATMENT FACILITIES OR OTHER DEPARTMENT OF DEFENSE FACILITIES.

Section 1093 of title 10, United States Code, is amended—

(1) by striking subsection (b); and

(2) in subsection (a), by striking ''(a) RESTRICTION ON USE OF FUNDS.—''.

SA 1463. Mr. HARKIN (for himself and Mr. GRASSLEY) submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 357, between lines 19 and 20, insert the following:

SEC. 2843. LAND CONVEYANCE, IOWA ARMY AMMUNITION PLANT, MIDDLETOWN, IOWA.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey, without consideration, to the City of Middletown (in this section referred to as the ''City'') all right, title, and interest of the United States in and to a parcel of real property, including any improvements thereon, consisting of approximately 1.0 acres located at the Iowa Army Ammunition Plant, Middletown, Iowa.

(b) PAYMENT OF COSTS OF CONVEYANCE.—

(1) IN GENERAL.—The Secretary may require the City to cover costs to be incurred by the Secretary, or to reimburse the Secretary for costs incurred by the Secretary, to carry out the conveyance under subsection (a), including survey costs, costs related to environmental documentation, and other administrative costs related to the conveyance. If amounts are collected from the City in advance of the Secretary incurring the actual costs, and the amount collected exceeds the costs actually incurred by the Secretary to carry out the conveyance, the Secretary shall refund the excess amount to the City.

(2) REIMBURSEMENT.—Amounts received as reimbursement under paragraph (1) shall be credited to the fund or account that was used to cover the costs incurred by the Secretary in carrying out the conveyance. Amounts so credited shall be merged with amounts in such fund or account, and shall be available for the same purposes, and subject to the same conditions and limitations, as amounts in such fund or account.

(c) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by surveys satisfactory to the Secretary. The cost of each survey shall be borne by the City.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SA 1464. Mr. LOTT submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle B of title I, add the following:

SEC. 114. E-HUNTER UNMANNED AERIAL VEHICLE KITS.

Of the amount authorized to be appropriated by section 101(5) for other procurement for the Army, $5,000,000 shall be available for the procurement and installation of E-Hunter Unmanned Aerial Vehicle (UAV) kits.

SA 1465. Mr. LOTT (for himself, Mr. COCHRAN, and Mr. NELSON of Florida) submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

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

SEC. 224. ARROW BALLISTIC MISSILE DEFENSE SYSTEM.

Of the amount authorized to be appropriated by section 201(5) for research, development, test, and evaluation for Defense-wide activities and available for ballistic missile defense, $80,000,000 may be available for coproduction of the Arrow ballistic missile defense system.

SA 1466. Mr. LOTT (for himself and Mr. COCHRAN) submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 371, between lines 8 and 9, insert the following:

SEC. 2887. RELEASE OF RIGHT TO PAYMENT FROM REVERSIONARY INTEREST HOLDERS FOR IMPROVEMENTS TO MILITARY INSTALLATIONS CLOSED OR REALIGNED UNDER 2005 ROUND OF DEFENSE BASE CLOSURE AND REALIGNMENT.

The United States shall release or otherwise relinquish any entitlement to receive, pursuant to an agreement providing for such payment, compensation from the holder of a reversionary interest in real property used by the United States for improvements made to a military installation that is closed or realigned as part of the 2005 round of defense base closure and realignment.

SA 1467. Mr. SHELBY submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SEC. ___. CONGRESSIONAL AUTHORITY UNDER DEFENSE PRODUCTION ACT.

Section 721 of the Defense Production Act of 1950 (50 U.S.C. App. 2170) is amended—

(1) in subsection (a)—

(A) by striking ''30'' and inserting ''60''; and

(B) by adding at the end the following: ''The findings and recommendations of any such investigation shall be sent immediately to the President and to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives for review.'';

(2) in subsection (b)—

(A) by inserting before the first period '', or in such instance at the request of the chairman and ranking member of the Committee on Banking, Housing, and Urban Affairs of the Senate or the Committee on Financial Services of the House of Representatives'';

(B) in paragraph (2), by inserting before the period '', and the findings and recommendations of such investigation shall be sent immediately to the President and to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives for review''; and

(C) by striking ''30'' and inserting ''60'';

(3) in subsection (f)—

(A) by striking ''designee may'' and inserting ''designee shall'';

(B) in paragraph (4), by striking ''and'' at the end;

(C) in paragraph (5), by striking the period at the end and inserting ''; and''; and

(D) by adding at the end the following:

''(6) the long-term projections of United States requirements for sources of energy and other critical resources and materials and for economic security.''.

(4) in subsection (g)—

(A) by striking ''The President'' and inserting the following:

''(1) IN GENERAL.—The President''; and

(B) by adding at the end the following:

''(2) QUARTERLY SUBMISSIONS.—The Secretary of the Treasury shall transmit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives on a quarterly basis, a detailed summary and analysis of each merger, acquisition, or takeover that is being reviewed,

was reviewed during the preceding 90-day period, or is likely to be reviewed in the coming quarter by the President or the President's designee under subsection (a) or (b). Each such summary and analysis shall be submitted in unclassified form, with classified annexes as the Secretary determines are required to protect company proprietary information and other sensitive information. Each such summary and analysis shall include an appendix detailing dissenting views.''; and

(5) by adding at the end the following new subsections:

''(l) CONGRESSIONAL AUTHORITY.—

''(1) IN GENERAL.—If the President does not suspend or prohibit an acquisition, merger, or takeover under subsection (d), the acquisition, merger, or takeover may not be consummated until 10 legislative days after the President notifies the Congress of the decision not to suspend or prohibit. If a joint resolution objecting to the proposed transaction is introduced in either House of Congress by the chairman of one of the appropriate congressional committees during such period, the transaction may not be consummated until 30 legislative days after such resolution is introduced.

''(2) DISAPPROVAL UPON PASSAGE OF RESOLUTION.—If a joint resolution introduced under paragraph (1) is enacted into law, the transaction may not be consummated.

''(3) CONSIDERATIONS.—The Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives shall review any findings and recommendations submitted under subsection (a) or (b), and any joint resolution under paragraph (1) of this subsection shall be based on the factors outlined in subsection (f).

''(4) SENATE PROCEDURE.—Any joint resolution under paragraph (1) shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976 (Public Law 94-329, 90 Stat. 765).

''(5) HOUSE CONSIDERATION.—For the purpose of expediting the consideration and enactment of a joint resolution under paragraph (1), a motion to proceed to the consideration of any such joint resolution shall be treated as highly privileged in the House of Representatives.

''(m) THOROUGH REVIEW.—The President, or the President's designee, shall ensure that an acquisition, merger, or takeover that is completed prior to a review or investigation under this section shall be fully reviewed for national security considerations, even in the event that a request for such review is withdrawn.''.

SA 1468. Mr. THOMAS submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle A of title VIII, add the following

SEC. 807. CONTRACTING FOR PROCUREMENT OF CERTAIN SUPPLIES AND SERVICES.

(a) IN GENERAL.—Section 2462(a) of title 10, United States Code, is amended by striking ''from a source'' and all that follows through the end and inserting ''in compliance with applicable provisions of section 2304 of this title.''.

(b) MODIFICATION OF LIMITATION ON CONVERSION TO CONTRACTOR PERFORMANCE.—Section 8014(a)(3) of the Department of Defense Appropriations Act, 2005 (Public law 108–287; 118 State. 972) is amended—

(1) in subparagraph (A), by inserting '', payment that could be used in lieu of such a plan, health savings account, or medical savings account'' after ''health insurance plan''; and

(2) in subparagraph (B), by striking ''that requires'' and all that follows through the end and inserting ''that does not comply with the requirements of any Federal law governing the provision of health care benefits by Government contractors that would be applicable if the contractor performed the activity or function under the contract.''.

SA 1469. Mr. THOMAS (for himself and Mr. ENZI) submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle G of title X, add the following

SEC. 1073. RENEWAL OF MORATORIUM ON RETURN OF VETERANS MEMORIAL OBJECTS TO FOREIGN NATIONS WITHOUT SPECIFIC AUTHORIZATION IN LAW.

Section 1051(c) of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65; 113 Stat. 763; 10 U.S.C. 2572 note) is amended by inserting '', and during the period beginning on the date of the enactment of the National Defense Authorization Act for Fiscal Year 2006 and ending on the date that is eight years after that date'' before the period.

SA 1470. Mr. BENNETT submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle B of title IX, add the following:

SEC. 912. STUDY ON USE OF SPACE SHUTTLE-DERIVED LAUNCH SYSTEM TO MEET SPACE LAUNCH REQUIREMENTS.

(a) STUDY REQUIRED.—The Secretary of Defense shall conduct a study to evaluate the feasability and advisability of utilizing a space launch system derived from the Space Shuttle to meet current and future space launch requirements for medium and heavy payloads for national security purposes as a complement to current space launch vehicles.

(b) ELEMENTS.—The study required by subsection (a) shall include the following:

(1) A comparison of the reliability of the space launch system described in that subsection with the vehicles referred to in that subsection.

(2) A comparison of the workforce available to support such system and to support such vehicles.

(3) A comparative assessment of the infrastructure investment required for such system and for such vehicles.

(4) A comparative assessment of the impact of the utilization of such system and of the utilization of such vehicles on other weapons systems.

(5) An identification of single points of failure, if any, in such system and in such vehicles.

(6) An identification and comparison of any economies of scale with other departments and agencies of the Federal Government that might result from the utilization of such system or of such vehicles.

(c) REPORT.—The Secretary shall submit to the congressional defense committees a report on the study required by subsection (a) not later than February 28, 2006.

SA 1471. Mr. VITTER submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

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

SEC. 538. DEFENSE SCIENCE BOARD STUDY ON DEPLOYMENT OF MEMBERS OF THE NATIONAL GUARD AND RESERVES IN THE GLOBAL WAR ON TERRORISM.

(a) STUDY REQUIRED.—The Defense Science Board shall conduct a study on the length and frequency of the deployment of members of the National Guard and the Reserves as a result of the global war on terrorism.

(b) ELEMENTS.—The study required by subsection (a) shall include the following:

(1) An identification of the current range of lengths and frequencies of deployments of members of the National Guard and the Reserves.

(2) An assessment of the consequences for force structure, morale, and missions capability of deployments of members of the National Guard and the Reserves in the course of the global war on terrorism that are lengthy, frequent, or both.

(3) An identification of the optimal length and frequency of deployments of members of the National Guard and the Reserves during the global war on terrorism.

(4) An identification of mechanisms to reduce the length, frequency, or both of deployments of members of the National Guard and the Reserves during the global war on terrorism.

(c) REPORT.—Not later than May 1, 2006, the Defense Science Board shall submit to the congressional defense committees a report on the study required by subsection (a). The report shall include the results of the study and such recommendations as the Defense Science Board considers appropriate in light of the study.

SA 1472. Mr. SPECTER submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle H of title V, add the following:

SEC. 596. AWARD OF COMBAT MEDICAL BADGE (CMB) OR OTHER COMBAT BADGE FOR ARMY HELICOPTER MEDICAL EVACUATION AMBULANCE (MEDEVAC) PILOTS AND CREWS.

(a) REQUIREMENT TO ELECT AND AWARD COMBAT BADGE.—The Secretary of the Army shall, at the election of the Secretary—

(1) award the Combat Medical Badge (CMB) to each member of a helicopter medical evacuation ambulance crew; or

(2)(A) establish a bade of appropriate design, to be known as the Combat Medevac Badge; and

(B) award that badge to each member of a helicopter medical evacuation ambulance crew who meets such requirements for eligibility for the award of that badge as the Secretary shall prescribe.

(b) AWARD FOR SERVICE BEFORE DATE OF ENACTMENT.—In the case of persons who qualified for treatment as a member of a helicopter medical evacuation ambulance crew by reason of service during the period beginning on June 25, 1950k and ending on the date of the enactment of this Act, the Secretary shall award a badge under subsection (a) to each such person with respect to who an application for the award of such badge is made to the Secretary after such date in such manner as the Secretary may require.

(c) MEMBER OF HELICOPTER MEDICAL EVACUATION AMBULANCE CREW DEFINED.—In this section, the term ''member of a helicopter medical evacuation ambulance crew'' means any person who while a member of the Army served in combat on or after June 25, 1950, as a pilot or crew member of a helicopter medical evacuation ambulance.

SA 1473. Mr. CRAIG submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 117, line 11, insert ''through a computer accessible Internet website and other means and'' before ''at no cost''.

SA 1474. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 311, in the table preceding line 1, strike the item relating to Fort Sam Houston, Texas.

On page 311, in the table preceding line 1, strike the amount identified as the total in the amount column and insert ''$1,188,122,000''.

On page 313, line 4, strike ''$2,966,642,000'' and insert ''$2,959,642,000''.

On page 313, line 7, strike ''$1,007,222,000'' and insert ''$1,000,222,000''.

SA 1475. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 337, between lines 4 and 5, insert the following:

SEC. 2602. PROHIBITION ON USE OF FUNDS FOR ARMY RESERVE MILITARY CONSTRUCTION PROJECT AT ELLINGTON FIELD, TEXAS.

None of the funds authorized to be appropriated to the Department of the Army by section 2601(1)(A) for the Army Reserve for military construction may be made available for construction of an Army Reserve center at Ellington Field, Texas.

SA 1476. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of title XII, insert the following:

SEC. 1205. THE UNITED STATES-CHINA ECONOMIC AND SECURITY REVIEW COMMISSION.

(a) FINDINGS.—Congress finds the following:

(1) The 2004 Report to Congress of the United States-China Economic and Security Review Commission states that—

(A) China's State-Owned Enterprises (SOEs) lack adequate disclosure standards, which creates the potential for United States investors to unwittingly contribute to enterprises that are involved in activities harmful to United States security interests;

(B) United States influence and vital long-term interests in Asia are being challenged by China's robust regional economic engagement and diplomacy;

(C) the assistance of China and North Korea to global ballistic missile proliferation is extensive and ongoing;

(D) China's transfers of technology and components for weapons of mass destruction (WMD) and their delivery systems to countries of concern, including countries that support acts of international terrorism, has helped create a new tier of countries with the capability to produce WMD and ballistic missiles;

(E) the removal of the European Union arms embargo against China that is currently under consideration in the European Union would accelerate weapons modernization and dramatically enhance Chinese military capabilities;

(F) China's recent actions toward Taiwan call into question China's commitments to a peaceful resolution;

(G) China is developing a leading-edge military with the objective of intimidating Taiwan and deterring United States involvement in the Strait, and China's qualitative and quantitative military advancements have already resulted in a dramatic shift in the cross-Strait military balance toward China; and

(H) China's growing energy needs are driving China into bilateral arrangements that undermine multilateral efforts to stabilize oil supplies and prices, and in some cases may involve dangerous weapons transfers.

(2) On March 14, 2005, the National People's Congress approved a law that would authorize the use of force if Taiwan formally declares independence.

(b) SENSE OF CONGRESS.—

(1) PLAN.—The President is strongly urged to take immediate steps to establish a plan to implement the recommendations contained in the 2004 Report to Congress of the United States-China Economic and Security Review Commission in order to correct the negative implications that a number of current trends in United States-China relations have for United States long-term economic and national security interests.

(2) CONTENTS.—Such a plan should contain the following:

(A) Actions to address China's policy of undervaluing its currency, including—

(i) encouraging China to provide for a substantial upward revaluation of the Chinese yuan against the United States dollar;

(ii) allowing the yuan to float against a trade-weighted basket of currencies; and

(iii) concurrently encouraging United States trading partners with similar interests to join in these efforts.

(B) Actions to make better use of the World Trade Organization (WTO) dispute settlement mechanism and applicable United States trade laws to redress China's unfair trade practices, including China's exchange rate manipulation, denial of trading and distribution rights, lack of intellectual property rights protection, objectionable labor standards, subsidization of exports, and forced technology transfers as a condition of doing business. The United States Trade Representative should consult with our trading partners regarding any trade dispute with China.

(C) Actions to encourage United States diplomatic efforts to identify and pursue initiatives to revitalize United States engagement with China's Asian neighbors. The initiatives should have a regional focus and complement bilateral efforts. The Asia-Pacific Economic Cooperation forum (APEC) offers a ready mechanism for pursuit of such initiatives.

(D) Actions by the administration to hold China accountable for proliferation of prohibited technologies and to secure China's agreement to renew efforts to curtail North Korea's commercial export of ballistic missiles.

(E) Actions by the Secretaries of State and Energy to consult with the International Energy Agency with the objective of upgrading the current loose experience-sharing arrangement, whereby China engages in some limited exchanges with the organization, to a more structured arrangement whereby China would be obligated to develop a meaningful strategic oil reserve, and coordinate release of stocks in supply-disruption crises or speculator-driven price spikes.

(F) Actions by the administration to develop a coordinated, comprehensive national policy and strategy designed to meet China's challenge to maintaining United States scientific and technological leadership and competitiveness in the same way the administration is presently required to develop and publish a national security strategy.

(G) Actions to review laws and regulations governing the Committee on Foreign Investment in the United States (CFIUS), including exploring whether the definition of national security should include the potential impact on national economic security as a criterion to be reviewed, and whether the chairmanship of CFIUS should be transferred from the Secretary of the Treasury to a more appropriate executive branch agency.

(H) Actions by the President and the Secretaries of State and Defense to press strongly their European Union counterparts to maintain the EU arms embargo on China.

(I) Actions by the administration to discourage foreign defense contractors from selling sensitive military use technology or weapons systems to China. The administration should provide a comprehensive annual report to the appropriate committees of Congress on the nature and scope of foreign military sales to China, particularly sales by Russia and Israel.

(J) Any additional actions outlined in the 2004 Report to Congress of the United States-China Economic and Security Review Commission that affect the economic or national security of the United States.

SA 1477. Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of subtitle B of title VI, add the following:

SEC. 624. ELIGIBILITY OF ORAL AND MAXILLOFACIAL SURGEONS FOR SPECIAL PAY FOR RESERVE HEALTH PROFESSIONALS IN CRITICALLY SHORT WARTIME SPECIALTIES.

(a) IN GENERAL.—Section 302g(b) of title 37, United States Code, is amended by inserting ", including oral and maxillorfacial surgery," after "in a health profession".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 2005.

SA 1478. Mrs. HUTCHISON (for herself and Ms. MIKULSKI) submitted an amendment intended to be proposed by her to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle B of title VI, add the following:

SEC. 624. ELIGIBILITY OF ORAL AND MAXILLOFACIAL SURGEONS FOR INCENTIVE SPECIAL PAY FOR MEDICAL OFFICERS OF THE ARMED FORCES.

(a) IN GENERAL.—For purposes of eligibility for incentive special pay payable under section 302(b) of title 37, United States Code, oral and maxillofacial surgeons shall be treated as medical officers of the Armed Forces who may be paid variable special pay under section 302(a)(2) of such title.

(b) EFFECTIVE DATE.—Subsection (a) shall take effect on October 1, 2005, and shall apply with respect to incentive special pay payable under section 302(b) of title 37, United States Code, on or after that date.

SA 1479. Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 237, after line 17, insert the following:

SEC. 846. SMALL DISADVANTAGED BUSINESSES.

(a) IN GENERAL.—Subparagraphs (D) and (E) of section 8(a)(6) of the Small Business Act (15 U.S.C. 637(a)(6)), regarding asset withdrawals, shall not apply to a socially and economically disadvantaged small business concern if—

(1) the small business concern provides supplies or services under a Government prime contract or subcontract at any tier; and

(2) such supplies or services are provided in whole or in part through the presence of the personnel of such small business concern in a qualified area.

(b) DURATION.—A waiver under subsection (a) shall last for the duration of the prime contract or subcontract with the Government under subsection (a)(1).

(c) DEFINITIONS.—As used in this section—

(1) the term "qualified area" means—

(A) a combat zone, as defined in section 112(c)(2) of the Internal Revenue Code of 1986; and

(B) an area designated by the Secretary of State as eligible for a danger pay allowance under section 5928 of title 5, United States Code; and

(2) the term "socially and economically disadvantaged small business concern" has the meaning given that term under section 8(a)(4)(A) of the Small Business Act (15 U.S.C. 637(a)(4)(A)).

SA 1480. Mrs. HUTCHISON submitted an amendment intended to be proposed by her to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. AERONAUTICAL RESEARCH CAPABILITIES ASSESSMENT.

(a) IN GENERAL.—The Secretary of Defense, in cooperation with the Administrator of the National Aeronautics and Space Administration, is directed to conduct an assessment of aeronautical research assets and capabilities operated and maintained by the Administration to determine their potential application to existing and planned aeronautical research activities of the Department of Defense.

(b) MATTERS COVERED.—The assessment shall include an identification and inventory of Administration facilities, personnel and supporting infrastructure which offer research capabilities not presently available to the Department for the conduct of aeronautical research and which would make a significant contribution to the Department aeronautical research mission and programs.

(c) DEADLINE.—The Secretary and the Administrator shall—

(1) complete the assessment within 6 months after the date of enactment of this Act; and

(2) transmit it, together with associated working papers, within 60 days after it is completed to the Joint Aeronautical Research Working Group established under subsection (d).

(d) ESTABLISHMENT AND RESPONSIBILITIES OF JOINT AERONAUTICAL RESEARCH WORKING GROUP.—Within 30 days after the date of enactment of this Act, the Secretary and the Administrator shall establish a Joint Aeronautical Research Working Group for the purpose of identifying opportunities for cooperative aeronautical research between the Administration and the Department, and developing recommendations for implementation of those opportunities. The Secretary and the Administrator shall jointly determine the composition, operational procedures, and statement of work to guide the activities of the Working Group.

SA 1481. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

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

SEC. 330. MODIFICATION OF AUTHORITY OF ARMY WORKING-CAPITAL FUNDED FACILITIES TO ENGAGE IN COOPERATIVE ACTIVITIES WITH NON-ARMY ENTITIES.

(a) APPLICABILITY OF SUNSET.—Subsection (j) of section 4544 of title 10, United States Code, is amended by striking "September 30, 2009," and all that follows through the end and inserting September 30, 2009.".

(b) CREDITING OF PROCEEDS OF SALE OF ARTICLES AND SERVICES.—Such section is further amended—

(1) in subsection (d), by striking "subsection (e)" and inserting "subsection (f)"

(2) by redesignating subsections (e), (f), (g), (h), and (i) as subsections (f), (g), (h), (i), and (j), respectively;

(3) by inserting after subsection (d) the following new subsection (e):

"(e) PROCEEDS CREDITED TO WORKING CAPITAL FUND.—The proceeds of sale of an article or service pursuant to a contract or other cooperative arrangement under this section shall be credited to the working capital fund that incurs the cost of manufacturing the article or performing the service."; and

(4) in subsection (g), as redesignated by paragraph (2) of this subsection, by striking "subsection (e)" and inserting "subsection (f)".

SA 1482. Mr. OBAMA (for himself, Mr. BYRD, and Mr. DURBIN) submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 371, between lines 8 and 9, insert the following:

SEC. 2887. SENSE OF THE SENATE REGARDING REQUIREMENT TO OBTAIN CONSENT OF GOVERNORS OF STATES AFFECTED BY MOVEMENT OR REALLOCATION OF AIRCRAFT FROM AIR NATIONAL GUARD UNITS.

It is the sense of the Senate that the movement or reallocation of aircraft from one Air

National Guard unit to another Air National Guard unit—

(1) constitutes—

(A) a relocation or withdrawal of a unit for purposes of section 18238 of title 10, United States Code; and

(B) a ''change in the branch, organization, or allotment of a unit'' for purposes of section 104(c) of title 32, United States Code; and

(2) therefore requires the consent of the governor of an affected State.

SA 1483. Mr. REED submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle A of title X, add the following:

SEC. 1009. FUNDING FOR INCREASED PERSONNEL STRENGTHS FOR ARMY AND MARINE CORPS FOR FISCAL YEAR 2006.

(a) ADDITIONAL AMOUNTS.—

(1) ADDITIONAL AMOUNT FOR OPERATION AND MAINTENANCE, ARMY.—The amount authorized to be appropriated by section 301(1) for operation and maintenance for the Army is hereby increased by $1,081,640,000.

(2) ADDITIONAL AMOUNT FOR OPERATION AND MAINTENANCE, MARINE CORPS.—The amount authorized to be appropriated by section 301(3) for operation and maintenance for the Marine Corps is hereby increased by $31,431,000.

(3) ADDITIONAL AMOUNT FOR OPERATION AND MAINTENANCE, DEFENSE-WIDE ACTIVITIES.—The amount authorized to be appropriated by section 301(5) for operation and maintenance for Defense-wide activities is hereby increased by $121,397,000.

(4) ADDITIONAL AMOUNT FOR DEFENSE HEALTH PROGRAM.—The amount authorized to be appropriated by section 303(a) for the Defense Health Program is hereby increased by $275,615,000, with the amount of the increase to be allocated to amounts available under paragraph (1) of that section for operation and maintenance.

(5) ADDITIONAL AMOUNT FOR MILITARY PERSONNEL.—The amount authorized to be appropriated by section 421 for military personnel is hereby increased by $2,698,091,000.

(b) OFFSETS FROM SUPPLEMENTAL AMOUNTS FOR IRAQ, AFGHANISTAN, AND GLOBAL WAR ON TERRORISM.—

(1) OPERATION AND MAINTENANCE, ARMY.—The amount authorized to be appropriated by section 1406(1) is hereby reduced by $1,081,640,000.

(2) OPERATION AND MAINTENANCE, MARINE CORPS.—The amount authorized to be appropriated by section 1406(3) is hereby reduced by $31,431,000.

(3) OPERATION AND MAINTENANCE, DEFENSE-WIDE ACTIVITIES.—The amount authorized to be appropriated by section 1406(5) is hereby reduced by $121,397,000.

(4) DEFENSE HEALTH PROGRAM.—The amount authorized to be appropriated by section 1407 is hereby reduced by $275,615,000.

(5) MILITARY PERSONNEL, ARMY.—The amount authorized to be appropriated by section 1408(1) is hereby reduced by $2,527,520,000.

(6) MILITARY PERSONNEL, MARINE CORPS.—The amount authorized to be appropriated by section 1408(3) is hereby reduced by $170,571,000.

SA 1484. Mr. REID submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 296, after line 19, insert the following:

SEC. 1205. REPORT ON NUCLEAR WEAPONS DEVELOPMENT IN NORTH KOREA.

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

(1) Since the 1993 announcement by officials of the Government of North Korea that North Korea intended to withdraw from the Treaty on the Non-Proliferation of Nuclear Weapons, done at Washington, London, and Moscow July 1, 1968 (21 UST 483) (hereinafter referred to as the ''Nuclear Non-Proliferation Treaty''), the United States and its allies have carried out a number of diplomatic initiatives to address concerns related to nuclear weapons development in North Korea.

(2) Diplomatic negotiations led to the Agreed Framework between the United States and North Korea, signed in Geneva October 21, 1994 (hereinafter referred to as the ''Agreed Framework''), under which more than 8,000 plutonium spent fuel rods suitable for reprocessing into weapons grade material were kept under international monitoring.

(3) During the period that the Agreed Framework has not been in effect since 2002—

(A) officials of the Government of North Korea have indicated North Korea has reprocessed all of the 8,000 plutonium spent fuel rods that were previously under international monitoring so that such rods are in a form suitable for use in multiple nuclear weapons;

(B) North Korea has withdrawn from the Nuclear Non-Proliferation Treaty; and

(C) officials of the Government of North Korea have indicated that North Korea has restarted its known plutonium-based reactor at Yongbyon which allows North Korea to prepare more nuclear weapons material.

(4) Since 2002, the United States diplomatic strategy with respect to nuclear materials in North Korea has centered on a six party talks process, the last meeting of which occurred in June 2004, and next meeting of which is expected to begin on July 26, 2005.

(5) Complete and open debate by Congress and the people of the United States of the national security interests and an accurate assessment of the diplomatic options available to the United States with respect to North Korea require that the most complete data regarding nuclear materials development in North Korea be made available.

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

(1) the United States negotiators in the process of six party talks regarding the development of nuclear materials in North Korea should be fully empowered with the flexibility to negotiate meaningfully to seek agreements and understandings that advance toward the goal of a denuclearized North Korea, as such agreements and understandings are in the national security interest of the United States; and

(2) such six party talks should occur in an ongoing, regular, and frequent basis.

(c) REPORT.—

(1) REQUIREMENT.—Not later than 90 days after the date of the enactment of this Act, the President shall submit to Congress a report on the development of nuclear materials in North Korea. Such report shall include—

(A) an estimate of the number of nuclear weapons that the President believes that it is likely that North Korea produced—

(i) prior to the signing of the Agreed Framework in 1994;

(ii) during the period from 1994 through 2002 that the Agreed Framework was in effect; and

(iii) after the date that the United States and North Korea ceased adhering to the Agreed Framework in 2002; and

(B) an assessment of the number of plutonium and uranium-based nuclear weapons that the President—

(i) believes that North Korea has control of on the date of the enactment of the Act; and

(ii) projects that North Korea could have control of on the dates that are 1, 3, 5, and 10 years after the date of the enactment of this Act if diplomatic efforts to prevent the proliferation of nuclear materials in North Korea are unsuccessful.

(2) FORM OF REPORT.—The report required by paragraph (1) shall be submitted in an unclassified form.

SA 1485. Mr. REID submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 296, after line 19, insert the following:

SEC. 1205. SENSE OF CONGRESS ON UNITED STATES PARTICIPATION IN REVIEW CONFERENCES OF THE PARTIES TO TREATY ON THE NON-PROLIFERATION OF NUCLEAR WEAPONS.

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

(1) The Treaty on the Non-Proliferation of Nuclear Weapons, done at Washington, London, and Moscow July 1, 1968 (21 UST 483) (hereinafter referred to as the ''Nuclear Non-Proliferation Treaty''), which has 188 party countries, is the centerpiece of the international regime to prevent the spread of nuclear weapons.

(2) Since 1975, a Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons has been held every five years to review the Nuclear Non-Proliferation Treaty, evaluate the progress has been made, and assess the additional steps that must be carried out to prevent the spread of nuclear weapons.

(3) The Nuclear Non-Proliferation Treaty must be strengthened to respond to current proliferation challenges, and the leadership of the United States is crucial in such effort.

(4) The United States was represented at each of the first four Review Conferences, which were held during 1975, 1980, 1985, and 1990, by an official no lower than the equivalent of a Deputy Secretary of State, who reported directly to the Secretary of State, and at the last two conferences, which were held during 1995 and 2000, the United States was represented by the Vice President and the Secretary of State.

(5) The Assistant Secretary for Arms Control of the Department of State, who reports to the Secretary of State through the Undersecretary for Arms Control and International Security Affairs and the Deputy Secretary of State, represented the United

States at the 2005 Review Conference and was the lowest-level representative ever to represent the United States at a Review Conference.

(6) The level of United States representation at Review Conferences affects the ability of the United States Government to exert leadership in strengthening the international nuclear nonproliferation regime.

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

(1) the Secretary of State should represent the United States at all future Review Conferences of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons;

(2) not later than 90 days prior to the start of each Review Conference or any preparatory conference to the Nuclear Non-Proliferation Treaty, the President should submit to Congress a plan that outlines the United States objectives for the Review Conference or preparatory conference and a comprehensive strategy for achieving such objectives; and

(3) not later than 90 days after the conclusion of a Review Conference or any such preparatory conference or, with respect to the Review Conference held during 2005, not later than 90 days after the date of enactment of this Act, the President should submit to Congress an after-action review of the Review Conference or preparatory conference, including an assessment of which United States objectives related to strengthening international nuclear nonproliferation efforts were achieved and which such objectives were not achieved during the Review Conference or preparatory conference.

SA 1486. Mr. REID (for himself and Mr. OBAMA) submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title XII, add the following:

SEC. 1205. UPDATE OF UNITED STATES STRATEGY TO COMBAT THE PROLIFERATION OF WEAPONS OF MASS DESTRUCTION.

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

(1) On February 11, 2004, President George W. Bush stated that ''the greatest threat before humanity today is the possibility of secret and sudden attack with chemical or biological or radiological or nuclear weapons'' and on September 30, 2004, President George W. Bush stated that ''the biggest threat facing the country is weapons of mass destruction in the hands of a terrorist network.''

(2) Protecting against nuclear, radiological, biological, or chemical terrorism requires a layered defense drawing upon a full spectrum of capabilities and tools, beginning with a national strategy for a domestic and international effort to detect, prevent, and respond to the proliferation of weapons of mass destruction (WMD), or, if prevention fails, to manage the consequences of attacks while preserving fundamental liberties and economic activity.

(2) A National Strategy to Combat Weapons of Mass Destruction was published in December 2002.

(3) Since the development of the National Strategy—

(A) the nature of the weapons of mass destruction threats to the United States has changed; and

(B) the understanding of likely future weapons of mass destruction threats has also changed.

(4) Since the development of the National Strategy, United States policies and capabilities for detecting, preventing, and responding to weapons of mass destruction threats have also changed:

(A) President George W. Bush enumerated on February 11, 2004, a number of new actions the United States would call for to address weaknesses in efforts to combat the proliferation of weapons of mass destruction. Some of the most important of these actions have not yet been implemented or have met international resistance.

(B) A significant intelligence failure has been identified with respect to the assessment of the weapons of mass destruction capabilities of Iraq, which failure has precipitated several efforts to identify systemic deficiencies in intelligence and implement recommended improvements, including implementation of 70 recommendations of the Commission on the Intelligence Capabilities of the United States Regarding Weapons of Mass Destruction.

(C) As required by the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458), and as recommended by the Commission on the Intelligence Capabilities of the United States Regarding Weapons of Mass Destruction, President George W. Bush announced in June 2005 the intent to establish a National Counter Proliferation Center (NCPC). The Center will exercise strategic oversight of the work of the intelligence community on threats posed by the proliferation of weapons of mass destruction and will play a unique leading role within the United States Government in addressing such threats.

(D) A number of other significant changes to United States policies and capabilities to combat the proliferation of weapons of mass destruction have been recommended, and in some cases, implemented since December 2002, in the absence of an updated national strategy on combatting the proliferation of weapons of mass destruction.

(b) UPDATE OF NATIONAL STRATEGY TO COMBAT WEAPONS OF MASS DESTRUCTION.—(1) Not later than 6 months after the date of the enactment of this Act, the President shall develop and submit to Congress an update to the National Strategy to Combat Weapons of Mass Destruction of December 2002.

(2) The update of the National Strategy shall take into account developments since the publication of the National Strategy in December 2002.

(3) The update of the National Strategy shall include the following:

(A) INTELLIGENCE-BASED THREAT ASSESSMENT.—An assessment of the threat to United States territory, citizens, and interests from the proliferation of weapons of mass destruction and the threat of terrorist acquisition and use of weapons of mass destruction, which assessment should draw upon, and be consistent with, the coordinated judgments of the intelligence community.

(B) OBJECTIVES.—A statement of the objectives of United States policy, both domestically and internationally, regarding detection, prevention, and responding to the proliferation of weapons of mass destruction and the threat of terrorist acquisition (including through development or theft) and use of weapons of mass destruction.

(C) CAPABILITIES, ROLES, MISSIONS, CONCEPTS OF OPERATIONS.—A statement of the full spectrum of currently-available capabilities necessary, both domestically and internationally, to address the proliferation of weapons of mass destruction and the threat of terrorist acquisition and use of weapons of mass destruction, and a statement of the roles, missions, and concepts of operations for each of the organizations and programs responsible for providing such capabilities.

(D) POLICY, PROGRAM AND OPERATIONAL COORDINATION.—A review of the mechanisms for planning, coordinating, and implementing policy, programs, and operations, including government-wide strategic operational planning, across all agencies and entities undertaking work to combat the proliferation of weapons of mass destruction and to protect the homeland against weapons of mass destruction attacks, and a statement of plans for improving such mechanisms.

(4) The update of the National Strategy shall address specific areas key to a successful national strategy to combat the proliferation of weapons of mass destruction, including, but not limited to the following:

(A) NATIONAL COUNTER PROLIFERATION CENTER.—A description of the roles, missions, and concepts of operations for the National Counter Proliferation Center, including a plan and schedule for establishing the Center and developing it to full working capacity.

(B) INTERNATIONAL NONPROLIFERATION REGIMES.—A review of how the United States will seek to strengthen the international nonproliferation regimes, including, but not limited to, the Nuclear Nonproliferation Treaty and associated entities (such as the Nuclear Suppliers Group) in the wake of the 2005 Nuclear Nonproliferation Treaty review conference, the Missile Technology Control Regime, the Biological Weapons Convention, and the Chemical Weapons Convention and associated entities (such as the Australia Group).

(C) SECURITY OF NUCLEAR MATERIALS.—A review of how the United States plans to enhance programs to secure weapons-usable nuclear materials and radiological materials suitable for use in a so-called ''dirty bomb'' that are located around the world, including but not limited to fulfilling commitments made under the G–8 Global Partnership Against the Spread of Weapons and Materials of Mass Destruction.

(D) DETECTION AND CHARACTERIZATION CAPABILITIES.—A review of how the United States plans to improve the array of technologies and devices for the detection of weapons of mass destruction to help ensure the homeland is protected from any means by which weapons of mass destruction could be used against the United States and to prevent the unauthorized movement of such weapons.

(E) INTERDICTION CAPABILITIES.—An assessment of the ability of the United States and the international community to interdict in transit illicit equipment, technology, materials, and personnel related to weapons of mass destruction, including—

(i) an assessment of the date, type, number, and impact of interdictions under the Proliferation Security Initiative and any other similar initiatives or programs;

(ii) an assessment of whether and how the capabilities under the Initiative, and any other similar initiatives or programs, can be strengthened to achieve more concrete results; and

(iii) an assessment of the amount of funding needed to support such capabilities.

(F) NUCLEAR INSPECTIONS AND SAFEGUARDS.—A review of how the United States will seek to strengthen the ability of the International Atomic Energy Agency (IAEA) to monitor peaceful nuclear energy programs to ensure that such programs are not used as a cover for nuclear weapons development, including, but not limited to—

(i) how the United States will encourage the adoption and ratification by each nonnuclear weapon state of the Model Additional Protocol with the Agency; and

(ii) how the Executive Branch will implement the United States Additional Protocol with the Agency in light of its inability, thus far, to reach agreement on implementing legislation that would permit United States ratification of the Additional Protocol to which the United States Senate gave its advice and consent to ratification on March 31, 2004.

(G) INTELLIGENCE CAPABILITIES.—A plan for the implementation of intelligence reforms intended to improve intelligence capabilities relating to the proliferation of weapons of mass destruction.

(H) NORTH KOREA AND IRAN.—A plan for each of the following:

(i) Preventing further processing of nuclear weapons material in North Korea and ultimately verifiably eliminating the nuclear weapons program of North Korea.

(ii) Preventing Iran from developing nuclear weapons.

(iii) Persuading other nations not to pursue or proliferate their nuclear weapons or nuclear weapons technologies.

(5) The update required by paragraph (1) shall be submitted to Congress in unclassified form but may include a classified annex if necessary.

SA 1487. Mr. REID submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Departmet of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of division A, add the following:

TITLE XV—NATIONAL COMMISSION ON THE FUTURE OF THE ALL-VOLUNTEER ARMY

SEC. 1501. FINDINGS.

Congress makes the following findings:

(1) The war in Iraq and military operations in Afghanistan and elsewhere around the world have put the regular Army, the Army National Guard, and the Army Reserve under extreme stress.

(2) There is a severe mismatch between the size of the force and the missions that it is being asked to perform.

(3) The operational requirements of a sustained protracted conflict, combined with the supply and demand mismatch, are having a current negative and corrosive effect on the force, which could worsen over time.

(4) The demands on the force are not likely to diminish in the foreseeable future.

(5) 40 percent of the forces in Iraq are from the National Guard or the Reserve.

(6) The severe stresses on the force are having an effect on recruitment and retention for all components of the Army.

(7) The regular component of the Army could be thousands of recruits short of its goal by the end of 2005, and the Army National Guard and the Army Reserve could be even further behind their recruiting goals by that time.

(8) Shortfalls in recruiting impose further stress on the force, exacerbate recruiting and retention difficulties, and put pressure on recruiters to use more aggressive tactics and to lower standards.

(9) The stress is also seen in the day-to-day challenges faced by military families confronting multiple and extended tours of duty in combat operations abroad.

(10) Surveys of members of the National Guard and the Reserve reveal that the combination of multiple and extended tours with the resulting family burdens is the principle reason for the decision of such members not to continue service in the Army.

(11) Addressing size, resources, recruiting, retention, military family quality of life, and others issues facing the Army, the Army National Guard, and the Army Reserve is an urgent national priority.

(12) These are admittedly very complex issues, and a partisan inquiry into who is responsible for ''breaking the force'' is not what is needed.

(13) Given the profound importance of these issues, a bipartisan commission of prominent Americans should study these issues and make recommendations to Congress on an appropriate response to them.

SEC. 1502. ESTABLISHMENT OF COMMISSION.

(a) ESTABLISHMENT.—There is established the National Commission on the Future of the All-Volunteer Army (in this title referred to as the ''Commission'').

(b) MEMBERSHIP.—

(1) COMPOSITION.—The Commission shall be composed of eight members of whom—

(A) two shall be appointed by the Majority Leader of the Senate;

(B) two shall be appointed by the Minority Leader of the Senate;

(C) two shall be appointed by the Speaker of the House of Representatives; and

(D) two shall be appointed by the Minority Leader of the House of Representatives, from among the members of such House.

(2) DATE.—The appointments of the members of the Commission shall be made not later than 90 days after the date of the enactment of this Act.

(c) PERIOD OF APPOINTMENT; VACANCIES.—Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(d) INITIAL MEETING.—Not later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold its first meeting.

(e) MEETINGS.—The Commission shall meet at the call of the Chairman.

(f) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(g) CHAIRMAN AND VICE CHAIRMAN.—The Commission shall select a Chairman and Vice Chairman from among its members.

SEC. 1503. DUTIES OF THE COMMISSION.

(a) STUDY.—

(1) IN GENERAL.—The Commission shall conduct a thorough study of all matters relating to the future of the all-volunteer Army.

(2) MATTERS STUDIED.—In conducting the study, the Commission shall consider—

(A) the roles and missions anticipated for the Army during the five-year period beginning on January 1, 2006, including the role and missions of the Army in homeland defense;

(B) the proper size and structure of the Army in order to perform the roles and missions described in subparagraph (A), including the proper allocation of responsibilities for such roles and missions between the regular component of the Army and the reserve components of the Army;

(C) the proper size and structure of the reserve components of the Army to continue to contribute to the performance of such roles and missions;

(D) whether the current utilization of the reserve components of the Army is compatible with the continuing contribution of the reserve components of the Army to such roles and missions; and

(E) the recruitment and retention practices required to provide for an Army of the size and structure needed to perform such roles and missions, including practices relating to career paths, quality of life for members and their families, compensation, recruitment and retention incentives, and other benefits.

(b) REPORT.—Not later than six months after the date of the enactment of this Act, the Commission shall submit a report to the President and Congress which shall contain a detailed statement of the findings and conclusions of the Commission, together with its recommendations for such legislation and administrative actions as it considers appropriate in light of such findings and conclusions.

SEC. 1504. POWERS OF THE COMMISSION.

(a) 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 this title.

(b) 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 this title. Upon request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

(c) 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.

(d) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

SEC. 1505. COMMISSION PERSONNEL MATTERS.

(a) COMPENSATION OF MEMBERS.—Each member of the Commission who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(b) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(c) STAFF.—

(1) IN GENERAL.—The Chairman of the Commission may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Commission to perform its duties. The employment of an executive director shall be subject to confirmation by the Commission.

(2) COMPENSATION.—The Chairman of the Commission may fix the compensation of the executive director and other personnel without regard to chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(d) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be

detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(e) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairman of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

SEC. 1506. TERMINATION OF THE COMMISSION.

The Commission shall terminate 90 days after the date on which the Commission submits its report under section 1503(b).

SEC. 1507. FUNDING.

(a) IN GENERAL.—Of the amounts authorized to be appropriated by section 301(5) for operation and maintenance, Defense-wide activities, $3,000,000 may be available for the activities of the Commission under this title.

(b) AVAILABILITY.—Amounts available under subsection (a) shall remain available until expended.

SA 1488. Mr. REID submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 309, after line 24, insert the following:

SEC. 1411. COMMISSION ON STRATEGY FOR SUCCESS IN THE GLOBAL WAR ON TERRORISM.

(a) ESTABLISHMENT.—There is established a commission to be known as the Commission on a Strategy for Success in the Global War on Terrorism (in this section referred to as the ''Commission'').

(b) STUDY AND REPORT.—

(1) STUDY.—The Commission shall conduct a study on the strategy, tactics, and metrics for assessing performance and measuring success used by the United States in the conduct of the Global War on Terrorism and submit a report on the findings of such study, as described in paragraph (2).

(2) REPORT.—Not later than 6 months after the date of the enactment of this Act, the Commission shall submit to the appropriate congressional committees a report on the study required by paragraph (1). Such report shall include the following:

(A) Recommendations for a set of benchmarks by which the United States can assess performance and measure success in the following areas:

(i) Reducing the capability of major world wide terrorist organizations for carrying out attacks against the United States and its interests.

(ii) Disrupting senior leadership of major world wide terrorist organizations.

(iii) Decreasing the ability of major world wide terrorist organizations to recruit new members.

(iv) Disrupting major world wide terrorist organizations' access to, movement of, and use of financial assets and key non-financial resources.

(v) Eliminating safe havens and training grounds for major world wide terrorist organizations.

(vi) Preventing terrorists from gaining access to nuclear materials and other weapons of mass destruction.

(vii) Enhancing the public image of the United States within the populations from which terrorists have most often originated.

(B) An assessment of performance and progress by the United States in winning Global War on Terrorism according to the benchmarks set forth by the Commission in accordance with subparagraph (A).

(C) An assessment of the impact of the individual operations carried out by the United States as part of the Global War on Terrorism, including Operation Iraqi Freedom, on overall progress in the Global War on Terrorism.

(D) An analysis of the annual country reports on terrorism produced by the Secretary of State in accordance with section 140 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (22 U.S.C. 2656f), including an assessment of the following:

(i) The effectiveness of the process by which the Secretary of State tabulates and categorizes terrorist attacks and events around the world.

(ii) The accuracy of the data reported in the reports.

(iii) The adequacy of safeguards against the influence of political considerations or other corrupting factors on the quality of data included in the reports.

(iv) Any recommendations the Commission may have for expanding, reconfiguring, or otherwise improving the reports.

(c) MEMBERSHIP.—

(1) NUMBER AND APPOINTMENT.—The Commission shall be composed of 12 members who are appointed not later than one month after the date of the enactment of this Act, as follows:

(A) Two co-chairpersons, of which—

(i) one co-chairperson shall be appointed by a committee consisting of the majority leaders of the Senate and the House of Representatives, and of the chairman of each of the appropriate congressional committees; and

(ii) one co-chairperson shall be appointed by a committee consisting of the minority leaders of the House and Senate, the ranking minority member of each of the appropriate congressional committees.

(B) Five members appointed by the chairman and ranking minority members of the Committee on Armed Services, the Committee on Foreign Relations, and the Committee on Homeland Security and Government Affairs of the Senate.

(C) Five members appointed by the chairmen and ranking minority members of the Committee on Armed Services, the Committee on Homeland Security, and the Committee on International Relations of the House of Representatives.

(2) QUALIFICATIONS.—Individuals appointed to the Commission should have proven experience or expertise in the prosecution of the Global War on Terrorism or in the study and analysis of terrorism, terrorists, United States military strategy, intelligence operations, or other relevant subject matter.

(3) VACANCIES.—Any vacancy on the Commission shall not affect its powers and shall be filled in the manner in which the original appointment was made.

(4) CHAIRPERSONS.—The members appointed pursuant to paragraph (1)(A) shall serve as co-chairpersons of the Commission.

(5) PROHIBITION ON PAY.—Members of the Commission shall serve without pay.

(6) TRAVEL EXPENSES.—Each member of the Commission shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(7) QUORUM.—A majority of the members of the Commission shall constitute a quorum but a lesser number may hold hearings.

(8) MEETINGS.—The Commission shall meet at the call of the chairpersons. The initial meeting of the Commission shall occur not later than two weeks after the date on which not less than six members are appointed. The Commission may select a temporary chairperson until such time as the co-chairpersons have been appointed.

(9) DIRECTOR AND STAFF.—

(A) DIRECTOR.—The Commission shall have a Director who shall be appointed by the Chairperson. The Director shall be paid at a rate not to exceed the rate of basic pay payable for level V of the Executive Schedule.

(B) STAFF.—The Commission may appoint personnel as appropriate. The staff of the Commission shall be appointed subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates.

(10) EXPERTS AND CONSULTANTS.—The Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay payable for the General Schedule.

(11) POWERS.—

(A) HEARINGS AND SESSIONS.—The Commission may, for the purpose of carrying out this section, hold hearings, sit and act at times and places, take testimony, and receive evidence as the Commission considers appropriate.

(B) POWERS OF MEMBERS AND AGENTS.—Any member or agent of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take by this section.

(C) OBTAINING OFFICIAL DATA.—The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this section. Upon request of the chairpersons of the Commission, the head of such department or agency shall furnish information to the Commission in a timely manner.

(D) POSTAL SERVICES.—The Commission may use the United States postal services in the same manner and under the same conditions as other departments and agencies of the United States.

(E) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

(F) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Commission, the Administrator of General Services shall provide to the Commission, on a reimbursable basis, the administrative support services necessary for the Commission to carry out its responsibilities under this section.

(12) SECURITY CLEARANCES FOR COMMISSION MEMBERS AND STAFF.—The appropriate departments and agencies of the United States shall cooperate with the Commission in expeditiously providing to the Commission members and staff appropriate security clearances in a manner consistent with existing procedures and requirements, except that no person shall be provided with access to classified information under this section who would not otherwise qualify for such security clearance.

(d) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term ''appropriate congressional committees'' means the Committee on Armed Services, the Committee on Foreign Relations, and the Committee on Homeland Security and Government Affairs of the Senate and the Committee on Armed Services, the Committee on International Relations, and the Committee on Homeland Security of the House of Representatives.

(e) TERMINATION.—The Commission shall terminate 7 days following the submission of the report described in section (b)(2).

SA 1489. Ms. COLLINS (for Mr. THUNE) proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

On page 371, between lines 8 and 9, insert the following:

SEC. 2887. POSTPONEMENT OF 2005 ROUND OF DEFENSE BASE CLOSURE AND REALIGNMENT.

The Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) is amended—

(1) by adding at the end the following:

"SEC. 2915. POSTPONEMENT OF 2005 ROUND OF DEFENSE BASE CLOSURE AND REALIGNMENT.

''(a) IN GENERAL.—Notwithstanding any other provision of this part, the round of defense base closure and realignment otherwise scheduled to occur under this part in 2005 by reasons of sections 2912, 2913, and 2914 shall occur instead in the year following the year in which the last of the actions described in subsection (b) occurs (in this section referred to as the 'postponed closure round year').

''(b) ACTIONS REQUIRED BEFORE BASE CLOSURE ROUND.—(1) The actions referred to in subsection (a) are the following actions:

''(A) The complete analysis, consideration, and, where appropriate, implementation by the Secretary of Defense of the recommendations of the Commission on Review of Overseas Military Facility Structure of the United States.

''(B) The return from deployment in the Iraq theater of operations of substantially all (as determined by the Secretary of Defense) major combat units and assets of the Armed Forces.

''(C) The receipt by the Committees on Armed Services of the Senate and the House of Representatives of the report on the quadrennial defense review required to be submitted in 2006 by the Secretary of Defense under section 118(d) of title 10, United States Code.

''(D) The complete development and implementation by the Secretary of Defense and the Secretary of Homeland Security of the National Maritime Security Strategy.

''(E) The complete development and implementation by the Secretary of Defense of the Homeland Defense and Civil Support directive.

''(F) The receipt by the Committees on Armed Services of the Senate and the House of Representatives of a report submitted by the Secretary of Defense that assesses military installation needs taking into account—

''(i) relevant factors identified through the recommendations of the Commission on Review of Overseas Military Facility Structure of the United States;

''(ii) the return of the major combat units and assets described in subparagraph (B);

''(iii) relevant factors identified in the report on the 2005 quadrennial defense review;

''(iv) the National Maritime Security Strategy; and

''(v) the Homeland Defense and Civil Support directive.

''(2) The report required under subparagraph (F) of paragraph (1) shall be submitted not later than one year after the occurrence of the last action described in subparagraphs (A) through (E) of such paragraph.

''(c) ADMINISTRATION.—For purposes of sections 2912, 2913, and 2914, each date in a year that is specified in such sections shall be deemed to be the same date in the postponed closure round year, and each reference to a fiscal year in such sections shall be deemed to be a reference to the fiscal year that is the number of years after the original fiscal year that is equal to the number of years that the postponed closure round year is after 2005.''; and

(2) in section 2904(b)—

(A) in the heading, by striking ''CONGRESSIONAL DISAPPROVAL'' and inserting ''CONGRESSIONAL ACTION'';

(B) in paragraph (1)—

(i) in subparagraph (A), by striking ''the date on which the President transmits such report'' and inserting ''the date by which the President is required to transmit such report''; and

(ii) in subparagraph (B), by striking ''such report is transmitted'' and inserting ''such report is required to be transmitted'';

(C) by redesignating paragraph (2) as paragraph (3);

(D) by inserting after paragraph (1) the following new paragraph:

''(2) The Secretary may not carry out any closure or realignment recommended by the Commission in a report transmitted from the President pursuant to section 2903(e) if a recommendation for such closure or realignment is specified as disapproved by Congress in a joint resolution partially disapproving the recommendations of the Commission that is enacted before the earlier of—

''(A) the end of the 45-day period beginning on the date by which the President is required to transmit such report; or

''(B) the adjournment of Congress sine die for the session during which such report is required to be transmitted.''; and

(E) in paragraph (3), as redsignated by subparagraph (C), by striking ''paragraph (1)'' and inserting ''paragraphs (1) and (2)''.

SA 1490. Ms. COLLINS (for Mr. THUNE) proposed to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of subtitle B of title IX, add the following:

SEC. 912. NATIONAL SPACE RADAR SYSTEM.

The Secretary of the Air Force shall proceed with the development and implementation of a national space radar system that employs at least two frequencies.

SA 1491. Ms. COLLINS (for Mr. THUNE (for himself, Mr. LIEBERMAN, Ms. COLLINS, Mr. LAUTENBERG, Mr. SUNUNU, Ms. SNOWE, Mr. JOHNSON, Mr. DODD, Mr. CORZINE, Mr. BINGAMAN, and Mr. DOMENICI)) proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

On page 371, between lines 8 and 9, insert the following:

SEC. 2887. TESTIMONY BY MEMBERS OF THE ARMED FORCES IN CONNECTION WITH THE 2005 ROUND OF DEFENSE BASE CLOSURE AND REALIGNMENT.

(a) SENSE OF THE SENATE.—It is the sense of the Senate that the Secretary of Defense should permit any member of the Armed Forces to provide to the Defense Base Closure and Realignment Commission testimony on the military value of a military installation inside the United States for purposes of the consideration by the Commission of the Secretary's recommendations for the 2005 round of defense base closure and realignment under section 2914(d) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note).

(b) PROTECTION AGAINST RETALIATION.—No member of the Armed Forces may be discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against because such member provided or caused to be provided testimony under subsection (a).

SA 1492. Mr. REED (for Mr. LEVIN (for himself and Mr. REED)) proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

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

SEC. 330. ADDITIONAL AMOUNT FOR COOPERATIVE THREAT REDUCTION PROGRAMS.

(a) INCREASED AMOUNT FOR OPERATION AND MAINTENANCE, COOPERATIVE THREAT REDUCTION PROGRAMS.—The amount authorized to be appropriated by section 301(19) for the Cooperative Threat Reduction programs is hereby increased by $50,000,000.

(b) OFFSET.—Of the amount authorized to be appropriated by section 201(4) for research, development, test, and evaluation, Defense-wide activities, is hereby reduced by $50,000,000, with the amount of the reduction to be allocated as follows:

(1) The amount available in Program Element 0603882C for long lead procurement of Ground-Based Interceptors is hereby reduced by $30,000,000.

(2) The amount available for initial construction of associated silos is hereby reduced by $20,000,000.

SA 1493. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

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

SEC. 330. ADDITIONAL AMOUNT FOR COOPERATIVE THREAT REDUCTION PROGRAMS.

(a) INCREASED AMOUNT FOR OPERATION AND MAINTENANCE, COOPERATIVE THREAT REDUCTION PROGRAMS.—The amount authorized to be appropriated by section 301(19) for the Cooperative Threat Reduction programs is hereby increased by $63,000,000.

(b) OFFSET.—Of the amount authorized to be appropriated by section 201(4) for research, development, test, and evaluation, Defense-wide—

(1) the amount available in Program Element 0603882C for long lead procurement of Ground-Based Interceptors 31–40 is hereby reduced by $50,000,000; and

(2) the amount available for initial construction of associated silos is hereby reduced by $13,000,000.

SA 1494. Mr. LEVIN (for himself, Mr. KENNEDY, Mr. ROCKEFELLER, and Mr. REED) submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of division A, add the following:

TITLE XV—NATIONAL COMMISSION ON POLICIES AND PRACTICES ON TREATMENT OF DETAINEES SINCE SEPTEMBER 11, 2001

SEC. 1501. FINDINGS.

Congress makes the following findings:

(1) The vast majority of the members of the Armed Forces have served honorably and upheld the highest standards of professionalism and morality.

(2) While there have been numerous reviews, inspections, and investigations by the Department of Defense and others regarding aspects of the treatment of individuals detained in the course of Operation Enduring Freedom, Operation Iraqi Freedom, or United States activities to counter international terrorism since September 11, 2001, none has provided a comprehensive, objective, and independent investigation of United States policies and practices relating to the treatment of such detainees.

(3) The reports of the various reviews, inspections, and investigations conducted by the Department of Defense and others have left numerous omissions and reached conflicting conclusions regarding institutional and personal responsibility for United States policies and practices on the treatment of the detainees described in paragraph (2) that may have caused or contributed to the mistreatment of such detainees.

(4) Omissions in the reports produced to date also include omissions relating to—

(A) the authorities of the intelligence community for activities to counter international terrorism since September 11, 2001, including the rendition of detainees to foreign countries, and whether such authorities differed from the authorities of the military for the detention and interrogation of detainees;

(B) the role of intelligence personnel in the detention and interrogation of detainees;

(C) the role of special operations forces in the detention and interrogation of detainees; and

(D) the role of contract employees in the detention and interrogation of detainees.

SEC. 1502. ESTABLISHMENT OF COMMISSION.

There is established the National Commission on United States Policies and Practices Relating to the Treatment of Detainees Since September 11, 2001 (in this title referred to as the ''Commission'').

SEC. 1503. COMPOSITION OF THE COMMISSION.

(a) MEMBERS.—The Commission shall be composed of 10 members, of whom—

(1) 1 member shall be appointed by the President, who shall serve as chairman of the Commission;

(2) 1 member shall be appointed by the senior member of the leadership of the Senate of the Democratic Party, in consultation with the senior member of the leadership of the House of Representatives of the Democratic Party, who shall serve as vice chairman of the Commission;

(3) 2 members shall be appointed by the senior member of the Senate leadership of the Republican Party;

(4) 2 members shall be appointed by the senior member of the Senate leadership of the Democratic Party;

(5) 2 members shall be appointed by the senior member of the leadership of the House of Representatives of the Republican Party; and

(6) 2 members shall be appointed by the senior member of the leadership of the House of Representatives of the Democratic Party.

(b) QUALIFICATIONS; INITIAL MEETING.—

(1) POLITICAL PARTY AFFILIATION.—Not more than 5 members of the Commission shall be from the same political party.

(2) NONGOVERNMENTAL APPOINTEES.—An individual appointed to the Commission may not be an officer or employee of the Federal Government or any State or local government.

(3) OTHER QUALIFICATIONS.—It is the sense of Congress that individuals appointed to the Commission should be prominent United States citizens, with national recognition and significant depth of experience in such professions as governmental service, the Armed Forces, intelligence gathering or analysis, law, public administration, law enforcement, and foreign affairs.

(4) DEADLINE FOR APPOINTMENT.—All members of the Commission shall be appointed not later than 30 days after the date of the enactment of this Act.

(c) MEETINGS; QUORUM; VACANCIES.—

(1) INITIAL MEETING.—The Commission shall meet and begin the operations as soon as practicable after all members have been appointed under subsection (b).

(2) MEETINGS.—After its initial meeting under paragraph (1), the Commission shall meet upon the call of the chairman or a majority of its members.

(3) QUORUM.—Six members of the Commission shall constitute a quorum.

(4) VACANCIES.—Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

SEC. 1504. PURPOSES.

(a) IN GENERAL.—The purposes of the Commission are to—

(1) examine and report upon the policies and practices of the United States relating to the treatment of individuals detained in Operation Enduring Freedom (OEF), Operation Iraqi Freedom (OIF), or United States activities to counter international terrorism since September 11, 2001 (in this title referred to as ''detainees'') , including the rendition of detainees to foreign countries;

(2) examine, evaluate, and report on the causes of and factors that may have contributed to the alleged mistreatment of detainees, including, but not limited to—

(A) laws and policies of the United States relating to the detention or interrogation of detainees, including the rendition of detainees to foreign countries;

(B) activities of special operations forces of the Armed Forces;

(C) activities of contract employees of any department, agency, or other entity of the United States Government, including for the rendition of detainees to foreign countries; and

(D) activities of employees of the Central Intelligence Agency, the Defense Intelligence Agency, or any other element of the intelligence community;

(3) assess the responsibility of leaders, whether military or civilian, within and outside the Department of Defense for policies and actions, or failures to act, that may have contributed, directly or indirectly, to the mistreatment of detainees;

(4) ascertain, evaluate, and report on the effectiveness and propriety of interrogation techniques, policies, and practices for producing useful and reliable intelligence;

(5) ascertain, evaluate, and report on all planning for long-term detention, or procedures for prosecution by civilian courts or military tribunals or commission, of detainees in the custody of any department, agency, or other entity of the United States Government or who have been rendered to any foreign government or entity; and

(6) investigate and submit a report to the President and Congress on the Commission's findings, conclusions, and recommendations, including any modifications to existing treaties, laws, policies, or regulations, as appropriate.

(b) UTILIZATION OF OTHER MATERIALS.—The Commission may build upon reports conducted by the Department of Defense or other entities by reviewing the source materials, findings, conclusions, and recommendations of those other reviews in order to—

(1) avoid unnecessary duplication; and

(2) identify any omissions in or conflicts between such reports which in the Commission's view merit further investigation.

SEC. 1505. FUNCTIONS OF COMMISSION.

The functions of the Commission are to—

(1) conduct an investigation that ascertains relevant facts and circumstances relating to—

(A) laws, policies, and practices of the United States relating to the treatment of detainees since September 11, 2001, including any relevant treaties, statutes, Executive orders, regulations, plans, policies, practices, or procedures;

(B) activities of any department, agency, or other entity of the United States Government relating to Operation Enduring Freedom, Operation Iraqi Freedom, and efforts to counter international terrorism since September 11, 2001;

(C) the role of private contract employees in the treatment of detainees;

(D) the role of legal and medical personnel in the treatment of detainees, including the role of medical personnel in advising on plans for, and the conduct of, interrogations;

(E) dealings of any department, agency, or other entity of the United States Government with the International Committee of the Red Cross;

(F) the role of congressional oversight; and

(G) other areas of the public and private sectors determined relevant by the Commission for its inquiry;

(2) identify and review how policies regarding the detention, interrogation, and rendition of detainees were formulated and implemented, and evaluate such policies in light of lessons learned from activities in Iraq, Afghanistan, Guantanamo Bay, Cuba, and elsewhere; and

(3) submit to the President and Congress such reports as are required by this title containing such findings, conclusions, and recommendations as the Commission shall determine, including proposing any appropriate modifications in legislation, organization, coordination, planning, management, procedures, rules, and regulations.

SEC. 1506. POWERS OF COMMISSION.

(a) IN GENERAL.—

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

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

(B) subject to paragraph (2)(A), require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, and documents,

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

(2) SUBPOENAS.—

(A) ISSUANCE.—

(i) IN GENERAL.—A subpoena may be issued under this subsection only—

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

(II) by the affirmative vote of 6 members of the Commission.

(ii) SIGNATURE.—Subject to clause (i), subpoenas issued under this subsection may be issued under the signature of the chairman or any member designated by a majority of the Commission, and may be served by any person designated by the chairman or by a member designated by a majority of the Commission.

(B) ENFORCEMENT.—

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

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

(b) CONTRACTING.—The Commission may, to such extent and in such amounts as are provided in appropriation Acts, enter into contracts to enable the Commission to discharge its duties under this title.

(c) INFORMATION AND MATERIALS FROM FEDERAL AGENCIES.—

(1) IN GENERAL.—

(A) COOPERATION OF AGENCIES.—The Commission shall receive the full and timely cooperation of any department, agency, element, bureau, board, commission, independent establishment, or other instrumentality of the United States Government, and of any officer or employee thereof, whose assistance is necessary for the fulfillment of the duties of the Commission under this title.

(B) FURNISHING OF MATERIALS.—The Commission is authorized to secure directly from any department, agency, element, bureau, board, commission, independent establishment, or other instrumentality of the United States Government information, materials (including classified materials), suggestions, estimates, and statistics for the purposes of this title. Each such department, agency, element, bureau, board, commission, independent establishment, or other instrumentality shall, to the maximum extent authorized by law, furnish all such information, materials, suggestions, estimates, and statistics directly to the Commission, promptly upon a request made by the chairman, the chairman of any subcommittee created by a majority of the Commission, or any member designated by a majority of the Commission, but in no case later than 14 days after such a request.

(2) RECEIPT, HANDLING, STORAGE, AND DISSEMINATION.—Information and materials shall be received, handled, stored, and disseminated by members of the Commission and its staff consistent with all applicable statutes, regulations, and Executive orders. The Commission shall maintain all classified information and materials provided to the Commission under this title in a secure location in the offices of the Commission or as designated by the Commission.

(3) ACCESS TO INFORMATION AND MATERIALS.—No department, agency, element, bureau, board, commission, independent establishment, or other instrumentality of the United States may withhold information or materials, including classified materials, from the Commission on the grounds that providing the information or materials would constitute the unauthorized disclosure of classified information, pre-decisional materials, or information relating to intelligence sources or methods.

(d) ASSISTANCE FROM PARTICULAR FEDERAL AGENCIES.—

(1) GENERAL SERVICES ADMINISTRATION.—The Administrator of General Services shall provide to the Commission on a reimbursable basis administrative support and other services for the performance of the Commission's functions.

(2) OTHER DEPARTMENTS AND AGENCIES.—In addition to the assistance prescribed in paragraph (1), departments, agencies, and other elements of the United States Government may provide to the Commission such services, funds, facilities, staff, and other support services as they may determine advisable and as may be authorized by law.

(e) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as departments and agencies of the United States Government.

SEC. 1507. COMPENSATION AND TRAVEL EXPENSES.

(a) COMPENSATION.—Each member of the Commission shall be compensated at not to exceed the daily equivalent of the annual rate of basic pay in effect for a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day during which that member is engaged in the actual performance of the duties of the Commission.

(b) TRAVEL EXPENSES.—While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5, United States Code.

SEC. 1508. STAFF OF COMMISSION.

(a) IN GENERAL.—

(1) APPOINTMENT AND COMPENSATION.—The chairman, in consultation with the vice chairman and in accordance with rules agreed upon by the Commission, may appoint and fix the compensation of a staff director and such other personnel as may be necessary to enable the Commission to carry out its functions, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no rate of pay fixed under this subsection may exceed the equivalent of that payable for a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

(2) PERSONNEL AS FEDERAL EMPLOYEES.—

(A) TREATMENT.—The staff director and any personnel of the Commission who are employees of the Commission shall be treated as employees of the Federal Government under section 2105 of title 5, United States Code, for purposes of chapters 63, 81, 83, 84, 85, 87, 89, and 90 of that title.

(B) EXCEPTION.—Subparagraph (A) shall not apply to members of the Commission.

(b) DETAILEES.—Any Federal Government employee may be detailed to the Commission without reimbursement from the Commission, and such detailee shall retain the rights, status, and privileges of his or her regular employment without interruption.

(c) CONSULTANT SERVICES.—The Commission is authorized to procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code, but at rates not to exceed the daily rate paid a person occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code.

SEC. 1509. SECURITY CLEARANCES FOR COMMISSION MEMBERS AND STAFF.

The departments, agencies, and elements of the United States Government shall cooperate with the Commission in expeditiously providing to the Commission members and staff appropriate security clearances to the extent possible pursuant to existing procedures and requirements. No person shall be provided with access to classified information under this title without the appropriate security clearances.

SEC. 1510. NONAPPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.

(a) IN GENERAL.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission.

(b) PUBLIC MEETINGS AND RELEASE OF PUBLIC VERSIONS OF REPORTS.—The Commission shall—

(1) hold public hearings and meetings to the extent appropriate; and

(2) release public versions of the reports required under section 1511.

(c) PUBLIC HEARINGS.—Any public hearings of the Commission shall be conducted in a manner consistent with the protection of information provided to or developed for or by the Commission as required by any applicable statute, regulation, or Executive order.

SEC. 1511. REPORTS OF COMMISSION; TERMINATION.

(a) INTERIM REPORTS.—The Commission may submit to the President and Congress interim reports containing such findings, conclusions and recommendations as have been agreed to by a majority of Commission members.

(b) FINAL REPORT.—Not later than 12 months after the date of the enactment of this Act, the Commission shall submit to the President and Congress a final report containing such findings, conclusions, and recommendations as have been agreed to by a majority of Commission members.

(c) TERMINATION.—

(1) IN GENERAL.—The Commission, and all the authorities of this title, shall terminate 60 days after the date on which the final report is submitted under subsection (b).

(2) ADMINISTRATIVE ACTIVITIES BEFORE TERMINATION.—The Commission may use the 60-day period referred to in paragraph (1) for the purpose of concluding its activities, including providing testimony to committees of Congress concerning its reports, disseminating the final report.

SEC. 1512. FUNDING.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to

the Commission to carry out this section $2,500,000.

(b) DURATION OF AVAILABILITY.—Amounts made available to the Commission under subsection (a) shall remain available until the termination of the Commission.

SA 1495. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 371, between lines 8 and 9, insert the following:

SEC. 2887. TREATMENT OF INDIAN TRIBE GOVERNMENTS AS PUBLIC ENTITIES FOR PURPOSES OF DISPOSAL OF REAL PROPERTY RECOMMENDED FOR CLOSURE IN JULY 2003 BRAC COMMISSION REPORT.

Section 8013 of the Department of Defense Appropriations Act, 1994 (Public Law 103–139; 107 Stat. 1440) is amended by striking ''the report to the President from the Defense Base Closure and Realignment Commission, July 1991'' and inserting ''the reports to the President from the Defense Base Closure and Realignment Commission, July 1991 and July 1993''.

SA 1496. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of title XII, add the following:

SEC. 1205. LIMITATION ON AVAILABILITY OF FUNDS FOR NORMALIZATION OF RELATIONS WITH GOVERNMENT OF LIBYA.

None of the funds authorized to be appropriated by this Act or any other Act may be obligated or expended for purposes of negotiations towards normalizing relations with the Government of Libya until the Attorney General, in consultation with the Secretary of State and the Secretary of Defense, certifies to Congress that the Government of Libya has made a good faith offer in the negotiations on the claims of members of the Armed Forces of the United States who were injured in the bombing of the LaBelle Discotheque in Berlin, Germany, and the claims of family members of members of the Armed Forces of the United States who were killed in that bombing.

SA 1497. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of subtitle A of title VIII, add the following:

SEC. 807. LIMITATION ON EXCESS CHARGES UNDER TIME-AND-MATERIALS AND LABOR-HOUR CONTRACTS.

(a) REGULATIONS REQUIRED.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall prescribe regulations governing the the terms and conditions of time-and-materials contracts and labor-hour contracts entered into for or on behalf of the Department of Defense.

(b) LIMITATION ON EXCESS CHARGES.—

(1) IN GENERAL.—The regulations prescribed pursuant to subsection (a) shall authorize the use of a time-and-materials contract or a labor-hour contract for or on behalf of the Department of Defense only if the contract provides for acquiring supplies or services on the basis of—

(A) direct labor hours provided by the prime contractor at specified fixed hourly rates that include wages, overhead, general and administrative expenses, and profit; and

(B) the reimbursement of the prime contractor for the reasonable costs (including overhead, general and administrative expenses, and profit, to the extent permitted under the regulations) of subcontracts for supplies and subcontracts for services, except as provided in paragraph (2).

(2) SUBCONTRACTOR LABOR HOURS.—Direct labor hours provided by a subcontractor may be provided on the basis of specified fixed hourly rates that include wages, overhead, general and administrative expenses, and profit only if such hourly rates are set forth in the contract for that specific subcontractor.

(c) DEPARTMENT OF DEFENSE PURCHASES THROUGH CONTRACTS ENTERED BY NON-DEFENSE AGENCIES.—The regulations prescribed pursuant to subsection (a) shall include appropriate measures to ensure compliance with the requirements of this section in all Department of Defense purchases through non-defense agencies.

(d) EFFECTIVE DATE.—The regulations prescribed pursuant to subsection (a) shall take effect on the date that is 90 days after the date of the enactment of this Act, and shall apply to—

(1) all contracts awarded for or on behalf of the Department of Defense on or after such date; and

(2) all task or delivery orders issued for or on behalf of the Department of Defense on or after such date, regardless whether the contracts under which such task or delivery orders are issued were awarded before, on, or after such date.

SA 1498. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

SEC. ____. Not later than 90 days after the date of enactment of this Act, the Secretary of Defense shall submit a report to the appropriate Congressional committees with the following information—

(a) Whether records of civilian casualties in Afghanistan and Iraq are kept by the Department, and if so, how and from what sources this information is collected, where it is kept, and who is responsible for maintaining such records.

(b) Whether such records indicate (1) who caused the casualties (whether hostile government forces, insurgent forces, United States Armed Forces, ,or other); (2) a description of the circumstances under which the casualties occurred; (3) if the casualties were fatalities or injuries; (4) if any condolence payment, compensation or assistance was provided to the victim or to the victim's family; (5) an estimate of the total number of such casualties, and (6) any other information relating to the casualties.

SA 1499. Mr. KERRY submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 219, strike lines 20 through 25 and insert the following:

(3) REPORT.—

(A) IN GENERAL.—The Secretary of Defense shall submit to the Committee on Armed Services and the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Armed Services and the Committee on Small Business of the House of Representatives on an annual basis a report setting forth the research programs identified under paragraph (1) during the preceding year.

(B) CONTENTS.—Each report under subparagraph (A) shall include, for the year covered by such report, a description of—

(i) the incentives and actions taken by prime contractors and program managers to increase Phase III awards under the Small Business Innovation Research Program; and

(ii) the requirements intended to be met by each program identified in the report.

(4) PILOT PROGRAM.—

(A) IN GENERAL.—The Secretary of each military department is authorized to use not more than an amount equal to 1 percent of the funds available to the military department for the Small Business Innovation Research Program and the Small Business Technology Transfer Program for a pilot program to transition programs that have successfully completed Phase II of the Small Business Innovation Research Program to Phase III of the Program.

(B) TERM.—A pilot program under subparagraph (A) shall terminate not later than 3 years after the date on which the pilot program is initiated.

SA 1500. Mr. KERRY submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 237, after line 17, insert the following:

SEC. 846. RADIO FREQUENCY IDENTIFIER TECHNOLOGY.

(a) SMALL BUSINESS STRATEGY.—As part of implementing its requirement that contractors use radio frequency identifier technology, the Secretary of Defense shall develop and implement—

(1) best practice standards regarding the use of that technology to ensure that the Department of Defense meets its contracting

goals for the utilization of small business concerns (as defined in section 3 of the Small Business Act (15 U.S.C. 632)), in Department of Defense contracts; and

(2) a strategy to educate the small business community regarding radio frequency identifier technology requirements, compliance, standards, and opportunities.

(b) REPORTING.—

(1) INITIAL REPORT.—Not later than 60 days after the date of enactment of this Act, the Secretary of Defense shall submit a report to the Committee on Small Business and Entrepreneurship and the Committee on Armed Services of the Senate and the Committee on Small Business and the Committee on Armed Services of the House of Representatives detailing the status of the efforts by the Secretary of Defense to establish requirements for radio frequency identifier technology used in Department of Defense contracting, including—

(A) standardization of the data required to be reported by such technology; and

(B) standardization of the manufacturing quality required for such technology.

(2) ANNUAL REPORT.—Not later than 1 year after the date of submission of the report under paragraph (1), and annually thereafter, the Secretary of Defense shall submit a report to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives detailing—

(A) the information described in paragraph (1);

(B) the status of the efforts of the Secretary of Defense to develop and implement the best practice standards required by subsection (a)(1); and

(C) the status of the efforts of the Secretary of Defense to develop and implement a strategy to educate the small business community, as required by subsection (a)(2).

SA 1501. Mr. KERRY submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

SEC. ___. CREDIT FOR INCOME DIFFERENTIAL FOR EMPLOYMENT OF ACTIVATED MILITARY RESERVIST AND REPLACEMENT PERSONNEL.

(a) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to foreign tax credit, etc.) is amended by adding at the end the following new section:

"SEC. 30B. EMPLOYER WAGE CREDIT FOR ACTIVATED MILITARY RESERVISTS.

''(a) GENERAL RULE.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of—

''(1) in the case of an eligible small business employer, the employment credit with respect to all qualified employees and qualified replacement employees of the taxpayer, plus

''(2) the self-employment credit of a qualified self-employed taxpayer.

''(b) EMPLOYMENT CREDIT.—For purposes of this section—

''(1) QUALIFIED EMPLOYEES.—

''(A) IN GENERAL.—The employment credit with respect to a qualified employee of the taxpayer for any taxable year is equal to 40 percent of so much of the excess (if any) paid by the taxpayer to such qualified employee of—

''(i) the qualified employee's average daily qualified compensation for the taxable year, over

''(ii) the average daily military pay and allowances received by the qualified employee during the taxable year while participating in qualified reserve component duty to the exclusion of the qualified employee's normal employment duties,

for the aggregate number of days the qualified employee participates in qualified reserve component duty during the taxable year (including time spent in a travel status) as does not exceed $25,000. The employment credit, with respect to all qualified employees, is equal to the sum of the employment credits for each qualified employee under this subsection.

''(B) AVERAGE DAILY QUALIFIED COMPENSATION AND AVERAGE DAILY MILITARY PAY AND ALLOWANCES.—As used with respect to a qualified employee—

''(i) the term 'average daily qualified compensation' means the qualified compensation of the qualified employee for the taxable year divided by 365, and

''(ii) the term 'average daily military pay and allowances' means—

''(I) the amount paid to the qualified employee during the taxable year as military pay and allowances on account of the qualified employee's participation in qualified reserve component duty, divided by

''(II) the total number of days the qualified employee participates in qualified reserve component duty, including time spent in travel status.

''(C) QUALIFIED COMPENSATION.—When used with respect to the compensation paid to a qualified employee for any period during which the qualified employee participates in qualified reserve component duty, the term 'qualified compensation' means—

''(i) compensation which is normally contingent on the qualified employee's presence for work and which would be deductible from the taxpayer's gross income under section 162(a)(1) if the qualified employee were present and receiving such compensation,

''(ii) compensation which is not characterized by the taxpayer as vacation or holiday pay, or as sick leave or pay, or as any other form of pay for a nonspecific leave of absence, and with respect to which the number of days the qualified employee participates in qualified reserve component duty does not result in any reduction in the amount of vacation time, sick leave, or other nonspecific leave previously credited to or earned by the qualified employee, and

''(iii) group health plan costs (if any) with respect to the qualified employee.

''(D) QUALIFIED EMPLOYEE.—The term 'qualified employee' means a person who—

''(i) has been an employee of the taxpayer for the 91-day period immediately preceding the period during which the employee participates in qualified reserve component duty, and

''(ii) is a member of the Ready Reserve of a reserve component of an Armed Force of the United States as defined in sections 10142 and 10101 of title 10, United States Code.

''(2) QUALIFIED REPLACEMENT EMPLOYEES.—

''(A) IN GENERAL.—The employment credit with respect to a qualified replacement employee of the taxpayer for any taxable year is equal to 40 percent of so much of the individual's qualified compensation attributable to service rendered as a qualified replacement employee as does not exceed $15,000. The employment credit, with respect to all qualified replacement employees, is equal to the sum of the employment credits for each qualified replacement employee under this subsection.

''(B) QUALIFIED COMPENSATION.—When used with respect to the compensation paid to a qualified replacement employee, the term 'qualified compensation' means—

''(i) compensation which is normally contingent on the qualified replacement employee's presence for work and which is deductible from the taxpayer's gross income under section 162(a)(1),

''(ii) compensation which is not characterized by the taxpayer as vacation or holiday pay, or as sick leave or pay, or as any other form of pay for a nonspecific leave of absence, and

''(iii) group health plan costs (if any) with respect to the qualified replacement employee.

''(C) QUALIFIED REPLACEMENT EMPLOYEE.—The term 'qualified replacement employee' means an individual who is hired to replace a qualified employee or a qualified self-employed taxpayer, but only with respect to the period during which such employee or taxpayer participates in qualified reserve component duty, including time spent in travel status, and, in the case of a qualified employee, is receiving qualified compensation (as defined in paragraph (1)(C)) for which an employment credit is allowed as determined under paragraph (1).

''(c) SELF-EMPLOYMENT CREDIT.—For purposes of this section—

''(1) IN GENERAL.—The self-employment credit of a qualified self-employed taxpayer for any taxable year is equal to 40 percent of so much of the excess (if any) of—

''(A) the qualified self-employed taxpayer's average daily qualified compensation for the taxable year, over

''(B) the average daily military pay and allowances received by the taxpayer during the taxable year while participating in qualified reserve component duty to the exclusion of the taxpayer's normal self-employment duties,

for the aggregate number of days the taxpayer participates in qualified reserve component duty during the taxable year (including time spent in a travel status) as does not exceed $25,000.

''(2) AVERAGE DAILY QUALIFIED COMPENSATION AND AVERAGE DAILY MILITARY PAY AND ALLOWANCES.—As used with respect to a qualified self-employed taxpayer—

''(A) the term 'average daily qualified compensation' means the qualified compensation of the qualified self-employed taxpayer for the taxable year divided by 365 days, and

''(B) the term 'average daily military pay and allowances' means—

''(i) the amount paid to the taxpayer during the taxable year as military pay and allowances on account of the taxpayer's participation in qualified reserve component duty, divided by

''(ii) the total number of days the taxpayer participates in qualified reserve component duty, including time spent in travel status.

''(3) QUALIFIED COMPENSATION.—When used with respect to the compensation paid to a qualified self-employed taxpayer for any period during which the qualified self-employed taxpayer participates in qualified reserve component duty, the term 'qualified compensation' means—

''(A) the self-employment income (as defined in section 1402(b) of the taxpayer which is normally contingent on the taxpayer's presence for work,

''(B) compensation which is not characterized by the taxpayer as vacation or holiday pay, or as sick leave or pay, or as any other form of pay for a nonspecific leave of absence, and

''(C) the amount paid for insurance which constitutes medical care for the taxpayer for

such year (within the meaning of section 162(l)).

''(4) QUALIFIED SELF-EMPLOYED TAXPAYER.—The term 'qualified self-employed taxpayer' means a taxpayer who—

''(A) has net earnings from self-employment (as defined in section 1402(a)) for the taxable year, and

''(B) is a member of the Ready Reserve of a reserve component of an Armed Force of the United States.

''(d) COORDINATION WITH OTHER CREDITS.—The amount of credit otherwise allowable under sections 51(a) and 1396(a) with respect to any employee shall be reduced by the credit allowed by this section with respect to such employee.

''(e) LIMITATIONS.—

''(1) APPLICATION WITH OTHER CREDITS.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess (if any) of—

''(A) the regular tax for the taxable year reduced by the sum of the credits allowable under subpart A and sections 27, 29, and 30, over

''(B) the tentative minimum tax for the taxable year.

''(2) DISALLOWANCE FOR FAILURE TO COMPLY WITH EMPLOYMENT OR REEMPLOYMENT RIGHTS OF MEMBERS OF THE RESERVE COMPONENTS OF THE ARMED FORCES OF THE UNITED STATES.—No credit shall be allowed under subsection (a) to a taxpayer for—

''(A) any taxable year, beginning after the date of the enactment of this section, in which the taxpayer is under a final order, judgment, or other process issued or required by a district court of the United States under section 4323 of title 38 of the United States Code with respect to a violation of chapter 43 of such title, and

''(B) the 2 succeeding taxable years.

''(3) DISALLOWANCE WITH RESPECT TO PERSONS ORDERED TO ACTIVE DUTY FOR TRAINING.—No credit shall be allowed under subsection (a) to a taxpayer with respect to any period by taking into account any person who is called or ordered to active duty for any of the following types of duty:

''(A) Active duty for training under any provision of title 10, United States Code.

''(B) Training at encampments, maneuvers, outdoor target practice, or other exercises under chapter 5 of title 32, United States Code.

''(C) Full-time National Guard duty, as defined in section 101(d)(5) of title 10, United States Code.

''(f) GENERAL DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) ELIGIBLE SMALL BUSINESS EMPLOYER.—

''(A) IN GENERAL.—The term 'eligible small business employer' means, with respect to any taxable year, any employer which—

''(i) employed an average of 100 or fewer employees on business days during such taxable year, and

''(ii) under a written plan of the employer, provides the excess amount described in subsection (b)(1)(A) to every qualified employee of the employer.

''(B) CONTROLLED GROUPS.—For purposes of subparagraph (A), all persons treated as a single employer under subsection (b), (c), (m), or (o) of section 414 shall be treated as a single employer.

''(2) MILITARY PAY AND ALLOWANCES.—The term 'military pay' means pay as that term is defined in section 101(21) of title 37, United States Code, and the term 'allowances' means the allowances payable to a member of the Armed Forces of the United States under chapter 7 of that title.

''(3) QUALIFIED RESERVE COMPONENT DUTY.—The term 'qualified reserve component duty' includes only active duty performed, as designated in the reservist's military orders, in support of a contingency operation as defined in section 101(a)(13) of title 10, United States Code.

''(4) CARRYBACK AND CARRYFORWARD ALLOWED.—

''(A) IN GENERAL.—If the credit allowable under subsection (a) for a taxable year exceeds the amount of the limitation under subsection (f)(1) for such taxable year (in this paragraph referred to as the 'unused credit year'), such excess shall be a credit carryback to the taxable year preceding the unused credit year and a credit carryforward to each of the 20 taxable years following the unused credit year.

''(B) RULES.—Rules similar to the rules of section 39 shall apply with respect to the credit carryback and credit carryforward under subparagraph (A).

''(5) CERTAIN RULES TO APPLY.—Rules similar to the rules of subsections (c), (d), and (e) of section 52 shall apply.''.

(b) NO DEDUCTION FOR COMPENSATION TAKEN INTO ACCOUNT FOR CREDIT.—Section 280C(a) of the Internal Revenue Code of 1986 (relating to rule for employment credits) is amended—

(1) by inserting ''or compensation'' after ''salaries'', and

(2) by inserting ''30B,'' before ''45A(a),''.

(c) CONFORMING AMENDMENT.—Section 55(c)(2) of the Internal Revenue Code of 1986 is amended by inserting ''30B(e)(1),'' after ''30(b)(3),''.

(d) CLERICAL AMENDMENT.—The table of sections for subpart B of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end of 30A the following new item:

''Sec. 30B. Employer wage credit for activated military reservists.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid in taxable years beginning after December 31, 2004.

SA 1502. Mr. KERRY submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle A of title VI, add the following:

SEC. 605. PERMANENT EXTENSION OF PERIOD OF TEMPORARY CONTINUATION OF BASIC ALLOWANCE FOR HOUSING FOR DEPENDENTS OF MEMBERS OF THE ARMED FORCES WHO DIE ON ACTIVE DUTY.

Effective immediately after the termination, pursuant to subsection (b) of section 1022 of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005 (Public Law 109–13; 119 State. 251), of the amendments made by subsection (a) of such section, section 403(1) of title 37, United States Code, is amended by striking ''180 days'' each place it appears and inserting ''365 days''.

SA 1503. Mr. KERRY submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. REPORT ON EDUCATIONAL BENEFITS FOR VETERANS.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary of Defense and the Secretary of Veterans Affairs shall submit a report containing the information described in subsection (b) to—

(1) the Committee on Armed Services of the Senate;

(2) the Committee on Armed Services of the House of Representatives;

(3) the Committee on Veterans' Affairs of the Senate; and

(4) the Committee on Veterans' Affairs of the House of Representatives.

(b) CONTENTS.—The report under subsection (a) shall include—

(1) an analysis by the Department of Defense of the effect on recruitment of educational benefits under the Montgomery GI Bill, including—

(A) the percentage of personnel who sign up for such educational benefits; and

(B) the importance of such educational benefits in the decision of an individual to enlist;

(2) an analysis by the Department of Veterans Affairs of the effect on readjustment of educational benefits under the Montgomery GI Bill, including—

(A) the percentage who use partial benefits;

(B) the percentage who use full benefits; and

(C) the reasons that veterans choose not to use benefits;

(3) suggestions of ways to improve educational benefits in order to improve recruiting, retention and readjustment;

(4) cost estimates for the improvements suggested under paragraph (3);

(5) projected 5-year and 10-year costs of educational benefits under chapters 1606 and 1607 of title 10, United States Code, and section 3015 of title 38, United States Code; and

(6) projected 5-year and 10-year costs under chapters 1606 and 1607 of title 10, United States Code, and section 3015 of title 38, United States Code, if the baseline 3-year active duty rate is increased to cover the average price of—

(A) a public 4-year secondary education (commuter tuition and fees, room and board, books and supplies, transportation and other expenses);

(B) a public 4-year secondary education (non-commuter tuition and fees, room and board, books and supplies, transportation and other expenses);

(C) a public 4-year secondary education (commuter tuition and fees, room and board); and

(D) a public 4-year secondary education (non-commuter tuition and fees, room and board).

(c) CALCULATION.—In calculating costs under paragraphs (5) and (6) of subsection (b)—

(1) future costs shall be adjusted for inflation using the ''college tuition and fees'' component of the Consumer Price Index; and

(2) the ratio between the cost of benefits under chapters 1606 and 1607 of title 10, United States Code, and the cost of benefits under section 3015 of title 38, United States Code, shall be the same as the ratio between such costs as of the date of enactment of this Act.

SA 1504. Mr. KERRY submitted an amendment intended to be proposed by

him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle B of title II, add the following:

SEC. 213. PROJECT SHERIFF.

(a) AVAILABILITY OF AMOUNT.—Of the amount authorized to be appropriated by section 201(4) for research, development, test, and evaluation for Defense-wide activities, the amount available for the Force Transformation Directorate is hereby increased by $10,000,000, with the amount of the increase to be available for Project Sheriff.

(b) OFFSET.—Of the amount authorized to be appropriated by section 201(4) for research, development, test, and evaluation for Defense-wide activities the amount available for the Transformation Initiatives Program is hereby reduced by $10,000,000.

SA 1505. Mr. GRAHAM (for himself, Mr. WARNER, and Mr. MCCAIN) submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of subtitle G of title X, add the following:

SEC. 1073. AUTHORITY TO UTILIZE COMBATANT STATUS REVIEW TRIBUNALS AND ANNUAL REVIEW BOARD TO DETERMINE STATUS OF DETAINEES AT GUANTANAMO BAY, CUBA.

(a) AUTHORITY.—The President is authorized to utilize the Combatant Status Review Tribunals and a noticed Annual Review Board, and the procedures thereof as specified in subsection (b), currently in operation at Guantanamo Bay, Cuba, in order to determine the status of the detainees held at Guantanamo Bay, including whether any such detainee is a lawful enemy combatant or an unlawful enemy combatant.

(b) PROCEDURES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the procedures specified in this subsection are as follows:

(A) For the Combatant Status Review Tribunals, the memorandum of the Secretary of the Navy of July 29, 2004, regarding the implementation of Combatant Status Review Tribunal procedures for Enemy Combatants detained at Guantanamo Bay Naval Base, Cuba.

(B) For the Annual Review Board, the Department of Defense Designated Civilian Official Memorandum dated September 14, 2004, regarding the Implementation of Administrative Review Procedures for Enemy Combatants Detained at U.S. Naval Base Guantanamo Bay, Cuba.

(2) EXCEPTION.—The exceptions provided in this paragraph for the procedures specified in paragraph (1) are as follows:

(A) To the extent practicable, the Combatant Status Review Tribunal shall determine, by a preponderance of the evidence, whether statements derived from persons held in foreign custody were obtained without under coercion.

(B) A detainee shall be provided a military judge advocate for purposes of the Annual Review Board.

(C) The Designated Civilian Official shall be an officer of the United States Government whose appointment to office was made by the President, by and with the advise and consent of the Senate.

(3) MODIFICATION OF PROCEDURES.—The President may modify the procedures and requirements set forth under paragraphs (1) and (2). Any modification of such procedures or requirements may not go into effect until 30 days after the date on which the President notifies the congressional defense committees of the modification.

(c) DEFINITIONS.—In this section:

(1) The term ''lawful enemy combatant'' means person engaging in war or other armed conflict against the United States or its allies on behalf of a state party to the Geneva Convention Relative to the Treatment of Prisoners of War, dated August 12, 1949, who meets the criteria of a prisoner of war under Article 4 of that Convention.

(2) The term ''unlawful enemy combatant'', with respect to noncitizens of the United States, means a person (other than a person described in paragraph (1)) engaging in war, other armed conflict, or hostile acts against the United States or its allies, or knowingly supporting others so engaged, regardless of location.

SA 1506. Mr. ALLARD (for himself and Mr. SALAZAR) submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

On page 378, between lines 10 and 11, insert the following:

SEC. 3114. ROCKY FLATS ENVIRONMENTAL TECHNOLOGY SITE.

(a) DEFINITIONS.—In this section:

(1) ESSENTIAL MINERAL RIGHT.—The term ''essential mineral right'' means a right to mine sand and gravel at Rocky Flats, as depicted on the map.

(2) FAIR MARKET VALUE.—The term ''fair market value'' means the value of an essential mineral right, as determined by an appraisal performed by an independent, certified mineral appraiser under the Uniform Standards of Professional Appraisal Practice.

(3) MAP.—The term ''map'' means the map entitled ''Rocky Flats National Wildlife Refuge'', dated July 25, 2005, and available for inspection in appropriate offices of the United States Fish and Wildlife Service and the Department of Energy.

(4) NATURAL RESOURCE DAMAGE LIABILITY CLAIM.—The term ''natural resource damage liability claim'' means a natural resource damage liability claim under subsections (a)(4)(C) and (f) of section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607) arising from hazardous substances releases at or from Rocky Flats that, as of the date of enactment of this Act, are identified in the administrative record for Rocky Flats required by the National Oil and Hazardous Substances Pollution Contingency Plan prepared under section 105 of that Act (42 U.S.C. 9605).

(5) ROCKY FLATS.—The term ''Rocky Flats'' means the Department of Energy facility in the State of Colorado known as the ''Rocky Flats Environmental Technology Site''.

(6) SECRETARY.—The term ''Secretary'' means the Secretary of Energy.

(7) TRUSTEES.—The term ''Trustees'' means the Federal and State officials designated as trustees under section 107(f)(2) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607(f)(2)).

(b) PURCHASE OF ESSENTIAL MINERAL RIGHTS.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, such amounts authorized to be appropriated under subsection (c) shall be available to the Secretary to purchase essential mineral rights at Rocky Flats.

(2) CONDITIONS.—The Secretary shall not purchase an essential mineral right under paragraph (1) unless—

(A) the owner of the essential mineral right is a willing seller; and

(B) the Secretary purchases the essential mineral right for an amount that does not exceed fair market value.

(3) LIMITATION.—Only those funds authorized to be appropriated under subsection (c) shall be available for the Secretary to purchase essential mineral rights under paragraph (1).

(4) RELEASE FROM LIABILITY.—Notwithstanding any other law, any natural resource damage liability claim shall be considered to be satisfied by—

(A) the purchase by the Secretary of essential mineral rights under paragraph (1) for consideration in an amount equal to $10,000,000;

(B) the payment by the Secretary to the Trustees of $10,000,000; or

(C) the purchase by the Secretary of any portion of the mineral rights under paragraph (1) for—

(i) consideration in an amount less than $10,000,000; and

(ii) a payment by the Secretary to the Trustees of an amount equal to the difference between—

(I) $10,000,000; and

(II) the amount paid under clause (i).

(5) USE OF FUNDS.—

(A) IN GENERAL.—Any amounts received under paragraph (4) shall be used by the Trustees for the purposes described in section 107(f)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607(f)(1)), including—

(i) the purchase of additional mineral rights at Rocky Flats; and

(ii) the development of habitat restoration projects at Rocky Flats.

(B) CONDITION.—Any expenditure of funds under this paragraph shall be made jointly by the Trustees.

(C) ADDITIONAL FUNDS.—The Trustees may use the funds received under paragraph (4) in conjunction with other private and public funds.

(6) EXEMPTION FROM NATIONAL ENVIRONMENTAL POLICY ACT.—Any purchases of mineral rights under this subsection shall be exempt from the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(7) ROCKY FLATS NATIONAL WILDLIFE REFUGE.—

(A) TRANSFER OF MANAGEMENT RESPONSIBILITIES.—The Rocky Flats National Wildlife Refuge Act of 2001 (16 U.S.C. 668dd note; Public Law 107–107) is amended—

(i) in section 3175—

(I) by striking subsections (b) and (f); and

(II) by redesignating subsections (c), (d), and (e) as subsections (b), (c), and (d), respectively; and

(ii) in section 3176(a)(1), by striking ''section 3175(d)'' and inserting ''section 3175(c)''.

(B) BOUNDARIES.—Section 3177 of the Rocky Flats National Wildlife Refuge Act of

2001 (16 U.S.C. 668dd note; Public Law 107–107) is amended by striking subsection (c) and inserting the following:

''(c) COMPOSITION.—

''(1) IN GENERAL.—Except as provided in paragraph (2), the refuge shall consist of land within the boundaries of Rocky Flats, as depicted on the map—

''(A) entitled 'Rocky Flats National Wildlife Refuge';

''(B) dated July 25, 2005; and

''(C) available for inspection in the appropriate offices of the United States Fish and Wildlife Service and the Department of Energy.

''(2) EXCLUSIONS.—The refuge does not include—

''(A) any land retained by the Department of Energy for response actions under section 3175(c);

''(B) any land depicted on the map described in paragraph (1) that is subject to 1 or more essential mineral rights described in section 3114(a) of the National Defense Authorization Act for Fiscal Year 2006 over which the Secretary shall retain jurisdiction of the surface estate until the essential mineral rights—

''(i) are purchased under subsection (b) of that Act; or

''(ii) are mined and reclaimed by the mineral rights holders in accordance with requirements established by the State of Colorado; and

''(C) the land depicted on the map described in paragraph (1) on which essential mineral rights are being actively mined as of the date of enactment of the National Defense Authorization Act for Fiscal Year 2006 until—

''(i) the essential mineral rights are purchased; or

''(ii) the surface estate is reclaimed by the mineral rights holder in accordance with requirements established by the State of Colorado.

''(3) ACQUISITION OF ADDITIONAL LAND.—Notwithstanding paragraph (1), upon the purchase of the mineral rights or reclamation of the land depicted on the map described in paragraph (1), the Secretary shall—

''(A) transfer the land to the Secretary of the Interior for inclusion in the refuge; and

''(B) the Secretary of the Interior shall—

''(i) accept the transfer of the land; and

''(ii) manage the land as part of the refuge.''.

(c) FUNDING.—Of the amounts authorized to be appropriated to the Secretary for the Rocky Flats Environmental Technology Site for fiscal year 2006, $10,000,000 shall be made available to the Secretary for the purposes described in subsection (b).

SA 1507. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 286, between lines 7 and 8, insert the following:

SEC. 1073. LIABILITY PROTECTION FOR DONATING FIRE EQUIPMENT TO VOLUNTEER FIRE COMPANIES.

(a) LIABILITY PROTECTION.—A person who donates fire control or fire rescue equipment to a volunteer fire company shall not be liable for civil damages under any State or Federal law for personal injuries, property damage or loss, or death caused by the equipment after the donation.

(b) EXCEPTIONS.—Subsection (a) does not apply to a person if—

(1) the person's act or omission causing the injury, damage, loss, or death constitutes gross negligence or intentional misconduct; or

(2) the person is the manufacturer of the fire control or fire rescue equipment.

(c) PREEMPTION.—This section preempts the laws of any State to the extent that such laws are inconsistent with this section, except that notwithstanding subsection (b) this section shall not preempt any State law that provides additional protection from liability for a person who donates fire control or fire rescue equipment to a volunteer fire company.

(d) DEFINITIONS.—In this section:

(1) PERSON.—The term ''person'' includes any governmental or other entity.

(2) FIRE CONTROL OR RESCUE EQUIPMENT.—The term ''fire control or fire rescue equipment'' includes any—

(A) fire, rescue, or emergency medical services vehicle;

(B) fire fighting, rescue, or emergency medical services tool;

(C) fire appliance;

(D) communications equipment;

(E) protective gear;

(F) fire hose; or

(G) breathing apparatus.

(3) STATE.—The term ''State'' includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, the Virgin Islands, any other territory or possession of the United States, and any political subdivision of any such State, territory, or possession.

(4) VOLUNTEER FIRE COMPANY.—The term ''volunteer fire company'' means an association of individuals who provide fire protection and other emergency services, where at least 30 percent of the individuals receive little or no compensation compared with an entry level full-time paid individual in that association or in the nearest such association with an entry level full-time paid individual.

(e) EFFECTIVE DATE.—This section applies only to liability for injury, damage, loss, or death caused by equipment that, for purposes of subsection (a), is donated on or after the date that is 30 days after the date of the enactment of this Act.

SA 1508. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 379, after line 22, add the following:

SEC. 3302. AUTHORIZATION FOR DISPOSAL OF TUNGSTEN ORES AND CONCENTRATES.

(a) DISPOSAL AUTHORIZED.—The Director of the Defense Logistics Agency is authorized to dispose of 20,000,000 pounds of tungsten ores and concentrates from the National Defense Stockpile in fiscal year 2006.

(b) CERTAIN SALES AUTHORIZED.—The tungsten ores and concentrates disposed under subsection (a) may be sold to entities with ore conversion or tungsten carbide manufacturing or processing capabilities in the United States.

(c) SUSPENSION AUTHORIZED.—The Secretary of Commerce may, in consultation with the Director of the Defense Logistics Agency, suspend disposal of tungsten ores and concentrates under subsection (a) if the Secretary determines that additional disposal of such ores and concentrates would have an adverse impact on United States entities that mine or process tungsten.

SA 1509. Mr. HATCH (for himself, Mr. INHOFE, Mr. BENNETT, and Mr. CHAMBLISS) submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 66, after line 22, insert the following:

SEC. 330. SENSE OF THE SENATE REGARDING DEPOT MAINTENANCE.

(a) FINDINGS.—The Senate finds that—

(1) the Depot Maintenance Strategy and Master Plan of the Air Force reflects the essential requirements for the Air Force to maintain a ready and controlled source of organic technical competence, thereby ensuring an effective and timely response to national defense contingencies and emergency requirements;

(2) since the publication of the Depot Maintenance Strategy and Master Plan of the Air Force in 2002, the service has made great progress toward modernizing all 3 of its Depots, in order to maintain their status as ''world class'' maintenance repair and overhaul operations;

(3) One of the indispensable components of the Depot Maintenance Strategy and Master Plan of the Air Force is the commitment of the Air Force to allocate $150,000,000 a year over 6 years, beginning in fiscal year 2004, for recapitalization and investment, including the procurement of technologically advanced facilities and equipment, of our Nation's 3 Air Force depots; and

(4) the funds expended to date have ensured that transformation projects, such as the initial implementation of ''Lean'' and ''Six Sigma'' production techniques, have achieved great success in reducing the time necessary to perform depot maintenance on aircraft.

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

(1) the Air Force should be commended for the implementation of its Depot Maintenance Strategy and Master Plan and, in particular, meeting its commitment to invest $150,000,000 a year over 6 years, since fiscal year 2004, in the Nation's 3 Air Force Depots; and

(2) the Air Force should continue to fully fund its commitment of $150,000,000 a year through fiscal year 2009 in investments and recapitalization projects pursuant to the Depot Maintenance Strategy and Master Plan.

SA 1510. Mr. HATCH (for himself and Mr. CHAMBLISS) submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel

strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle D of title I, add the following:

SEC. 138. SENSE OF SENATE ON F/A–22 RAPTOR AIRCRAFT.

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

(1) It is widely held that integrated air defense systems, composed of next generation surface-to-air missiles and fifth generation fighters, will be the primary threat to United States dominance of the skies and the ability of the Nation to access strategically important regions during future conflicts.

(2) Many of the current tactical aircraft of the United States first flew more than 30 years ago and several nations have deployed integrated air defense systems designed to counter these aircraft. These aircraft include the F–15 Eagle, F–16 Fighting Falcon, and F/A–18 Hornet, none of which are stealth aircraft.

(3) the F/A–22 Raptor aircraft is a highly-capable stealth aircraft designed to neutralize both surface-to-air missiles and fifth generation fighters.

(4) The F/A–22 Raptor aircraft is a truly transformational aircraft incorporating—

(A) super-cruise engines that allow for extended supersonic flight (a magnitude longer than its after-burner predecessors);

(B) unmatched stealth capabilities; and

(C) a radar and avionics system that will permit the identification of ground targets and engage enemy aircraft at great ranges.

(5) The F–35 Joint Strike Fighter is being designed as a compliment to the F/A–22 Raptor aircraft, but the F–35 Joint Strike Fighter will not be as stealthy the F/A–22 Raptor aircraft, nor will it be able, due to design constraints, to utilize super-cruise engines.

(6) The F/A–22 Raptor aircraft is the most maneuverable fighter flying today, a matter of particular importance when encountering newer Russian-made aircraft that have been sold widely throughout the world and boast a highly impressive maneuver capability.

(7) The F/A–22 Raptor aircraft is a capable bomber, with a large weapons bay having the capacity to carry two 1,000 pound Global Positioning System-guided Joint Direct Attack Munitions or several Small Diameter Bombs.

(8) The National Defense Strategy calls for a force structure that—

(A) defends the homeland;

(B) is capable of forward deterrence in four regions;

(C) can swiftly defeat adversaries in two overlapping conflicts; and

(D) can decisively defeat an enemy in one of those conflicts.

(9) The Air Force has repeatedly warned that, in order to meet the requirements of the National Defense Strategy, the service requires far more than the 180 F/A–22 Raptor aircraft currently planned for procurement by the Department of Defense.

(b) SENSE OF SENATE.—It is the sense of the Senate that the Secretary of Defense should review the decision articulated in Program Budget Decision 753 to ensure that sufficient numbers of F/A–22 Raptor aircraft are procured in order meet applicable requirements in the National Defense Strategy.

SA 1511. Mr. BROWNBACK submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 237, after line 17, add the following:

SEC. 846. PROHIBITION ON PROCUREMENTS FROM COMMUNIST CHINESE MILITARY COMPANIES.

(a) IN GENERAL.—Chapter 141 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2410p. Prohibition on procurements of goods and services from Communist Chinese military companies.

''(a) PROHIBITION.—The Secretary of Defense may not procure goods or services, through a contract or any subcontract (at any tier) under a contract, from any Communist Chinese military company.

''(b) DEFINITION.—In this section, the term ''Communist Chinese military company'' has the meaning given that term in section 1237(b)(4) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 50 U.S.C. 1701 note).''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2410o the following new item:

''2410p. Prohibition on procurements of goods and services from Communist Chinese military companies.''.

SA 1512. Mr. SARBANES submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 286, between lines 7 and 8, insert the following:

SEC. 1073. RETENTION OF REIMBURSEMENT FOR PROVISION OF RECIPROCAL FIRE PROTECTION SERVICES.

Section 5 of the Act of May 27, 1955 (69 Stat. 67; 42 U.S.C. 1856d) is amended—

(1) by inserting ''(a)'' after ''SEC. 5.''; and

(2) by adding at the end the following new subsection:

''(b) Notwithstanding subsection (a), all sums received by any Department of Defense activity for fire protection rendered pursuant to this Act shall be credited to the appropriation, fund, or account from which the expenses were paid. Amounts so credited shall be merged with the funds in such appropriation, fund, or account, and shall be available for the same purposes, and subject to the same limitations, as the funds with which the credited amounts are merged.''.

SA 1513. Mr. BYRD (for himself, Mr. BIDEN, Mr. ROCKEFELLER, Mr. LIEBERMAN, Mrs. CLINTON, Mr. OBAMA, and Mr. SCHUMER) submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 371, between lines 8 and 9, insert the following:

SEC. 2887. SENSE OF THE SENATE CONCURRING WITH THE BASE CLOSURE AND REALIGNMENT COMMISSION LEGAL OPINION ON EXISTENCE OF LEGAL IMPEDIMENTS TO CLOSURE OR REALIGNMENT OF AIR NATIONAL GUARD ASSETS.

It is the sense of the Senate that the Senate concurs with the conclusion that legal impediments exist to the closure or realignment of Air National Guard assets, as stated in the memorandum entitled ''Discussion of Legal and Policy Considerations Related to Certain Base Closure and Realignment Recommendations'' issued on July 14, 2005, by the Office of General Counsel of the Base Closure and Realignment Commission.

SA 1514. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 357, strike line 20, and insert the following:

PART II—NAVY CONVEYANCES

SEC. 2851. LAND CONVEYANCE, MARINE CORPS AIR STATION, MIRAMAR, SAN DIEGO, CALIFORNIA.

(a) CONVEYANCE AUTHORIZED.—Subject to subsection (c), the Secretary of the Navy may convey to the County of San Diego, California (in this section referred to as the ''County''), all right, title, and interest of the United States in and to a parcel of real property, including any improvements thereon and appurtenant easements thereto, consisting of approximately 230 acres located on the eastern boundary of Marine Corps Air Station, Miramar, California, for the purpose of removing the property from the boundaries of the installation and permitting the County to preserve the entire property known as the Stowe Trail as a public passive park/recreational area.

(b) CONSIDERATION.—

(1) IN GENERAL.—As consideration for the conveyance under subsection (a), the County shall provide the United States consideration with a total value that is not less than the fair market value of the conveyed real property, as determined by the Secretary. The consideration provided by the County shall be in a form and quantity that is acceptable to the Secretary.

(2) RELATION TO OTHER LAWS.—The requirements under sections 2662 and 2802 of title 10, United States Code, shall not apply with respect to any new facilities the construction of which is accepted as in-kind consideration under this subsection.

(c) REVERSIONARY INTEREST.—

(1) IN GENERAL.—If the Secretary determines at any time that the real property conveyed under subsection (a) is not being used in accordance with the purpose of the conveyance specified in such subsection, all right, title, and interest in and to the property, including any improvements thereon, shall revert, at the option of the Secretary, to the United States, and the United States shall have the right of immediate entry onto the property. Any determination of the Secretary under this subsection shall be made

on the record after an opportunity for a hearing.

(2) RELEASE OF REVERSIONARY INTEREST.—The Secretary shall release, without consideration, the reversionary interest retained by the United States under paragraph (1) if—

(A) Marine Corps Air Station, Miramar, is no longer being used for Department of Defense activities; or

(B) the Secretary determines that the reversionary interest is otherwise unnecessary to protect the interests of the United States.

(d) PAYMENT OF COSTS OF CONVEYANCE.—

(1) PAYMENT REQUIRED.—The Secretary shall require the County to cover costs to be incurred by the Secretary, or to reimburse the Secretary for costs incurred by the Secretary, to carry out the conveyance under subsection (a) and implement the receipt of any in-kind consideration under subsection (b), including appraisal costs, survey costs, costs related to environmental documentation, and other administrative costs related to the conveyance and receipt of any in-kind consideration. If amounts are collected from the County in advance of the Secretary incurring the actual costs, and the amount received exceeds the costs actually incurred by the Secretary under this section, the Secretary shall refund the excess amount to the County.

(2) REIMBURSEMENT.—Amounts received as reimbursement under paragraph (1) shall be credited to the fund or account that was used to cover the costs incurred by the Secretary in carrying out the conveyance. Amounts so credited shall be merged with amounts in such fund or account and shall be available for the same purposes, and subject to the same conditions and limitations, as amounts in such fund or account.

(e) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary.

(f) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

PART III—AIR FORCE CONVEYANCES

SA 1515. Mr. DAYTON submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

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

SEC. 330. CHILD AND FAMILY ASSISTANCE BENEFITS FOR MEMBERS OF THE ARMED FORCES.

(a) ADDITIONAL AMOUNT FOR OPERATION AND MAINTENANCE, DEFENSE-WIDE.—The amount authorized to be appropriated by section 301(5) for operation and maintenance, Defense-wide activities, is hereby increased by $120,000,000.

(b) AVAILABILITY OF AMOUNT.—Of the amount authorized to be appropriated by section 301(5) for operation and maintenance, Defense-wide activities, as increased by subsection (a), $120,000,000 may be available as follows:

(1) $100,000,000 for childcare services for families of members of the Armed Forces.

(2) $20,000,000 for family assistance centers that primarily serve members of the Armed Forces and their families.

SA 1516. Mr. HATCH (for himself, Mr. INHOFE, Mr. BENNETT, and Mr. CHAMBLISS) proposed an Amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Departmet of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

On page 66, after line 22, insert the following:

SEC. 330. SENSE OF THE SENATE REGARDING DEPOT MAINTENANCE.

(a) FINDINGS.—The Senate finds that—

(1) the Depot Maintenance Strategy and Master Plan of the Air Force reflects the essential requirements for the Air Force to maintain a ready and controlled source of organic technical competence, thereby ensuring an effective and timely response to national defense contingencies and emergency requirements;

(2) since the publication of the Depot Maintenance Strategy and Master Plan of the Air Force in 2002, the service has made great progress toward modernizing all 3 of its Depots, in order to maintain their status as ''world class'' maintenance repair and overhaul operations;

(3) one of the indispensable components of the Depot Maintenance Strategy and Master Plan of the Air Force is the commitment of the Air Force to allocate $150,000,000 a year over 6 years, beginning in fiscal year 2004, for recapitalization and investment, including the procurement of technologically advanced facilities and equipment, of our Nation's 3 Air Force depots; and

(4) the funds expended to date have ensured that transformation projects, such as the initial implementation of ''Lean'' and ''Six Sigma'' production techniques, have achieved great success in reducing the time necessary to perform depot maintenance on aircraft.

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

(1) the Air Force should be commended for the implementation of its Depot Maintenance Strategy and Master Plan and, in particular, meeting its commitment to invest $150,000,000 a year over 6 years, since fiscal year 2004, in the Nation's 3 Air Force Depots; and

(2) the Air Force should continue to fully fund its commitment of $150,000,000 a year through fiscal year 2009 in investments and recapitalization projects pursuant to the Depot Maintenance Strategy and Master Plan.

SA 1517. Mr. BAYH submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Departmet of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle E of title VI, add the following:

SEC. 653. ENFORCEMENT AND LIABILITY FOR NONCOMPLIANCE WITH SERVICEMEMBERS CIVIL RELIEF ACT.

(a) ENFORCEMENT.—

(1) IN GENERAL.—The Servicemembers Civil Relief Act (50 U.S.C. App. 501 et seq.) is amended by adding at the end the following new title:

''TITLE VIII—ENFORCEMENT

''SEC. 801. ADMINISTRATIVE ENFORCEMENT.

''(a) ENFORCEMENT BY FEDERAL TRADE COMMISSION.—(1) Except as provided in subsection (b), compliance with the requirements imposed by this Act shall be enforced by the Federal Trade Commission in accordance with the Federal Trade Commission Act with respect to entities and persons subject to the Federal Trade Commission Act.

''(2) For the purpose of the exercise by the Commission under this subsection of its functions and powers under the Federal Trade Commission Act, a violation of any requirement or prohibition imposed by this Act shall constitute an unfair or deceptive act or practice in commerce in violation of section 5(a) of the Federal Trade Commission Act, and shall be subject to enforcement by the Commission with respect to any entity or person subject to enforcement by the Commission pursuant to this subsection, irrespective of whether such person or entity is engaged in commerce or meets any other jurisdictional tests under the Federal Trade Commission Act.

''(3) The Commission shall have such procedural, investigative, and enforcement powers, including the power to issue procedural rules in enforcing compliance with the requirements imposed by this Act and to require the filing of reports, the production of documents, and the appearance of witnesses, as though the applicable terms and conditions of the Federal Trade Commission Act were part of this Act.

''(4) Any person or entity violating any provision of this Act shall be subject to the penalties, and entitled to the privileges and immunities, provided in the Federal Trade Commission Act as though the applicable terms and provisions of the Federal Trade Commission Act were part of this Act.

''(5)(A) The Commission may commence a civil action to recover a civil penalty in a district court of the United States against any person or entity that has engaged in such violation. In such action, such person or entity shall be liable, in addition to any amounts otherwise recoverable, for a civil penalty in the amount of $5,000 to $50,000, as determined appropriate by the court for each violation.

''(B) In determining the amount of a civil penalty under subparagraph (A), the court shall take into account the degree of culpability, any history of prior such conduct, ability to pay, effect on ability to continue to do business, and such other matters as justice may require.

''(b) ENFORCEMENT BY OTHER REGULATORY AGENCIES.—Compliance with the requirements imposed by this Act with respect to financial institutions shall be enforced under—

''(1) section 8 of the Federal Deposit Insurance Act, in the case of—

''(A) national banks, and Federal branches and Federal agencies of foreign banks, and any subsidiaries of such (except brokers, dealers, persons providing insurance, investment companies, and investment advisers) by the Office of the Comptroller of the Currency;

''(B) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign

banks), commercial lending companies owned or controlled by foreign banks, and organization operating under section 25 or 25A of the Federal Reserve Act, and bank holding companies and their nonbank subsidiaries or affiliates (except brokers, dealers, persons providing insurance, investment companies, and investment advisers) by the Board of Governors of the Federal Reserve System; and

''(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) and insured State branches of foreign banks, and any subsidiaries of such entities (except brokers, dealers, persons providing insurance, investment companies, and investment advisers) by the Board of Directors of the Federal Deposit Insurance Corporation;

''(2) section 8 of the Federal Deposit Insurance Act, by the Director of the Office of Thrift Supervision, in the case of a savings association the deposits of which are insured by the Federal Deposit Insurance Corporation and any subsidiaries of such saving associations (except brokers, dealers, persons providing insurance, investment companies, and investment advisers);

''(3) the Federal Credit Union Act, by the Administrator of the National Credit Union Administration with respect to any federally insured credit union, and any subsidiaries of such an entity;

''(4) State insurance law, by the applicable State insurance authority of the State in which a person is domiciled, in the case of a person providing insurance; and

''(5) the Federal Trade Commission Act, by the Federal Trade Commission for any other financial institution or other person that is not subject to the jurisdiction of any agency or authority under paragraphs (1) through (4).''.

(2) CLERICAL AMENDMENT.—The table of contents in the first section of that Act is amended by adding at the end the following new items:

''TITLE VIII—ENFORCEMENT

''Sec. 801. Administrative enforcement.''.

(b) LIABILITY FOR NONCOMPLIANCE.—

(1) Section 301(c) of the Servicemembers Civil Relief Act (50 U.S.C. App. 531(c)) is amended by striking paragraph (2) and inserting the following new paragraphs:

''(2) CIVIL LIABILITY FOR NONCOMPLIANCE.—Any person or entity (other than a servicemember or dependent) who fails to comply with any requirement imposed by this section with respect to a servicemember or dependent is liable to such servicemember or dependent in an amount equal to the sum of—

''(A) any actual damages sustained by such servicemember or dependent as a result of the failure;

''(B) such amount of punitive damages as the court may allow;

''(C) such amount of consequential damages as the court may allow;

''(D) such additional damages as the court may allow, in an amount not less than $100 or more than $5,000 (as determined appropriate by the court), for each violation; and

''(E) in the case of any successful action to enforce liability under this section, the cost of the action together with reasonable attorneys fees as determined by the court.

''(3) ATTORNEY FEES.—On a finding by the court that an unsuccessful pleading, motion, or other paper filed in connection with an action under this section was filed in bad faith or for the purposes of harassment, the court shall award to the prevailing party attorney fees in amount that is reasonable in relation to the work expended in responding to such pleading, motion, or other paper.''.

(2) Section 302(b) of that Act (50 U.S.C. App. 532(b)) is amended by striking paragraph (2) and inserting the following new paragraphs:

''(2) CIVIL LIABILITY FOR NONCOMPLIANCE.—Any person or entity (other than a servicemember or dependent) who fails to comply with any requirement imposed by this section with respect to a servicemember or dependent is liable to such servicemember or dependent in an amount equal to the sum of—

''(A) any actual damages sustained by such servicemember or dependent as a result of the failure;

''(B) such amount of punitive damages as the court may allow;

''(C) such amount of consequential damages as the court may allow;

''(D) such additional damages as the court may allow, in an amount not less than $100 or more than $5,000 (as determined appropriate by the court), for each violation; and

''(E) in the case of any successful action to enforce liability under this section, the cost of the action together with reasonable attorneys fees as determined by the court.

''(3) ATTORNEY FEES.—On a finding by the court that an unsuccessful pleading, motion, or other paper filed in connection with an action under this section was filed in bad faith or for the purposes of harassment, the court shall award to the prevailing party attorney fees in amount that is reasonable in relation to the work expended in responding to such pleading, motion, or other paper.''.

(3) Section 303(d) of that Act (50 U.S.C. App. 533(d)) is amended by striking paragraph (2) and inserting the following new paragraphs:

''(2) CIVIL LIABILITY FOR NONCOMPLIANCE.—Any person or entity (other than a servicemember or dependent) who fails to comply with any requirement imposed by this section with respect to a servicemember or dependent is liable to such servicemember or dependent in an amount equal to the sum of—

''(A) any actual damages sustained by such servicemember or dependent as a result of the failure;

''(B) such amount of punitive damages as the court may allow;

''(C) such amount of consequential damages as the court may allow;

''(D) such additional damages as the court may allow, in an amount not less than $100 or more than $5,000 (as determined appropriate by the court), for each violation; and

''(E) in the case of any successful action to enforce liability under this section, the cost of the action together with reasonable attorneys fees as determined by the court.

''(3) ATTORNEY FEES.—On a finding by the court that an unsuccessful pleading, motion, or other paper filed in connection with an action under this section was filed in bad faith or for the purposes of harassment, the court shall award to the prevailing party attorney fees in amount that is reasonable in relation to the work expended in responding to such pleading, motion, or other paper.''.

(4) Section 305(h) of that Act (50 U.S.C. App. 535(h)) is amended by striking paragraph (2) and inserting the following new paragraphs:

''(2) CIVIL LIABILITY FOR NONCOMPLIANCE.—Any person or entity (other than a servicemember or dependent) who fails to comply with any requirement imposed by this section with respect to a servicemember or dependent is liable to such servicemember or dependent in an amount equal to the sum of—

''(A) any actual damages sustained by such servicemember or dependent as a result of the failure;

''(B) such amount of punitive damages as the court may allow;

''(C) such amount of consequential damages as the court may allow;

''(D) such additional damages as the court may allow, in an amount not less than $100 or more than $5,000 (as determined appropriate by the court), for each violation; and

''(E) in the case of any successful action to enforce liability under this section, the cost of the action together with reasonable attorneys fees as determined by the court.

''(3) ATTORNEY FEES.—On a finding by the court that an unsuccessful pleading, motion, or other paper filed in connection with an action under this section was filed in bad faith or for the purposes of harassment, the court shall award to the prevailing party attorney fees in amount that is reasonable in relation to the work expended in responding to such pleading, motion, or other paper.''.

(5) Section 306(e) of that Act (50 U.S.C. App. 536(e)) is amended by striking paragraph (2) and inserting the following new paragraphs:

''(2) CIVIL LIABILITY FOR NONCOMPLIANCE.—Any person or entity (other than a servicemember or dependent) who fails to comply with any requirement imposed by this section with respect to a servicemember or dependent is liable to such servicemember or dependent in an amount equal to the sum of—

''(A) any actual damages sustained by such servicemember or dependent as a result of the failure;

''(B) such amount of punitive damages as the court may allow;

''(C) such amount of consequential damages as the court may allow;

''(D) such additional damages as the court may allow, in an amount not less than $100 or more than $5,000 (as determined appropriate by the court), for each violation; and

''(E) in the case of any successful action to enforce liability under this section, the cost of the action together with reasonable attorneys fees as determined by the court.

''(3) ATTORNEY FEES.—On a finding by the court that an unsuccessful pleading, motion, or other paper filed in connection with an action under this section was filed in bad faith or for the purposes of harassment, the court shall award to the prevailing party attorney fees in amount that is reasonable in relation to the work expended in responding to such pleading, motion, or other paper.''.

(6) Section 307(c) of that Act (50 U.S.C. App. 537(c)) is amended by striking paragraph (2) and inserting the following new paragraphs:

''(2) CIVIL LIABILITY FOR NONCOMPLIANCE.—Any person or entity (other than a servicemember or dependent) who fails to comply with any requirement imposed by this section with respect to a servicemember or dependent is liable to such servicemember or dependent in an amount equal to the sum of—

''(A) any actual damages sustained by such servicemember or dependent as a result of the failure;

''(B) such amount of punitive damages as the court may allow;

''(C) such amount of consequential damages as the court may allow;

''(D) such additional damages as the court may allow, in an amount not less than $100 or more than $5,000 (as determined appropriate by the court), for each violation; and

''(E) in the case of any successful action to enforce liability under this section, the cost of the action together with reasonable attorneys fees as determined by the court.

''(3) ATTORNEY FEES.—On a finding by the court that an unsuccessful pleading, motion, or other paper filed in connection with an action under this section was filed in bad faith

or for the purposes of harassment, the court shall award to the prevailing party attorney fees in amount that is reasonable in relation to the work expended in responding to such pleading, motion, or other paper.''.

SA 1518. Mr. BAYH submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Departmet of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle E of title VI, add the following:

SEC. 653. SERVICEMEMBERS RIGHTS UNDER THE HOUSING AND URBAN DEVELOPMENT ACT OF 1968.

(a) IN GENERAL.—Section 106(c)(5)(A)(ii) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(c)(5)(A)(ii)) is amended—

(1) in subclause (II), by striking ''; and'' and inserting a semicolon;

(2) in subclause (III), by striking the period and inserting ''; and''; and

(3) by adding at the end the following:

''(IV) notify the homeowner by a statement or notice, written in plain English by the Secretary of Housing and Urban Development, in consultation with the Secretary of Defense and the Secretary of the Treasury, explaining the mortgage and foreclosure rights of servicemembers, and the dependents of such servicemembers, under the Servicemembers Civil Relief Act (50 U.S.C. App. 501 et seq.), including the toll-free military one source number to call if servicemembers, or the dependents of such servicemembers, require further assistance.''.

(b) NO EFFECT ON OTHER LAWS.—Nothing in this section shall relieve any person of any obligation imposed by any other Federal, State, or local law.

(c) DISCLOSURE FORM.—Not later than 150 days after the date of enactment of this Act, the Secretary of Housing and Urban Development shall issue a final disclosure form to fulfill the requirement of section 106(c)(5)(A)(ii)(IV) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(c)(5)(A)(ii)).

(d) EFFECTIVE DATE.—The amendments made under subsection (a) shall take effect 150 days after the date of enactment of this Act.

SA 1519. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Departmet of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. DEPARTMENT OF DEFENSE TASK FORCE ON MENTAL HEALTH.

(a) REQUIREMENT TO ESTABLISH.—The Secretary of Defense shall establish within the Department of Defense a task force to examine matters relating to mental health and the Armed Forces.

(b) COMPOSITION.—

(1) MEMBERS.—The task force shall consist of not more than 14 members appointed by the Secretary of Defense from among individuals described in paragraph (2) who have demonstrated expertise in the area of mental health.

(2) RANGE OF MEMBERS.—The individuals appointed to the task force shall include—

(A) at least one member of each of the Army, Navy, Air Force, and Marine Corps; and

(B) a number of persons from outside the Department of Defense equal to the total number of personnel from within the Department of Defense (whether members of the Armed Forces or civilian personnel) who are appointed to the task force.

(3) INDIVIDUALS APPOINTED WITHIN DEPARTMENT OF DEFENSE.—At least one of the individuals appointed to the task force from within the Department of Defense shall be the surgeon general of an Armed Force or a designee of such surgeon general.

(4) INDIVIDUALS APPOINTED OUTSIDE DEPARTMENT OF DEFENSE.—(A) Individuals appointed to the task force from outside the Department of Defense may include officers or employees of other departments or agencies of the Federal Government, officers or employees of State and governments, or individuals from the private sector.

(B) The individuals appointed to the task force from outside the Department of Defense shall include—

(i) an officer or employee of the Department of Veterans Affairs appointed by the Secretary of Defense in consultation with the Secretary of Veterans Affairs;

(ii) an officer or employee of the Substance Abuse and Mental Health Services Administration of the Department of Health and Human Services appointed by the Secretary of Defense in consultation with the Secretary of Health and Human Services; and

(iii) at least two individuals who are representatives of—

(I) a mental health policy and advocacy organization; and

(II) a national veterans service organization.

(5) DEADLINE FOR APPOINTMENT.—All appointments of individuals to the task force shall be made not later than 120 days after the date of the enactment of this Act.

(6) CO-CHAIRS OF TASK FORCE.—There shall be two co-chairs of the task force. One of the co-chairs shall be designated by the Secretary of the Defense at the time of appointment from among the Department of Defense personnel appointed to the task force. The other co-chair shall be selected from among the members appointed from outside the Department of Defense by members so appointed.

(c) LONG-TERM PLAN ON MENTAL HEALTH SERVICES.—

(1) IN GENERAL.—Not later than 12 months after the date on which all members of the task force have been appointed, the task force shall submit to the Secretary a long-term plan (referred to as a strategic plan) on means by which the Department of Defense shall improve the efficacy of mental health services provided to members of the Armed Forces by the Department of Defense.

(2) UTILIZATION OF OTHER EFFORTS.—In preparing the report, the task force shall take into consideration completed and ongoing efforts by the Department of Defense to improve the efficacy of mental health care provided to members of the Armed Forces by the Department.

(3) ELEMENTS.—The long-term plan shall include an assessment of and recommendations (including recommendations for legislative or administrative action) for measures to improve the following:

(A) The awareness of the prevalence of mental health conditions among members of the Armed Forces.

(B) The efficacy of existing programs to prevent, identify, and treat mental health conditions among members of the Armed Forces, including programs for and with respect to forward-deployed troops.

(C) The reduction or elimination of barriers to care, including the stigma associated with seeking help for mental health related conditions, and the enhancement of confidentiality for members of the Armed Forces seeking care for such conditions.

(D) The adequacy of outreach, education, and support programs on mental health matters for families of members of the Armed Forces.

(E) The efficacy of programs and mechanisms for ensuring a seamless transition from care of members of the Armed Forces on active duty for mental health conditions through the Department of Defense to care for such conditions through the Department of Veterans Affairs after such members are discharged or released from military, naval, or air service.

(F) The availability of long-term follow-up and access to care for mental health conditions for members of the Individual Ready Reserve, and the Selective Reserve and for discharged, separated, or retired members of the Armed Forces.

(G) Collaboration among organizations in the Department of Defense with responsibility for or jurisdiction over the provision of mental health services.

(H) Coordination between the Department of Defense and civilian communities, including local support organizations, with respect to mental health services.

(I) The scope and efficacy of curricula and training on mental health matters for commanders in the Armed Forces.

(J) Such other matters as the task force considers appropriate.

(d) ADMINISTRATIVE MATTERS.—

(1) COMPENSATION.—Each member of the task force who is a member of the Armed Forces or a civilian officer or employee of the United States shall serve without compensation (other than compensation to which entitled as a member of the Armed Forces or an officer or employee of the United States, as the case may be). Other members of the task force shall be treated for purposes of section 3161 of title 5, United States Code, as having been appointed under subsection (b) of such section.

(2) OVERSIGHT.—The Under Secretary of Defense for Personnel and Readiness shall oversee the activities of the task force.

(3) ADMINISTRATIVE SUPPORT.—The Washington Headquarters Services of the Department of Defense shall provide the task force with personnel, facilities, and other administrative support as necessary for the performance of the duties of the task force.

(4) ACCESS TO FACILITIES.—The Under Secretary of Defense for Personnel and Readiness shall, in coordination with the Secretaries of the military departments, ensure appropriate access by the task force to military installations and facilities for purposes of the discharge of the duties of the task force.

(e) REPORT.—

(1) IN GENERAL.—The task force shall submit to the Secretary of Defense a report on its activities under this section. The report shall include—

(A) a description of the activities of the task force;

(B) the plan required by subsection (c); and

(C) such other mattes relating to the activities of the task force that the task force considers appropriate.

(2) TRANSMITTAL TO CONGRESS.—Not later than 90 days after receipt of the report under paragraph (1), the Secretary shall transmit the report to the Committees on Armed Services and Veterans' Affairs of the Senate and the House of Representatives. The Secretary may include in the transmittal such comments on the report as the Secretary considers appropriate.

(f) TERMINATION.—The task force shall terminate 90 days after the date on which the report of the task force is submitted to Congress under subsection (e)(2).

SA 1520. Mr. OBAMA submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

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

SEC. 330. ASSESSMENT OF PRODUCTION OF ALTERNATIVE TRANSPORTATION FUELS FOR THE DEPARTMENT OF DEFENSE.

(a) PROGRAM REQUIRED.—The Secretary of Defense shall carry out a program to evaluate the commercial and technical viability of advanced technologies for the production of alternative transportation fuels having applications for the Department of Defense. The program shall include the construction and operation of testing facilities in accordance with subsection (d).

(b) ALTERNATIVE TRANSPORTATION FUELS.—For purposes of this section, alternative transportation fuels are ethanol and Fischer Tropsch fuels that are produced domestically from cellulosic biomass feedstocks or Illinois Basin Coal.

(c) COORDINATION OF EFFORTS.—

(1) IN GENERAL.—The Secretary of Defense shall carry out the program required by this section through the Under Secretary of Defense for Acquisition, Technology, and Logistics and in consultation with the Director of Defense Research and Engineering, the Advanced Systems and Concepts Office, the Secretary of Agriculture, and the Secretary of Energy.

(2) ROLE OF BIOMASS RESEARCH AND DEVELOPMENT TECHNOLOGIC ADVISORY COMMITTEE.—The consultations under paragraph (1) shall include the participation of the Biomass Research and Development Technical Advisory Committee established under section 306 of the Biomass Research and Development Act of 2000 (title III of Public Law 106–224; 7 U.S.C. 8101 note).

(d) FACILITIES FOR EVALUATING PRODUCTION OF ALTERNATIVE TRANSPORTATION FUELS.—

(1) IN GENERAL.—In carrying out the program required by this section, the Secretary of Defense shall provide for the following:

(A) The utilization and capital modification of the National Corn-to-Ethanol Research Center for the purpose of evaluating the technical and commercial viability of corn kernel cellulosics for producing ethanol.

(B) The construction or capital modification of—

(i) not less than four facilities for the purposes of evaluating the production from cellulosic biomass of alternative transportation fuels having applications for the Department of Defense; and

(ii) not less than four facilities for the purposes of evaluating the production from Illinois Basin Coal of alternative transportation fuels having applications for the Department of Defense

(2) LOCATION OF FACILITIES.—(A) The facilities constructed under paragraph (1)(B) for the purposes of cellulosic biomass shall—

(i) afford the efficient use of a diverse range of fuel sources; and

(ii) give initial preference to existing domestic facilities with current or potential capacity for cellulose conversion.

(B) The facilities constructed under paragraph (1)(B) for the purposes of Illinois Basin Coal shall be located within the Illinois Basin Coal region.

(3) CAPACITY OF FACILITIES.—Each facility constructed under paragraph (1) shall have the flexibility for producing commercial volumes of alternative transportation fuels such that when the facility demonstrates economic viability of the process it can provide commercial production for the region in which it is located.

(4) AUTHORITY TO ENTER INTO TRANSACTIONS FOR FACILITY CONSTRUCTION.—The Secretary of Defense shall seek to construct the facilities required by paragraph (1)(B) at the lowest cost practicable. The Secretary may make grants, enter into agreements, and provide loans or loan guarantees to corporations, farm cooperatives, associates of farmers, and consortia of such entities for such purposes.

(5) EVALUATIONS AT FACILITIES.—

(A) IN GENERAL.—Not later than 5 years after the date of the enactment of this Act, the Secretary of Defense shall begin at the facilities described in paragraph (1)(B) evaluations of the technical and commercial viability of different processes of producing alternative transportation fuels having Department of Defense applications from cellulosic biomass or Illinois Basin Coal.

(B) EVALUATIONS AT NATIONAL CORN-TO-ETHANOL RESEARCH CENTER.—Not later than one year after the date of the enactment of this Act, the Secretary of Defense shall begin at the National Corn-to-Ethanol Research Center evaluations of the technical and commercial viability of different processes of corn kernel cellulosics for producing ethanol.

(e) PROGRAM MILESTONES.—In carrying out the program required by this section, the Secretary of Defense shall meet the following milestones:

(1) SELECTION OF TESTING PROCESSES.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall select processes for evaluating the technical and commercial viability of producing ethanol or Fischer Tropsch fuel from cellulosic biomass or Illinois Basin Coal.

(2) INITIATION OF WORK AT EXISTING FACILITIES.—Not later than one year after the date of enactment of this Act, the Secretary shall enter into agreements to carry out testing under this section at existing facilities.

(3) CONSTRUCTION AGREEMENTS.—Not later than one year after the date of the enactment of this Act, the Secretary shall enter into agreements for the capital modification or construction of facilities under subsection (d)(1)(B).

(4) COMPLETION OF ENGINEERING AND DESIGN WORK.—Not later than three years after the date of the enactment of this Act, the Secretary shall complete capital modifications of existing facilities and the engineering and design work necessary for the construction of new facilities under this section.

(f) REPORT ON PROGRAM.—Not later than 18 months after the date of the enactment of this Act, and annually thereafter for the next 5 years, the Secretary of Defense shall, in consultation with the Under Secretary of Defense for Acquisition, Technology, and Logistics, submit a report on the implementation and results of the program required by this section to—

(1) the Committees on Armed Services, Energy and Natural Resources, Agriculture, and Appropriations of the Senate; and

(2) the Committees on Armed Services, Energy and Commerce, Agriculture, and Appropriations of the House of Representatives.

(g) FUNDING.—

(1) IN GENERAL.—Of the amounts authorized to be appropriated under this Act, $75,000,000 may be available for the program required by this section, of which $15,000,000 may be available in each of fiscal years 2006 through 2010 for the program.

(2) AVAILABILITY.—Amounts available under paragraph (1) shall remain available until expended.

SA 1521. Mr. COLEMAN (for himself and Mr. LEVIN) submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 226, after line 23, add the following:

SEC. 824. CENTRAL CONTRACTOR REGISTRY DATABASE.

(a) AUTHORITY.—Chapter 137 of title 10, United States Code, is amended by inserting after section 2302d the following new section:

"§ 2302e. Central contractor registry

"(a) ESTABLISHMENT.—The Secretary of Defense shall maintain a centralized, electronic database for the registration of sources of property and services who seek to participate in contracts and other procurements entered into by the various procurement officials of the United States. The database shall be known as the 'Central Contractor Registry'.

"(b) TAXPAYER INFORMATION.—(1) The Central Contractor Registry shall include the following tax-related information for each source registered in that registry:

"(A) Each of that source's taxpayer identification numbers.

"(B) The source's authorization for the Secretary of Defense to obtain from the Commissioner of Internal Revenue—

"(i) verification of the validity of each of that source's taxpayer identification numbers; and

"(ii) in the case of any of such source's registered taxpayer identification numbers that is determined invalid, the correct taxpayer identification number (if any).

"(2)(A) The Secretary of Defense shall require each source, as a condition for registration in the Central Contractor Registry, to provide the Secretary with the information and authorization described in paragraph (1).

"(B) The Secretary shall—

"(i) warn each source seeking to register in the Central Contractor Registry that the source may be subject to backup withholding for a failure to submit each such number to the Secretary; and

"(ii) take the actions necessary to initiate the backup withholding in the case of a registrant who fails to register each taxpayer identification number valid for the registrant and is subject to the backup withholding requirement.

"(3) A source registered in the Central Contractor Registry is not eligible for a contract

entered into under this chapter or title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.) if that source—

''(A) has failed to provide the authorization described in paragraph (1)(B);

''(B) has failed to register in that registry all valid taxpayer identification numbers for that source; or

''(C) has registered in that registry an invalid taxpayer identification number and fails to correct that registration.

''(4)(A) The Secretary of Defense shall make arrangements with the Commissioner of Internal Revenue for each head of an agency within the Department of Defense to participate in the taxpayer identification number matching program of the Internal Revenue Service.

''(B) The Commissioner of Internal Revenue shall cooperate with the Secretary of Defense to determine the validity of taxpayer identification numbers registered in the Central Contractor Registry. As part of the cooperation, the Commissioner shall promptly respond to a request of the Secretary of Defense or the head of an agency within the Department of Defense for electronic validation of a taxpayer identification number for a registrant by notifying the Secretary or head of an agency, respectively, of—

''(i) the validity of that number; and

''(ii) in the case of an invalid taxpayer identification number, any correct taxpayer identification number for such registrant that the Commissioner can promptly and reasonably determine.

''(C) The Secretary shall transmit to a registrant a notification of each of the registrant's taxpayer identification numbers, if any, that is determined invalid by the Commissioner of Internal Revenue and shall provide the registrant with an opportunity to substitute a valid taxpayer identification number.

''(5) The Secretary of Defense shall require that, at the place in the Central Contractor Registry where the taxpayer identification numbers of a registrant are to be displayed, the display bear (as applicable)—

''(A) for each taxpayer identification number of that registrant, an indicator of whether such number has been determined valid, is being reviewed for validity, or has been determined invalid; or

''(B) an indicator that no taxpayer identification number is required for the registrant.

''(6) This subsection applies to each source who registers any information regarding that source in the Central Contractor Registry after December 31, 2005, except that paragraphs (1), (2), and (3) do not apply to a source who establishes to the satisfaction of the Secretary of Defense that such source is not required to have a taxpayer identification number.

''(c) CONFIDENTIALITY OF INFORMATION.—The Secretary of Defense shall ensure that taxpayer identification numbers in the Central Contractor Registry are not made available to the public. The Secretary shall prescribe a requirement for procurement officials of the United States having access to such numbers in that registry to maintain the confidentiality of those numbers.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2302d the following new item:

''2302e. Central Contractor Registry.''.

SA 1522. Mrs. DOLE submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle D of title VIII, add the following:

SEC. 834. TRAINING FOR DEFENSE ACQUISITION WORKFORCE ON THE REQUIREMENTS OF THE BERRY AMENDMENT.

(a) TRAINING DURING FISCAL YEAR 2006.—The Secretary of Defense shall ensure that each member of the defense acquisition workforce (including personnel engaged in end-item inspections) receives training during fiscal year 2006 on the requirements of section 2533a of title 10, United States Code (commonly referred to as the ''Berry Amendment''), and the regulations implementing that section.

(b) INCLUSION OF INFORMATION IN NEW TRAINING PROGRAMS.—The Secretary shall ensure that any training program for the defense acquisition workforce development or implemented after the date of the enactment of this Act includes comprehensive information on the requirements described in subsection (a).

SA 1523. Mrs. DOLE (for herself, Mr. DURBIN, and Mr. NELSON of Florida) submitted an amendment intended to be proposed by her to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle E of title VI, add the following:

SEC. 653. TERMS OF CONSUMER CREDIT EXTENDED TO SERVICEMEMBER OR SERVICEMEMBER'S DEPENDENT.

(a) TERMS OF CONSUMER CREDIT.—Title II of the Servicemembers Civil Relief Act (50 U.S.C. App. 521 et seq.) is amended by adding at the end the following new section:

''SEC. 208. TERMS OF CONSUMER CREDIT.

''(a) INTEREST.—A creditor who extends consumer credit to a servicemember or a servicemember's dependent shall not require the servicemember or the servicemember's dependent to pay interest with respect to the extension of such credit, except as—

''(1) agreed to under the terms of the credit agreement or promissory note;

''(2) authorized by the applicable State law; and

''(3) not specifically prohibited by this section.

''(b) ANNUAL PERCENTAGE RATE.—A creditor described in subsection (a) shall not impose an annual percentage rate greater than 36 percent with respect to the consumer credit extended to a servicemember or a servicemember's dependent.

''(c) MANDATORY LOAN DISCLOSURES.—

''(1) INFORMATION REQUIRED.—With respect to any extension of consumer credit to a servicemember or a servicemember's dependent, a creditor shall provide to the servicemember or the servicemember's dependent the following information in writing at or before the issuance of the credit:

''(A) A statement of the annual percentage rate applicable to the extension of credit.

''(B) Any disclosures required under the Truth in Lending Act (15 U.S.C. 1601 et seq.).

''(C) A clear description of the payment obligations of the servicemember or the servicemember's dependent, as applicable.

''(2) TERMS.—Such disclosures shall be presented in accordance with terms prescribed by the regulations issued by the Board of Governors of the Federal Reserve System to implement the Truth in Lending Act (15 U.S.C. 1601 et seq.).

''(d) LIMITATION.—A creditor described in subsection (a) shall not automatically renew, repay, refinance, or consolidate with the proceeds of other credit extended by the same creditor any consumer credit extended to a servicemember or a servicemember's dependent without—

''(1) executing new loan documentation signed by the servicemember or the servicemember's dependent, as applicable; and

''(2) providing the loan disclosures described in subsection (c) to the servicemember or the servicemember's dependent.

''(e) PREEMPTION.—Except as provided in subsection (f)(2), this section preempts any State or Federal law, rule, or regulation, including any State usury law, to the extent that such laws, rules, or regulations are inconsistent with this section, except that this section shall not preempt any such law, rule, or regulation that provides additional protection to a servicemember or a servicemember's dependent.

''(f) PENALTIES.—

''(1) MISDEMEANOR.—Any creditor who knowingly violates this section shall be fined as provided in title 18, United States Code, or imprisoned for not more than one year, or both.

''(2) PRESERVATION OF OTHER REMEDIES.—The remedies and rights provided under this section are in addition to and do not preclude any remedy otherwise available under law to the person claiming relief under this section, including any award for consequential and punitive damages.

''(g) DEFINITION.—For purposes of this section, the term 'interest' includes service charges, renewal charges, fees, or any other charges (except bona fide insurance) with respect to the extension of consumer credit.''.

(b) CLERICAL AMENDMENT.—The table of contents of the Servicemembers Civil Relief Act (50 U.S.C. App. 501) is amended by inserting after the item relating to section 207 the following new item:

''Sec. 208. Terms of consumer credit.''.

SA 1524. Mrs. DOLE (for herself, Mr. LAUTENBERG, Mr. KENNEDY, Mr. DEWINE, Ms. LANDRIEU, Mr. CHAFEE, Ms. MIKULSKI, Mr. CHAMBLISS, and Mr. DURBIN) submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle B of title VII, add the following:

SEC. 718. MENTAL HEALTH COUNSELORS UNDER TRICARE.

(a) REIMBURSEMENT UNDER TRICARE.—Section 1079(a)(8) of title 10, United States Code, is amended—

(1) by inserting ''or licensed or certified mental health counselors'' after ''certified marriage and family therapists'' both places it appears; and

(2) by inserting ''or licensed or certified mental health counselors'' after ''that the therapists.''

(b) AUTHORITY TO PROVIDE MENTAL HEALTH SERVICES IN CLINICAL TRIALS.—Section 1079(a)(13) of such title is amended by inserting '', licensed or certified mental health counselor,'' after ''certified marriage and family therapist''.

(c) AUTHORITY TO ENTER INTO PERSONAL SERVICES CONTRACTS.—Section 704(c)(2) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103–337; 108 Stat. 2799; 10 U.S.C. 1091 note) is amended by inserting ''mental health counselors,'' after ''psychologists,''.

(d) APPLICABILITY OF LICENSURE REQUIREMENT FOR HEALTH-CARE PROFESSIONALS.—Section 1094 (e)(2) of title 10, United States Code, is amended by inserting ''mental health counselor,'' after ''psychologist,''.

SA 1525. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. SPECIAL EXPOSURE COHORTS.

(a) REPORTS ON SPECIAL EXPOSURE COHORTS.—

(1) INITIAL REPORT.—Not later than 90 days after the date of enactment of this Act, the Director of the National Institute for Occupational Safety and Health (referred to in this section as the ''Director'') shall prepare and submit as described in paragraph (4) a report identifying the Department of Energy facilities, and atomic weapons employer facilities, at which a class of employees is reasonably likely to qualify for treatment as members of the Special Exposure Cohort under section 3626 of the Energy Employees Occupational Illness Compensation Program Act of 2000 (42 U.S.C. 7384q), in the event that the class submits a petition as described in subsection (a)(3) of such section.

(2) CONTENTS.—

(A) IN GENERAL.—The report shall—

(i) list and describe each of the classes of employees referred to in paragraph (1), including the job categories and time periods of employment for such classes;

(ii) state a rationale or basis for describing those classes as reasonably likely to qualify for treatment as members of the Special Exposure Cohort;

(iii) indicate whether any of the described classes are multi-facility classes; and

(iv) state the number of claimants with pending claims in the described classes.

(B) RESEARCH.—The report shall be based on research conducted by the Director and by contractors of the National Institute for Occupational Safety and Health.

(C) LIST OF FACILITIES REVIEWED.—The report shall list facilities where the Director has conducted a review, for purposes of making the identification described in paragraph (1), and facilities where the Director has not conducted such a review.

(D) PLAN.—The report shall specify a plan to assist petitioners at facilities identified in the report in filing petitions under subsection (a)(3) of such section 3626.

(3) UPDATED REPORT.—Not later than 12 months after submitting an initial report under this section, the Director shall update the report and submit the updated report as described in paragraph (4).

(4) SUBMISSION AND DISSEMINATION.—

(A) SUBMISSION.—The Director shall submit the reports described in this section—

(i) to the Committee on Armed Services, the Committee on Education and the Workforce, and the Committee on the Judiciary of the House of Representatives;

(ii) to the Committee on Armed Services and the Committee on Health, Education, Labor, and Pensions of the Senate; and

(iii) to the Advisory Board on Radiation and Worker Health, for the purpose of obtaining the Board's recommendations.

(B) DISSEMINATION.—The Director shall make the reports available in electronic and printed form.

(5) CONSTRUCTION.—Nothing in this subsection shall be construed to suggest that the decision of the Director to identify a facility or describe a class of employees for a report submitted under this subsection constitutes a prejudgement on the outcome of a petition filed under subsection (a)(3) of such section 3626 by a class of employees at such facility, or a response to a recommendation by the Advisory Board on Radiation and Worker Health under subsection (a)(1) of such section relating to such a class of employees.

(b) SPECIAL EXPOSURE COHORT.—Section 3626(a) of the Energy Employees Occupational Illness Compensation Program Act of 2000 (42 U.S.C. 7384q(a)) is amended—

(1) in paragraph (1)—

(A) by inserting ''or atomic weapons employer facility'' after ''Department of Energy facility''; and

(B) by striking ''that facility'' and inserting ''the facility involved''; and

(2) in paragraph (3), by adding at the end the following: ''For purposes of establishing procedures and considering petitions under this paragraph, a reference to a facility shall be considered to include a reference to multiple facilities with a common class of employees, to permit the President to treat a multiple-facility exposure cohort as members of the Special Exposure Cohort.''.

(c) RESIDUAL CONTAMINATION.—

(1) ADJUDICATION.—Not later than 21 days after the date of enactment of this Act, the Secretary of Labor shall reinstate and commence adjudication of all claims filed under subtitle B of the Energy Employees Occupational Illness Compensation Program Act of 2000 (42 U.S.C. 73841 et seq.) as a result of changes the definition of the term ''atomic weapons employee'' made by the amendment in section 3168(a) of division A of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2190).

(2) REPORT.—Not later than 45 days after the date of enactment of this Act, the Secretary of Labor shall prepare and submit to the Committee on Armed Services of the House of Representatives and the Committee on Armed Services of the Senate a report that—

(A) identifies all of the atomic weapons employer facilities; and

(B) states the number of claims under such subtitle that were denied due to the fact that the initial employment of the atomic weapons employee involved occurred before the covered period when the employer involved was processing or producing material that emitted radiation and was used in the production of an atomic weapon, and the number of related cases.

(3) DEFINITIONS.—As used in this section, the terms ''atomic weapons employee'' and ''atomic weapons employer facilities'' have the meanings given the terms in section 3621 of the Energy Employees Occupational Illness Compensation Program Act of 2000 (42 U.S.C. 73841).

SA 1526. Mrs. DOLE submitted an amendment intended to be proposed by her to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 371, between lines 8 and 9, insert the following:

SEC. 2887. SENSE OF THE SENATE REGARDING COMMUNITY IMPACT ASSISTANCE RELATED TO CONSTRUCTION OF NAVY LANDING FIELD, NORTH CAROLINA.

It is the sense of the Senate that—

(1) the planned construction of an outlying landing field in North Carolina is vital to the national security interests of the United States; and

(2) the Federal Government should provide community impact assistance to those communities directly impacted by the location of the outlying landing field, including—

(A) economic development assistance;

(B) impact aid program assistance;

(C) the provision by cooperative agreement with the Navy of fire, rescue, water, and sewer services;

(D) access by leasing arrangement to appropriate land for farming for farmers impacted by the location of the landing field;

(E) direct ad valorem tax relief;

(F) direct relocation assistance; and

(G) fair compensation to landowners for property purchased by the Navy.

SA 1527. Mrs. BOXER (for herself and Ms. SNOWE) submitted an amendment intended to be proposed by her to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, add the following:

SEC. . USE OF DEPARTMENT OF DEFENSE FUNDS FOR ABORTIONS IN CASES OF RAPE AND INCEST.

Section 1093(a) of title 10, United States Code, is amended by inserting before the period at the end the following: ''or in cases in which the pregnancy is the result of an act of rape or incest.''

SA 1528. Mr. KERRY submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 237, after line 17, insert the following:

SEC. 846. EXTENSION OF SOCIALLY AND ECONOMICALLY DISADVANTAGED BUSINESS PROGRAM.

Section 7102(c) of the Federal Acquisition Streamlining Act of 1994 (15 U.S.C. 644 note) is amended by striking ''September 30, 2003'' and inserting ''September 30, 2006''.

SA 1529. Mr. VOINOVICH submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle E of title II, add the following:

SEC. 244. REPORT ON COLLABORATION ON CERTAIN RESEARCH BETWEEN THE DEPARTMENT OF DEFENSE AND THE NATIONAL AERONAUTICS AND SPACE ADMINISTRATION.

Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense and the Administrator of the National Aeronautics and Space Administration shall jointly submit to Congress a report setting forth the recommendations of the Secretary and the Administrator regarding the most appropriate means of carrying out collaboration between the Department and the Administration in research on the following:

(1) Gas turbines.

(2) Noise and emissions reductions with respect to jet engines.

(3) Hypersonic propulsion for aircraft flight.

SA 1530. Mr. MARTINEZ (for himself and Mr. NELSON of Florida) submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle B of title X, add the following:

SEC. 1023. SENSE OF SENATE ON SECOND HOMEPORT FOR NUCLEAR AIRCRAFT CARRIERS ON THE EAST COAST OF THE UNITED STATES.

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

(1) The Navy has long recognized the need for sufficient deepwater ports, in both the Atlantic Ocean and the Pacific Ocean, to adequately protect its fleet.

(2) The Chief of Naval Operations testified before Congress in 2005 that the Navy needs two homeports capable of handling aircraft carriers on each coast of the United States for strategic and security purposes.

(3) The Navy currently maintains two aircraft carrier homeports on the East Coast of the United States.

(4) The scheduled decommissioning of the two remaining conventional carriers would leave the Navy with an aircraft carrier fleet consisting entirely of nuclear aircraft carriers.

(5) The Navy currently possesses only one homeport on the East Coast of the United States capable of handling nuclear aircraft carriers.

(6) Dispersing the Atlantic aircraft carrier fleet at two ports on the East Coast of the United States is a strategic and security imperative.

(b) SENSE OF SENATE.—It is the sense of the Senate that a second homeport capable of handling nuclear aircraft carriers should be established on the East Coast of the United States as soon as possible after the date of the enactment of this Act.

SA 1531. Mr. LIEBERMAN submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle D of title X, add the following:

SEC. 1044. STUDY ON ROLE AND MISSION OF THE DEFENSE ADVANCED RESEARCH PROJECTS AGENCY.

(a) STUDY REQUIRED.—The Secretary of Defense shall carry out a study of the role and mission of the Defense Advanced Research Projects Agency (DARPA).

(b) CONTENT OF STUDY.—The study under subsection (a) shall include the following:

(1) An examination of unique mission of the Defense Advanced Research Projects Agency at the time of its establishment, and whether there has been a significant change in the need for an organization filling such mission, including an assessment of the current need for the Department of Defense—

(A) to ensure that the United States maintains clear leadership in all significant areas of basic and applied research having potential relevance to the national security of the United States for the foreseeable future;

(B) to ensure United States leadership in key areas, such as advanced mathematics or revolutionary materials, not adequately addressed by other departments or agencies of the Federal Government;

(C) to explore revolutionary approaches to difficult, but critical problems that would not be attempted by research programs with near-term and mid-term development goals;

(D) to create and foster research teams and partnerships crossing disciplinary lines, including a linkage of academic and private sector entities that would be unlikely to form through traditional research practices; and

(E) to protect the unique research capacity of research groups in institutions of higher education and ensure that perspectives and insights from research conducted by institutions of higher education continuously stimulate advances in defense research.

(2) An analysis of whether the mission of the Agency can be fulfilled by other components of the Department of Defense engaged in defense research.

(3) An identification of recommendations for ensuring that the Agency is capable of carrying out the unique functions assigned to it, which recommendations shall be based on an assessment of whether—

(A) the Agency is assig11ed a position in the Department of Defense best suited to ensuring that it is evaluated with respect to the mission referred to in paragraph (1);

(B) the tests applied to the Agency ensure a focus by the Agency on projects relevant to the security interests of the United States without forcing the Agency to engage in projects with immediate relevance to defense applications in the near term;

(C) the classification of research limits access to key research assets in institutions of higher education and elsewhere, including work by noncitizens;

(D) the hiring practices for program managers of the Agency ensure that the Agency hires the most qualified individuals and ensures that hired individuals maintain their positions long enough to achieve significant progress complex areas of research;

(E) the performance review cycles of the Agency hold researchers to the highest standards without requiring fixed, near-term performance requirements that can compromise a focus on breakthrough technologies;

(F) the Agency—

(i) under takes appropriate steps to survey all potential areas where revolutionary or breakthrough research may yield critical results; and

(ii) undertakes adequate methods for establishing priorities;

(G) the Agency has developed adequate strategies for transferring successful breakthrough research to other research organizations in the Department of Defense or other private or public research organizations; and

(H) the Agency takes adequate steps to ensure that its priorities and management strategies are held to the highest standards by an independent review group committed to the unique mission of the Agency and capable of ensuring that the Agency remain focused on topics that meet meaningful standards for importance and difficulty.

(c) REPORT.—

(1) IN GENERAL.—Not later than February 1, 2007, the Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the results of the study under subsection (a).

(2) RECOMMENDATIONS.—The report shall include recommendations regarding—

(A) the appropriate mission of the Defense Advanced Research Projects Agency; and

(B) whether or not modifications are required for the authorities and resources applicable to the Agency in order to ensure that such mission can be executed with utmost efficiency.

(d) ROLE OF DEFENSE SCIENCE BOARD.—The Secretary shall act through the Defense Science Board in carrying out the study under subsection (a) and preparing the report under subsection (c).

SA 1532. Mr. DORGAN (for himself and Ms. SNOWE) submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

DIVISION ____—IMPORTATION OF PRESCRIPTION DRUGS

TITLE ____—IMPORTATION OF PRESCRIPTION DRUGS

SEC. ____1. SHORT TITLE.

This title may be cited as the ''Pharmaceutical Market Access and Drug Safety Act of 2005''.

SEC. ____2. FINDINGS.

Congress finds that—

(1) Americans unjustly pay up to 5 times more to fill their prescriptions than consumers in other countries;

(2) the United States is the largest market for pharmaceuticals in the world, yet American consumers pay the highest prices for brand pharmaceuticals in the world;

(3) a prescription drug is neither safe nor effective to an individual who cannot afford it;

(4) allowing and structuring the importation of prescription drugs to ensure access to safe and affordable drugs approved by the Food and Drug Administration will provide a level of safety to American consumers that they do not currently enjoy;

(5) American seniors alone will spend $1,800,000,000,000 on pharmaceuticals over the next 10 years; and

(6) allowing open pharmaceutical markets could save American consumers at least $38,000,000,000 each year.

SEC. ___3. REPEAL OF CERTAIN SECTION REGARDING IMPORTATION OF PRESCRIPTION DRUGS.

Chapter VIII of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381 et seq.) is amended by striking section 804.

SEC. ___4. IMPORTATION OF PRESCRIPTION DRUGS; WAIVER OF CERTAIN IMPORT RESTRICTIONS.

(a) IN GENERAL.—Chapter VIII of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381 et seq.), as amended by section ___3, is further amended by inserting after section 803 the following:

"SEC. 804. COMMERCIAL AND PERSONAL IMPORTATION OF PRESCRIPTION DRUGS.

''(a) IMPORTATION OF PRESCRIPTION DRUGS.—

''(1) IN GENERAL.—In the case of qualifying drugs imported or offered for import into the United States from registered exporters or by registered importers—

''(A) the limitation on importation that is established in section 801(d)(1) is waived; and

''(B) the standards referred to in section 801(a) regarding admission of the drugs are subject to subsection (g) of this section (including with respect to qualifying drugs to which section 801(d)(1) does not apply).

''(2) IMPORTERS.—A qualifying drug may not be imported under paragraph (1) unless—

''(A) the drug is imported by a pharmacy, group of pharmacies, or a wholesaler that is a registered importer; or

''(B) the drug is imported by an individual for personal use or for the use of a family member of the individual (not for resale) from a registered exporter.

''(3) RULE OF CONSTRUCTION.—This section shall apply only with respect to a drug that is imported or offered for import into the United States—

''(A) by a registered importer; or

''(B) from a registered exporter to an individual.

''(4) DEFINITIONS.—

''(A) REGISTERED EXPORTER; REGISTERED IMPORTER.—For purposes of this section:

''(i) The term 'registered exporter' means an exporter for which a registration under subsection (b) has been approved and is in effect.

''(ii) The term 'registered importer' means a pharmacy, group of pharmacies, or a wholesaler for which a registration under subsection (b) has been approved and is in effect.

''(iii) The term 'registration condition' means a condition that must exist for a registration under subsection (b) to be approved.

''(B) QUALIFYING DRUG.—For purposes of this section, the term 'qualifying drug' means a drug for which there is a corresponding U.S. label drug.

''(C) U.S. LABEL DRUG.—For purposes of this section, the term 'U.S. label drug' means a prescription drug that—

''(i) with respect to a qualifying drug, has the same active ingredient or ingredients, route of administration, dosage form, and strength as the qualifying drug;

''(ii) with respect to the qualifying drug, is manufactured by or for the person that manufactures the qualifying drug;

''(iii) is approved under section 505(c); and

''(iv) is not—

''(I) a controlled substance, as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802);

''(II) a biological product, as defined in section 351 of the Public Health Service Act (42 U.S.C. 262), including—

''(aa) a therapeutic DNA plasmid product;

''(bb) a therapeutic synthetic peptide product;

''(cc) a monoclonal antibody product for in vivo use; and

''(dd) a therapeutic recombinant DNA-derived product;

''(III) an infused drug, including a peritoneal dialysis solution;

''(IV) an injected drug;

''(V) a drug that is inhaled during surgery;

''(VI) a drug that is the listed drug referred to in 2 or more abbreviated new drug applications under which the drug is commercially marketed; or

''(VII) a sterile opthlamic drug intended for topical use on or in the eye.

''(D) OTHER DEFINITIONS.—For purposes of this section:

''(i)(I) The term 'exporter' means a person that is in the business of exporting a drug to individuals in the United States from Canada or from a permitted country designated by the Secretary under subclause (II), or that, pursuant to submitting a registration under subsection (b), seeks to be in such business.

''(II) The Secretary shall designate a permitted country under subparagraph (E) (other than Canada) as a country from which an exporter may export a drug to individuals in the United States if the Secretary determines that—

''(aa) the country has statutory or regulatory standards that are equivalent to the standards in the United States and Canada with respect to—

''(AA) the training of pharmacists;

''(BB) the practice of pharmacy; and

''(CC) the protection of the privacy of personal medical information; and

''(bb) the importation of drugs to individuals in the United States from the country will not adversely affect public health.

''(ii) The term 'importer' means a pharmacy, a group of pharmacies, or a wholesaler that is in the business of importing a drug into the United States or that, pursuant to submitting a registration under subsection (b), seeks to be in such business.

''(iii) The term 'pharmacist' means a person licensed by a State to practice pharmacy, including the dispensing and selling of prescription drugs.

''(iv) The term 'pharmacy' means a person that—

''(I) is licensed by a State to engage in the business of selling prescription drugs at retail; and

''(II) employs 1 or more pharmacists.

''(v) The term 'prescription drug' means a drug that is described in section 503(b)(1).

''(vi) The term 'wholesaler'—

''(I) means a person licensed as a wholesaler or distributor of prescription drugs in the United States under section 503(e)(2)(A); and

''(II) does not include a person authorized to import drugs under section 801(d)(1).

''(E) PERMITTED COUNTRY.—The term 'permitted country' means—

''(i) Australia;

''(ii) Canada;

''(iii) a member country of the European Union, but does not include a member country with respect to which—

''(I) the country's Annex to the Treaty of Accession to the European Union 2003 includes a transitional measure for the regulation of human pharmaceutical products that has not expired; or

''(II) the Secretary determines that the requirements described in subclauses (I) and (II) of clause (vii) will not be met by the date on which such transitional measure for the regulation of human pharmaceutical products expires;

''(iv) Japan;

''(v) New Zealand;

''(vi) Switzerland; and

''(vii) a country in which the Secretary determines the following requirements are met:

''(I) The country has statutory or regulatory requirements—

''(aa) that require the review of drugs for safety and effectiveness by an entity of the government of the country;

''(bb) that authorize the approval of only those drugs that have been determined to be safe and effective by experts employed by or acting on behalf of such entity and qualified by scientific training and experience to evaluate the safety and effectiveness of drugs on the basis of adequate and well-controlled investigations, including clinical investigations, conducted by experts qualified by scientific training and experience to evaluate the safety and effectiveness of drugs;

''(cc) that require the methods used in, and the facilities and controls used for the manufacture, processing, and packing of drugs in the country to be adequate to preserve their identity, quality, purity, and strength;

''(dd) for the reporting of adverse reactions to drugs and procedures to withdraw approval and remove drugs found not to be safe or effective; and

''(ee) that require the labeling and promotion of drugs to be in accordance with the approval of the drug.

''(II) The valid marketing authorization system in the country is equivalent to the systems in the countries described in clauses (i) through (vi).

''(III) The importation of drugs to the United States from the country will not adversely affect public health.

''(b) REGISTRATION OF IMPORTERS AND EXPORTERS.—

''(1) REGISTRATION OF IMPORTERS AND EXPORTERS.—A registration condition is that the importer or exporter involved (referred to in this subsection as a 'registrant') submits to the Secretary a registration containing the following:

''(A)(i) In the case of an exporter, the name of the exporter and an identification of all places of business of the exporter that relate to qualifying drugs, including each warehouse or other facility owned or controlled by, or operated for, the exporter.

''(ii) In the case of an importer, the name of the importer and an identification of the places of business of the importer at which the importer initially receives a qualifying drug after importation (which shall not exceed 3 places of business except by permission of the Secretary).

''(B) Such information as the Secretary determines to be necessary to demonstrate that the registrant is in compliance with registration conditions under—

''(i) in the case of an importer, subsections (c), (d), (e), (g), and (j) (relating to the sources of imported qualifying drugs; the inspection of facilities of the importer; the payment of fees; compliance with the standards referred to in section 801(a); and maintenance of records and samples); or

''(ii) in the case of an exporter, subsections (c), (d), (f), (g), (h), (i), and (j) (relating to the sources of exported qualifying drugs; the inspection of facilities of the exporter and the marking of compliant shipments; the payment of fees; and compliance with the standards referred to in section 801(a); being licensed as a pharmacist; conditions for individual importation; and maintenance of records and samples).

''(C) An agreement by the registrant that the registrant will not under subsection (a) import or export any drug that is not a qualifying drug.

''(D) An agreement by the registrant to—

''(i) notify the Secretary of a recall or withdrawal of a qualifying drug distributed in a permitted country that the registrant has exported or imported, or intends to export or import, to the United States under subsection (a);

''(ii) provide for the return to the registrant of such drug; and

''(iii) cease, or not begin, the exportation or importation of such drug unless the Secretary has notified the registrant that exportation or importation of such drug may proceed.

''(E) An agreement by the registrant to ensure and monitor compliance with each registration condition, to promptly correct any noncompliance with such a condition, and to promptly report to the Secretary any such noncompliance.

''(F) A plan describing the manner in which the registrant will comply with the agreement under subparagraph (E).

''(G) An agreement by the registrant to enforce a contract under subsection (c)(3)(B) against a party in the chain of custody of a qualifying drug with respect to the authority of the Secretary under clauses (ii) and (iii) of that subsection.

''(H) An agreement by the registrant to notify the Secretary not more than 30 days before the registrant intends to make the change, of—

''(i) any change that the registrant intends to make regarding information provided under subparagraph (A) or (B); and

''(ii) any change that the registrant intends to make in the compliance plan under subparagraph (F).

''(I) In the case of an exporter—

''(i) An agreement by the exporter that a qualifying drug will not under subsection (a) be exported to any individual not authorized pursuant to subsection (a)(2)(B) to be an importer of such drug.

''(ii) An agreement to post a bond, payable to the Treasury of the United States that is equal in value to the lesser of—

''(I) the value of drugs exported by the exporter to the United States in a typical 4-week period over the course of a year under this section; or

''(II) $1,000,000;

''(iii) An agreement by the exporter to comply with applicable provisions of Canadian law, or the law of the permitted country designated under subsection (a)(4)(D)(i)(II) in which the exporter is located, that protect the privacy of personal information with respect to each individual importing a prescription drug from the exporter under subsection (a)(2)(B).

''(iv) An agreement by the exporter to report to the Secretary—

''(I) not later than August 1 of each fiscal year, the total price and the total volume of drugs exported to the United States by the exporter during the 6-month period from January 1 through June 30 of that year; and

''(II) not later than January 1 of each fiscal year, the total price and the total volume of drugs exported to the United States by the exporter during the previous fiscal year.

''(J) In the case of an importer, an agreement by the importer to report to the Secretary—

''(i) not later than August 1 of each fiscal year, the total price and the total volume of drugs imported to the United States by the importer during the 6-month period from January 1 through June 30 of that fiscal year; and

''(ii) not later than January 1 of each fiscal year, the total price and the total volume of drugs imported to the United States by the importer during the previous fiscal year.

''(K) Such other provisions as the Secretary may require by regulation to protect the public health while permitting—

''(i) the importation by pharmacies, groups of pharmacies, and wholesalers as registered importers of qualifying drugs under subsection (a); and

''(ii) importation by individuals of qualifying drugs under subsection (a).

''(2) APPROVAL OR DISAPPROVAL OF REGISTRATION.—

''(A) IN GENERAL.—Not later than 90 days after the date on which a registrant submits to the Secretary a registration under paragraph (1), the Secretary shall notify the registrant whether the registration is approved or is disapproved. The Secretary shall disapprove a registration if there is reason to believe that the registrant is not in compliance with one or more registration conditions, and shall notify the registrant of such reason. In the case of a disapproved registration, the Secretary shall subsequently notify the registrant that the registration is approved if the Secretary determines that the registrant is in compliance with such conditions.

''(B) CHANGES IN REGISTRATION INFORMATION.—Not later than 30 days after receiving a notice under paragraph (1)(H) from a registrant, the Secretary shall determine whether the change involved affects the approval of the registration of the registrant under paragraph (1), and shall inform the registrant of the determination.

''(3) PUBLICATION OF CONTACT INFORMATION FOR REGISTERED EXPORTERS.—Through the Internet website of the Food and Drug Administration and a toll-free telephone number, the Secretary shall make readily available to the public a list of registered exporters, including contact information for the exporters. Promptly after the approval of a registration submitted under paragraph (1), the Secretary shall update the Internet website and the information provided through the toll-free telephone number accordingly.

''(4) SUSPENSION AND TERMINATION.—

''(A) SUSPENSION.—With respect to the effectiveness of a registration submitted under paragraph (1):

''(i) Subject to clause (ii), the Secretary may suspend the registration if the Secretary determines, after notice and opportunity for a hearing, that the registrant has failed to maintain substantial compliance with a registration condition.

''(ii) If the Secretary determines that, under color of the registration, the exporter has exported a drug or the importer has imported a drug that is not a qualifying drug, or a drug that does not comply with subsection (g)(2)(A) or (g)(4), or has exported a qualifying drug to an individual in violation of subsection (i)(2)(F), the Secretary shall immediately suspend the registration. A suspension under the preceding sentence is not subject to the provision by the Secretary of prior notice, and the Secretary shall provide to the registrant an opportunity for a hearing not later than 10 days after the date on which the registration is suspended.

''(iii) The Secretary may reinstate the registration, whether suspended under clause (i) or (ii), if the Secretary determines that the registrant has demonstrated that further violations of registration conditions will not occur.

''(B) TERMINATION.—The Secretary, after notice and opportunity for a hearing, may terminate the registration under paragraph (1) of a registrant if the Secretary determines that the registrant has engaged in a pattern or practice of violating 1 or more registration conditions, or if on 1 or more occasions the Secretary has under subparagraph (A)(ii) suspended the registration of the registrant. The Secretary may make the termination permanent, or for a fixed period of not less than 1 year. During the period in which the registration is terminated, any registration submitted under paragraph (1) by the registrant, or a person that is a partner in the export or import enterprise, or a principal officer in such enterprise, and any registration prepared with the assistance of the registrant or such a person, has no legal effect under this section.

''(5) DEFAULT OF BOND.—A bond required to be posted by an exporter under paragraph (1)(I)(ii) shall be defaulted and paid to the Treasury of the United States if, after opportunity for an informal hearing, the Secretary determines that the exporter has—

''(A) exported a drug to the United States that is not a qualifying drug or that is not in compliance with subsection (g)(2)(A), (g)(4), or (i); or

''(B) failed to permit the Secretary to conduct an inspection described under subsection (d).

''(c) SOURCES OF QUALIFYING DRUGS.—A registration condition is that the exporter or importer involved agrees that a qualifying drug will under subsection (a) be exported or imported into the United States only if there is compliance with the following:

''(1) The drug was manufactured in an establishment—

''(A) required to register under subsection (h) or (i) of section 510; and

''(B)(i) inspected by the Secretary; or

''(ii) for which the Secretary has elected to rely on a satisfactory report of a good manufacturing practice inspection of the establishment from a permitted country whose regulatory system the Secretary recognizes as equivalent under a mutual recognition agreement, as provided for under section 510(i)(3), section 803, or part 26 of title 21, Code of Federal Regulations (or any corresponding successor rule or regulation).

''(2) The establishment is located in any country, and the establishment manufactured the drug for distribution in the United States or for distribution in 1 or more of the permitted countries (without regard to whether in addition the drug is manufactured for distribution in a foreign country that is not a permitted country).

''(3) The exporter or importer obtained the drug—

''(A) directly from the establishment; or

''(B) directly from an entity that, by contract with the exporter or importer—

''(i) provides to the exporter or importer a statement (in such form and containing such information as the Secretary may require) that, for the chain of custody from the establishment, identifies each prior sale, purchase, or trade of the drug (including the date of the transaction and the names and addresses of all parties to the transaction);

''(ii) agrees to permit the Secretary to inspect such statements and related records to determine their accuracy;

''(iii) agrees, with respect to the qualifying drugs involved, to permit the Secretary to inspect warehouses and other facilities, including records, of the entity for purposes of determining whether the facilities are in compliance with any standards under this

Act that are applicable to facilities of that type in the United States; and

''(iv) has ensured, through such contractual relationships as may be necessary, that the Secretary has the same authority regarding other parties in the chain of custody from the establishment that the Secretary has under clauses (ii) and (iii) regarding such entity.

''(4)(A) The foreign country from which the importer will import the drug is a permitted country; or

''(B) The foreign country from which the exporter will export the drug is the permitted country in which the exporter is located.

''(5) During any period in which the drug was not in the control of the manufacturer of the drug, the drug did not enter any country that is not a permitted country.

''(6) The exporter or importer retains a sample of each lot of the drug sufficient for testing by the Secretary.

''(d) INSPECTION OF FACILITIES; MARKING OF SHIPMENTS.—

''(1) INSPECTION OF FACILITIES.—A registration condition is that, for the purpose of assisting the Secretary in determining whether the exporter involved is in compliance with all other registration conditions—

''(A) the exporter agrees to permit the Secretary—

''(i) to conduct onsite inspections, including monitoring on a day-to-day basis, of places of business of the exporter that relate to qualifying drugs, including each warehouse or other facility owned or controlled by, or operated for, the exporter;

''(ii) to have access, including on a day-to-day basis, to—

''(I) records of the exporter that relate to the export of such drugs, including financial records; and

''(II) samples of such drugs;

''(iii) to carry out the duties described in paragraph (3); and

''(iv) to carry out any other functions determined by the Secretary to be necessary regarding the compliance of the exporter; and

''(B) the Secretary has assigned 1 or more employees of the Secretary to carry out the functions described in this subsection for the Secretary randomly, but not less than 12 times annually, on the premises of places of businesses referred to in subparagraph (A)(i), and such an assignment remains in effect on a continuous basis.

''(2) MARKING OF COMPLIANT SHIPMENTS.—A registration condition is that the exporter involved agrees to affix to each shipping container of qualifying drugs exported under subsection (a) such markings as the Secretary determines to be necessary to identify the shipment as being in compliance with all registration conditions. Markings under the preceding sentence shall—

''(A) be designed to prevent affixation of the markings to any shipping container that is not authorized to bear the markings; and

''(B) include anticounterfeiting or track-and-trace technologies, taking into account the economic and technical feasibility of those technologies.

''(3) CERTAIN DUTIES RELATING TO EXPORTERS.—Duties of the Secretary with respect to an exporter include the following:

''(A) Inspecting, randomly, but not less than 12 times annually, the places of business of the exporter at which qualifying drugs are stored and from which qualifying drugs are shipped.

''(B) During the inspections under subparagraph (A), verifying the chain of custody of a statistically significant sample of qualifying drugs from the establishment in which the drug was manufactured to the exporter, which shall be accomplished or supplemented by the use of anticounterfeiting or track-and-trace technologies, taking into account the economic and technical feasibility of those technologies, except that a drug that lacks such technologies from the point of manufacture shall not for that reason be excluded from importation by an exporter.

''(C) Randomly reviewing records of exports to individuals for the purpose of determining whether the drugs are being imported by the individuals in accordance with the conditions under subsection (i). Such reviews shall be conducted in a manner that will result in a statistically significant determination of compliance with all such conditions.

''(D) Monitoring the affixing of markings under paragraph (2).

''(E) Inspecting as the Secretary determines is necessary the warehouses and other facilities, including records, of other parties in the chain of custody of qualifying drugs.

''(F) Determining whether the exporter is in compliance with all other registration conditions.

''(4) PRIOR NOTICE OF SHIPMENTS.—A registration condition is that, not less than 8 hours and not more than 5 days in advance of the time of the importation of a shipment of qualifying drugs, the importer involved agrees to submit to the Secretary a notice with respect to the shipment of drugs to be imported or offered for import into the United States under subsection (a). A notice under the preceding sentence shall include—

''(A) the name and complete contact information of the person submitting the notice;

''(B) the name and complete contact information of the importer involved;

''(C) the identity of the drug, including the established name of the drug, the quantity of the drug, and the lot number assigned by the manufacturer;

''(D) the identity of the manufacturer of the drug, including the identity of the establishment at which the drug was manufactured;

''(E) the country from which the drug is shipped;

''(F) the name and complete contact information for the shipper of the drug;

''(G) anticipated arrival information, including the port of arrival and crossing location within that port, and the date and time;

''(H) a summary of the chain of custody of the drug from the establishment in which the drug was manufactured to the importer;

''(I) a declaration as to whether the Secretary has ordered that importation of the drug from the permitted country cease under subsection (g)(2)(C) or (D); and

''(J) such other information as the Secretary may require by regulation.

''(5) MARKING OF COMPLIANT SHIPMENTS.—A registration condition is that the importer involved agrees, before wholesale distribution (as defined in section 503(e)) of a qualifying drug that has been imported under subsection (a), to affix to each container of such drug such markings or other technology as the Secretary determines necessary to identify the shipment as being in compliance with all registration conditions, except that the markings or other technology shall not be required on a drug that bears comparable, compatible markings or technology from the manufacturer of the drug. Markings or other technology under the preceding sentence shall—

''(A) be designed to prevent affixation of the markings or other technology to any container that is not authorized to bear the markings; and

''(B) shall include anticounterfeiting or track-and-trace technologies, taking into account the economic and technical feasibility of such technologies.

''(6) CERTAIN DUTIES RELATING TO IMPORTERS.—Duties of the Secretary with respect to an importer include the following:

''(A) Inspecting, randomly, but not less than 12 times annually, the places of business of the importer at which a qualifying drug is initially received after importation.

''(B) During the inspections under subparagraph (A), verifying the chain of custody of a statistically significant sample of qualifying drugs from the establishment in which the drug was manufactured to the importer, which shall be accomplished or supplemented by the use of anticounterfeiting or track-and-trace technologies, taking into account the economic and technical feasibility of those technologies, except that a drug that lacks such technologies from the point of manufacture shall not for that reason be excluded from importation by an importer.

''(C) Reviewing notices under paragraph (4).

''(D) Inspecting as the Secretary determines is necessary the warehouses and other facilities, including records of other parties in the chain of custody of qualifying drugs.

''(E) Determining whether the importer is in compliance with all other registration conditions.

''(e) IMPORTER FEES.—

''(1) REGISTRATION FEE.—A registration condition is that the importer involved pays to the Secretary a fee of $10,000 due on the date on which the importer first submits the registration to the Secretary under subsection (b).

''(2) INSPECTION FEE.—A registration condition is that the importer involved pays a fee to the Secretary in accordance with this subsection. Such fee shall be paid not later than October 1 and April 1 of each fiscal year in the amount provided for under paragraph (3).

''(3) AMOUNT OF INSPECTION FEE.—

''(A) AGGREGATE TOTAL OF FEES.—Not later than 30 days before the start of each fiscal year, the Secretary, in consultation with the Secretary of Homeland Security and the Secretary of the Treasury, shall establish an aggregate total of fees to be collected under paragraph (2) for importers for that fiscal year that is sufficient, and not more than necessary, to pay the costs for that fiscal year of administering this section with respect to registered importers, including the costs associated with—

''(i) inspecting the facilities of registered importers, and of other entities in the chain of custody of a qualifying drug as necessary, under subsection (d)(6);

''(ii) developing, implementing, and operating under such subsection an electronic system for submission and review of the notices required under subsection (d)(4) with respect to shipments of qualifying drugs under subsection (a) to assess compliance with all registration conditions when such shipments are offered for import into the United States; and

''(iii) inspecting such shipments as necessary, when offered for import into the United States to determine if such a shipment should be refused admission under subsection (g)(5).

''(B) LIMITATION.—Subject to subparagraph (C), the aggregate total of fees collected under paragraph (2) for a fiscal year shall not exceed 1 percent of the total price of qualifying drugs imported during that fiscal year into the United States by registered importers under subsection (a).

''(C) TOTAL PRICE OF DRUGS.—

''(i) ESTIMATE.—For the purposes of complying with the limitation described in subparagraph (B) when establishing under subparagraph (A) the aggregate total of fees to be collected under paragraph (2) for a fiscal year, the Secretary shall estimate the total price of qualifying drugs imported into the

United States by registered importers during that fiscal year by adding the total price of qualifying drugs imported by each registered importer during the 6-month period from January 1 through June 30 of the previous fiscal year, as reported to the Secretary by each registered importer under subsection (b)(1)(J).

''(ii) CALCULATION.—Not later than March 1 of the fiscal year that follows the fiscal year for which the estimate under clause (i) is made, the Secretary shall calculate the total price of qualifying drugs imported into the United States by registered importers during that fiscal year by adding the total price of qualifying drugs imported by each registered importer during that fiscal year, as reported to the Secretary by each registered importer under subsection (b)(1)(J).

''(iii) ADJUSTMENT.—If the total price of qualifying drugs imported into the United States by registered importers during a fiscal year as calculated under clause (ii) is less than the aggregate total of fees collected under paragraph (2) for that fiscal year, the Secretary shall provide for a pro-rata reduction in the fee due from each registered importer on April 1 of the subsequent fiscal year so that the limitation described in subparagraph (B) is observed.

''(D) INDIVIDUAL IMPORTER FEE.—Subject to the limitation described in subparagraph (B), the fee under paragraph (2) to be paid on October 1 and April 1 by an importer shall be an amount that is proportional to a reasonable estimate by the Secretary of the semiannual share of the importer of the volume of qualifying drugs imported by importers under subsection (a).

''(4) USE OF FEES.—

''(A) IN GENERAL.—Subject to appropriations Acts, fees collected by the Secretary under paragraphs (1) and (2) shall be credited to the appropriation account for salaries and expenses of the Food and Drug Administration until expended (without fiscal year limitation), and the Secretary may, in consultation with the Secretary of Homeland Security and the Secretary of the Treasury, transfer some proportion of such fees to the appropriation account for salaries and expenses of the Bureau of Customs and Border Protection until expended (without fiscal year limitation).

''(B) SOLE PURPOSE.—Fees collected by the Secretary under paragraphs (1) and (2) are only available to the Secretary and, if transferred, to the Secretary of Homeland Security, and are for the sole purpose of paying the costs referred to in paragraph (3)(A).

''(5) COLLECTION OF FEES.—In any case where the Secretary does not receive payment of a fee assessed under paragraph (1) or (2) within 30 days after it is due, such fee shall be treated as a claim of the United States Government subject to subchapter II of chapter 37 of title 31, United States Code.

''(f) EXPORTER FEES.—

''(1) REGISTRATION FEE.—A registration condition is that the exporter involved pays to the Secretary a fee of $10,000 due on the date on which the exporter first submits that registration to the Secretary under subsection (b).

''(2) INSPECTION FEE.—A registration condition is that the exporter involved pays a fee to the Secretary in accordance with this subsection. Such fee shall be paid not later than October 1 and April 1 of each fiscal year in the amount provided for under paragraph (3).

''(3) AMOUNT OF INSPECTION FEE.—

''(A) AGGREGATE TOTAL OF FEES.—Not later than 30 days before the start of each fiscal year, the Secretary, in consultation with the Secretary of Homeland Security and the Secretary of the Treasury, shall establish an aggregate total of fees to be collected under paragraph (2) for exporters for that fiscal year that is sufficient, and not more than necessary, to pay the costs for that fiscal year of administering this section with respect to registered exporters, including the costs associated with—

''(i) inspecting the facilities of registered exporters, and of other entities in the chain of custody of a qualifying drug as necessary, under subsection (d)(3);

''(ii) developing, implementing, and operating under such subsection a system to screen marks on shipments of qualifying drugs under subsection (a) that indicate compliance with all registration conditions, when such shipments are offered for import into the United States; and

''(iii) screening such markings, and inspecting such shipments as necessary, when offered for import into the United States to determine if such a shipment should be refused admission under subsection (g)(5).

''(B) LIMITATION.—Subject to subparagraph (C), the aggregate total of fees collected under paragraph (2) for a fiscal year shall not exceed 1 percent of the total price of qualifying drugs imported during that fiscal year into the United States by registered exporters under subsection (a).

''(C) TOTAL PRICE OF DRUGS.—

''(i) ESTIMATE.—For the purposes of complying with the limitation described in subparagraph (B) when establishing under subparagraph (A) the aggregate total of fees to be collected under paragraph (2) for a fiscal year, the Secretary shall estimate the total price of qualifying drugs imported into the United States by registered exporters during that fiscal year by adding the total price of qualifying drugs exported by each registered exporter during the 6-month period from January 1 through June 30 of the previous fiscal year, as reported to the Secretary by each registered exporter under subsection (b)(1)(I)(iv).

''(ii) CALCULATION.—Not later than March 1 of the fiscal year that follows the fiscal year for which the estimate under clause (i) is made, the Secretary shall calculate the total price of qualifying drugs imported into the United States by registered exporters during that fiscal year by adding the total price of qualifying drugs exported by each registered exporter during that fiscal year, as reported to the Secretary by each registered exporter under subsection (b)(1)(I)(iv).

''(iii) ADJUSTMENT.—If the total price of qualifying drugs imported into the United States by registered exporters during a fiscal year as calculated under clause (ii) is less than the aggregate total of fees collected under paragraph (2) for that fiscal year, the Secretary shall provide for a pro-rata reduction in the fee due from each registered exporter on April 1 of the subsequent fiscal year so that the limitation described in subparagraph (B) is observed.

''(D) INDIVIDUAL EXPORTER FEE.—Subject to the limitation described in subparagraph (B), the fee under paragraph (2) to be paid on October 1 and April 1 by an exporter shall be an amount that is proportional to a reasonable estimate by the Secretary of the semiannual share of the exporter of the volume of qualifying drugs exported by exporters under subsection (a).

''(4) USE OF FEES.—

''(A) IN GENERAL.—Subject to appropriations Acts, fees collected by the Secretary under paragraphs (1) and (2) shall be credited to the appropriation account for salaries and expenses of the Food and Drug Administration until expended (without fiscal year limitation), and the Secretary may, in consultation with the Secretary of Homeland Security and the Secretary of the Treasury, transfer some proportion of such fees to the appropriation account for salaries and expenses of the Bureau of Customs and Border Protection until expended (without fiscal year limitation).

''(B) SOLE PURPOSE.—Fees collected by the Secretary under paragraphs (1) and (2) are only available to the Secretary and, if transferred, to the Secretary of Homeland Security, and are for the sole purpose of paying the costs referred to in paragraph (3)(A).

''(5) COLLECTION OF FEES.—In any case where the Secretary does not receive payment of a fee assessed under paragraph (1) or (2) within 30 days after it is due, such fee shall be treated as a claim of the United States Government subject to subchapter II of chapter 37 of title 31, United States Code.

''(g) COMPLIANCE WITH SECTION 801(A).—

''(1) IN GENERAL.—A registration condition is that each qualifying drug exported under subsection (a) by the registered exporter involved or imported under subsection (a) by the registered importer involved is in compliance with the standards referred to in section 801(a) regarding admission of the drug into the United States, subject to paragraphs (2), (3), and (4).

''(2) SECTION 505; APPROVAL STATUS.—

''(A) IN GENERAL.—A qualifying drug that is imported or offered for import under subsection (a) shall comply with the conditions established in the approved application under section 505(b) for the U.S. label drug as described under this subsection.

''(B) NOTICE BY MANUFACTURER; GENERAL PROVISIONS.—

''(i) IN GENERAL.—The person that manufactures a qualifying drug that is, or will be, introduced for commercial distribution in a permitted country shall in accordance with this paragraph submit to the Secretary a notice that—

''(I) includes each difference in the qualifying drug from a condition established in the approved application for the U.S. label drug beyond—

''(aa) the variations provided for in the application; and

''(bb) any difference in labeling (except ingredient labeling); or

''(II) states that there is no difference in the qualifying drug from a condition established in the approved application for the U.S. label drug beyond—

''(aa) the variations provided for in the application; and

''(bb) any difference in labeling (except ingredient labeling).

''(ii) INFORMATION IN NOTICE.—A notice under clause (i)(I) shall include the information that the Secretary may require under section 506A, any additional information the Secretary may require (which may include data on bioequivalence if such data are not required under section 506A), and, with respect to the permitted country that approved the qualifying drug for commercial distribution, or with respect to which such approval is sought, include the following:

''(I) The date on which the qualifying drug with such difference was, or will be, introduced for commercial distribution in the permitted country.

''(II) Information demonstrating that the person submitting the notice has also notified the government of the permitted country in writing that the person is submitting to the Secretary a notice under clause (i)(I), which notice describes the difference in the qualifying drug from a condition established in the approved application for the U.S. label drug.

''(III) The information that the person submitted or will submit to the government of the permitted country for purposes of obtaining approval for commercial distribution of the drug in the country which, if in a language other than English, shall be accompanied by an English translation verified to be complete and accurate, with the name,

address, and a brief statement of the qualifications of the person that made the translation.

''(iii) CERTIFICATIONS.—The chief executive officer and the chief medical officer of the manufacturer involved shall each certify in the notice under clause (i) that—

''(I) the information provided in the notice is complete and true; and

''(II) a copy of the notice has been provided to the Federal Trade Commission and to the State attorneys general.

''(iv) FEE.—If a notice submitted under clause (i) includes a difference that would, under section 506A, require the submission of a supplemental application if made as a change to the U.S. label drug, the person that submits the notice shall pay to the Secretary a fee in the same amount as would apply if the person were paying a fee pursuant to section 736(a)(1)(A)(ii). Subject to appropriations Acts, fees collected by the Secretary under the preceding sentence are available only to the Secretary and are for the sole purpose of paying the costs of reviewing notices submitted under clause (i).

''(v) TIMING OF SUBMISSION OF NOTICES.—

''(I) PRIOR APPROVAL NOTICES.—A notice under clause (i) to which subparagraph (C) applies shall be submitted to the Secretary not later than 120 days before the qualifying drug with the difference is introduced for commercial distribution in a permitted country, unless the country requires that distribution of the qualifying drug with the difference begin less than 120 days after the country requires the difference.

''(II) OTHER APPROVAL NOTICES.—A notice under clause (i) to which subparagraph (D) applies shall be submitted to the Secretary not later than the day on which the qualifying drug with the difference is introduced for commercial distribution in a permitted country.

''(III) OTHER NOTICES.—A notice under clause (i) to which subparagraph (E) applies shall be submitted to the Secretary on the date that the qualifying drug is first introduced for commercial distribution in a permitted country and annually thereafter.

''(vi) REVIEW BY SECRETARY.—

''(I) IN GENERAL.—In this paragraph, the difference in a qualifying drug that is submitted in a notice under clause (i) from the U.S. label drug shall be treated by the Secretary as if it were a manufacturing change to the U.S. label drug under section 506A.

''(II) STANDARD OF REVIEW.—Except as provided in subclause (III), the Secretary shall review and approve or disapprove the difference in a notice submitted under clause (i), if required under section 506A, using the safe and effective standard for approving or disapproving a manufacturing change under section 506A.

''(III) BIOEQUIVALENCE.—If the Secretary would approve the difference in a notice submitted under clause (i) using the safe and effective standard under section 506A and if the Secretary determines that the qualifying drug is not bioequivalent to the U.S. label drug, the Secretary may—

''(aa) include in the labeling provided under paragraph (3) a prominent advisory that the qualifying drug is safe and effective but is not bioequivalent to the U.S. label drug if the Secretary determines that such an advisory is necessary for health care practitioners and patients to use the qualifying drug safely and effectively; or

''(bb) decline to approve the difference if the Secretary determines that the availability of both the qualifying drug and the U.S. label drug would pose a threat to the public health.

''(IV) REVIEW BY THE SECRETARY.—The Secretary shall review and approve or disapprove the difference in a notice submitted under clause (i), if required under section 506A, not later than 120 days after the date on which the notice is submitted.

''(V) ESTABLISHMENT INSPECTION.—If review of such difference would require an inspection of the establishment in which the qualifying drug is manufactured—

''(aa) such inspection by the Secretary shall be authorized; and

''(bb) the Secretary may rely on a satisfactory report of a good manufacturing practice inspection of the establishment from a permitted country whose regulatory system the Secretary recognizes as equivalent under a mutual recognition agreement, as provided under section 510(i)(3), section 803, or part 26 of title 21, Code of Federal Regulations (or any corresponding successor rule or regulation).

''(vii) PUBLICATION OF INFORMATION ON NOTICES.—

''(I) IN GENERAL.—Through the Internet website of the Food and Drug Administration and a toll-free telephone number, the Secretary shall readily make available to the public a list of notices submitted under clause (i).

''(II) CONTENTS.—The list under subclause (I) shall include the date on which a notice is submitted and whether—

''(aa) a notice is under review;

''(bb) the Secretary has ordered that importation of the qualifying drug from a permitted country cease; or

''(cc) the importation of the drug is permitted under subsection (a).

''(III) UPDATE.—The Secretary shall promptly update the Internet website with any changes to the list.

''(C) NOTICE; DRUG DIFFERENCE REQUIRING PRIOR APPROVAL.—In the case of a notice under subparagraph (B)(i) that includes a difference that would, under section 506A(c) or (d)(3)(B)(i), require the approval of a supplemental application before the difference could be made to the U.S. label drug the following shall occur:

''(i) Promptly after the notice is submitted, the Secretary shall notify registered exporters, registered importers, the Federal Trade Commission, and the State attorneys general that the notice has been submitted with respect to the qualifying drug involved.

''(ii) If the Secretary has not made a determination whether such a supplemental application regarding the U.S. label drug would be approved or disapproved by the date on which the qualifying drug involved is to be introduced for commercial distribution in a permitted country, the Secretary shall—

''(I) order that the importation of the qualifying drug involved from the permitted country not begin until the Secretary completes review of the notice; and

''(II) promptly notify registered exporters, registered importers, the Federal Trade Commission, and the State attorneys general of the order.

''(iii) If the Secretary determines that such a supplemental application regarding the U.S. label drug would not be approved, the Secretary shall—

''(I) order that the importation of the qualifying drug involved from the permitted country cease, or provide that an order under clause (ii), if any, remains in effect;

''(II) notify the permitted country that approved the qualifying drug for commercial distribution of the determination; and

''(III) promptly notify registered exporters, registered importers, the Federal Trade Commission, and the State attorneys general of the determination.

''(iv) If the Secretary determines that such a supplemental application regarding the U.S. label drug would be approved, the Secretary shall—

''(I) vacate the order under clause (ii), if any;

''(II) consider the difference to be a variation provided for in the approved application for the U.S. label drug;

''(III) permit importation of the qualifying drug under subsection (a); and

''(IV) promptly notify registered exporters, registered importers, the Federal Trade Commission, and the State attorneys general of the determination.

''(D) NOTICE; DRUG DIFFERENCE NOT REQUIRING PRIOR APPROVAL.—In the case of a notice under subparagraph (B)(i) that includes a difference that would, under section 506A(d)(3)(B)(ii), not require the approval of a supplemental application before the difference could be made to the U.S. label drug the following shall occur:

''(i) During the period in which the notice is being reviewed by the Secretary, the authority under this subsection to import the qualifying drug involved continues in effect.

''(ii) If the Secretary determines that such a supplemental application regarding the U.S. label drug would not be approved, the Secretary shall—

''(I) order that the importation of the qualifying drug involved from the permitted country cease;

''(II) notify the permitted country that approved the qualifying drug for commercial distribution of the determination; and

''(III) promptly notify registered exporters, registered importers, the Federal Trade Commission, and the State attorneys general of the determination.

''(iii) If the Secretary determines that such a supplemental application regarding the U.S. label drug would be approved, the difference shall be considered to be a variation provided for in the approved application for the U.S. label drug.

''(E) NOTICE; DRUG DIFFERENCE NOT REQUIRING APPROVAL; NO DIFFERENCE.—In the case of a notice under subparagraph (B)(i) that includes a difference for which, under section 506A(d)(1)(A), a supplemental application would not be required for the difference to be made to the U.S. label drug, or that states that there is no difference, the Secretary—

''(i) shall consider such difference to be a variation provided for in the approved application for the U.S. label drug;

''(ii) may not order that the importation of the qualifying drug involved cease; and

''(iii) shall promptly notify registered exporters and registered importers.

''(F) DIFFERENCES IN ACTIVE INGREDIENT, ROUTE OF ADMINISTRATION, DOSAGE FORM, OR STRENGTH.—

''(i) IN GENERAL.—A person who manufactures a drug approved under section 505(b) shall submit an application under section 505(b) for approval of another drug that is manufactured for distribution in a permitted country by or for the person that manufactures the drug approved under section 505(b) if—

''(I) there is no qualifying drug in commercial distribution in permitted countries whose combined population represents at least 50 percent of the total population of all permitted countries with the same active ingredient or ingredients, route of administration, dosage form, and strength as the drug approved under section 505(b); and

''(II) each active ingredient of the other drug is related to an active ingredient of the drug approved under section 505(b), as defined in clause (v).

''(ii) APPLICATION UNDER SECTION 505(b).—The application under section 505(b) required under clause (i) shall—

''(I) request approval of the other drug for the indication or indications for which the drug approved under section 505(b) is labeled;

''(II) include the information that the person submitted to the government of the permitted country for purposes of obtaining approval for commercial distribution of the other drug in that country, which if in a language other than English, shall be accompanied by an English translation verified to be complete and accurate, with the name, address, and a brief statement of the qualifications of the person that made the translation;

''(III) include a right of reference to the application for the drug approved under section 505(b); and

''(IV) include such additional information as the Secretary may require.

''(iii) TIMING OF SUBMISSION OF APPLICATION.—An application under section 505(b) required under clause (i) shall be submitted to the Secretary not later than the day on which the information referred to in clause (ii)(II) is submitted to the government of the permitted country.

''(iv) NOTICE OF DECISION ON APPLICATION.—The Secretary shall promptly notify registered exporters, registered importers, the Federal Trade Commission, and the State attorneys general of a determination to approve or to disapprove an application under section 505(b) required under clause (i).

''(v) RELATED ACTIVE INGREDIENTS.—For purposes of clause (i)(II), 2 active ingredients are related if they are—

''(I) the same; or

''(II) different salts, esters, or complexes of the same moiety.

''(3) SECTION 502; LABELING.—

''(A) IMPORTATION BY REGISTERED IMPORTER.—

''(i) IN GENERAL.—In the case of a qualifying drug that is imported or offered for import by a registered importer, such drug shall be considered to be in compliance with section 502 and the labeling requirements under the approved application for the U.S. label drug if the qualifying drug bears—

''(I) a copy of the labeling approved for the U.S. label drug under section 505, without regard to whether the copy bears any trademark involved;

''(II) the name of the manufacturer and location of the manufacturer;

''(III) the lot number assigned by the manufacturer;

''(IV) the name, location, and registration number of the importer; and

''(V) the National Drug Code number assigned to the qualifying drug by the Secretary.

''(ii) REQUEST FOR COPY OF THE LABELING.—The Secretary shall provide such copy to the registered importer involved, upon request of the importer.

''(iii) REQUESTED LABELING.—The labeling provided by the Secretary under clause (ii) shall—

''(I) include the established name, as defined in section 502(e)(3), for each active ingredient in the qualifying drug;

''(II) not include the proprietary name of the U.S. label drug or any active ingredient thereof;

''(III) if required under paragraph (2)(B)(vi)(III), a prominent advisory that the qualifying drug is safe and effective but not bioequivalent to the U.S. label drug; and

''(IV) if the inactive ingredients of the qualifying drug are different from the inactive ingredients for the U.S. label drug, include—

''(aa) a prominent notice that the ingredients of the qualifying drug differ from the ingredients of the U.S. label drug and that the qualifying drug must be dispensed with an advisory to people with allergies about this difference and a list of ingredients; and

''(bb) a list of the ingredients of the qualifying drug as would be required under section 502(e).

''(B) IMPORTATION BY INDIVIDUAL.—

''(i) IN GENERAL.—In the case of a qualifying drug that is imported or offered for import by a registered exporter to an individual, such drug shall be considered to be in compliance with section 502 and the labeling requirements under the approved application for the U.S. label drug if the packaging and labeling of the qualifying drug complies with all applicable regulations promulgated under sections 3 and 4 of the Poison Prevention Packaging Act of 1970 (15 U.S.C. 1471 et seq.) and the labeling of the qualifying drug includes—

''(I) directions for use by the consumer;

''(II) the lot number assigned by the manufacturer;

''(III) the name and registration number of the exporter;

''(IV) if required under paragraph (2)(B)(vi)(III), a prominent advisory that the drug is safe and effective but not bioequivalent to the U.S. label drug;

''(V) if the inactive ingredients of the drug are different from the inactive ingredients for the U.S. label drug—

''(aa) a prominent advisory that persons with an allergy should check the ingredient list of the drug because the ingredients of the drug differ from the ingredients of the U.S. label drug; and

''(bb) a list of the ingredients of the drug as would be required under section 502(e); and

''(VI) a copy of any special labeling that would be required by the Secretary had the U.S. label drug been dispensed by a pharmacist in the United States, without regard to whether the special labeling bears any trademark involved.

''(ii) PACKAGING.—A qualifying drug offered for import to an individual by an exporter under this section that is packaged in a unit-of-use container (as those items are defined in the United States Pharmacopeia and National Formulary) shall not be repackaged, provided that—

''(I) the packaging complies with all applicable regulations under sections 3 and 4 of the Poison Prevention Packaging Act of 1970 (15 U.S.C. 1471 et seq.); or

''(II) the consumer consents to waive the requirements of such Act, after being informed that the packaging does not comply with such Act and that the exporter will provide the drug in packaging that is compliant at no additional cost.

''(iii) REQUEST FOR COPY OF SPECIAL LABELING AND INGREDIENT LIST.—The Secretary shall provide to the registered exporter involved a copy of the special labeling, the advisory, and the ingredient list described under clause (i), upon request of the exporter.

''(iv) REQUESTED LABELING AND INGREDIENT LIST.—The labeling and ingredient list provided by the Secretary under clause (iii) shall—

''(I) include the established name, as defined in section 502(e)(3), for each active ingredient in the drug; and

''(II) not include the proprietary name of the U.S. label drug or any active ingredient thereof.

''(4) SECTION 501; ADULTERATION.—A qualifying drug that is imported or offered for import under subsection (a) shall be considered to be in compliance with section 501 if the drug is in compliance with subsection (c).

''(5) STANDARDS FOR REFUSING ADMISSION.—A drug exported under subsection (a) from a registered exporter or imported by a registered importer may be refused admission into the United States if 1 or more of the following applies:

''(A) The drug is not a qualifying drug.

''(B) A notice for the drug required under paragraph (2)(B) has not been submitted to the Secretary.

''(C) The Secretary has ordered that importation of the drug from the permitted country cease under paragraph (2) (C) or (D).

''(D) The drug does not comply with paragraph (3) or (4).

''(E) The shipping container appears damaged in a way that may affect the strength, quality, or purity of the drug.

''(F) The Secretary becomes aware that—

''(i) the drug may be counterfeit;

''(ii) the drug may have been prepared, packed, or held under insanitary conditions; or

''(iii) the methods used in, or the facilities or controls used for, the manufacturing, processing, packing, or holding of the drug do not conform to good manufacturing practice.

''(G) The Secretary has obtained an injunction under section 302 that prohibits the distribution of the drug in interstate commerce.

''(H) The Secretary has under section 505(e) withdrawn approval of the drug.

''(I) The manufacturer of the drug has instituted a recall of the drug.

''(J) If the drug is imported or offered for import by a registered importer without submission of a notice in accordance with subsection (d)(4).

''(K) If the drug is imported or offered for import from a registered exporter to an individual and 1 or more of the following applies:

''(i) The shipping container for such drug does not bear the markings required under subsection (d)(2).

''(ii) The markings on the shipping container appear to be counterfeit.

''(iii) The shipping container or markings appear to have been tampered with.

''(h) LICENSING AS PHARMACIST.—A registration condition is that the exporter involved agrees that a qualifying drug will be exported to an individual only if the Secretary has verified that—

''(1) the exporter is authorized under the law of the permitted country in which the exporter is located to dispense prescription drugs; and

''(2) the exporter employs persons that are licensed under the law of the permitted country in which the exporter is located to dispense prescription drugs in sufficient number to dispense safely the drugs exported by the exporter to individuals, and the exporter assigns to those persons responsibility for dispensing such drugs to individuals.

''(i) INDIVIDUALS; CONDITIONS FOR IMPORTATION.—

''(1) IN GENERAL.—For purposes of subsection (a)(2)(B), the importation of a qualifying drug by an individual is in accordance with this subsection if the following conditions are met:

''(A) The drug is accompanied by a copy of a prescription for the drug, which prescription—

''(i) is valid under applicable Federal and State laws; and

''(ii) was issued by a practitioner who, under the law of a State of which the individual is a resident, or in which the individual receives care from the practitioner who issues the prescription, is authorized to administer prescription drugs.

''(B) The drug is accompanied by a copy of the documentation that was required under the law or regulations of the permitted country in which the exporter is located, as a condition of dispensing the drug to the individual.

''(C) The copies referred to in subparagraphs (A)(i) and (B) are marked in a manner sufficient—

''(i) to indicate that the prescription, and the equivalent document in the permitted country in which the exporter is located, have been filled; and

''(ii) to prevent a duplicative filling by another pharmacist.

''(D) The individual has provided to the registered exporter a complete list of all drugs used by the individual for review by the individuals who dispense the drug.

''(E) The quantity of the drug does not exceed a 90-day supply.

''(F) The drug is not an ineligible subpart H drug. For purposes of this section, a prescription drug is an 'ineligible subpart H drug' if the drug was approved by the Secretary under subpart H of part 314 of title 21, Code of Federal Regulations (relating to accelerated approval), with restrictions under section 520 of such part to assure safe use, and the Secretary has published in the Federal Register a notice that the Secretary has determined that good cause exists to prohibit the drug from being imported pursuant to this subsection.

''(2) NOTICE REGARDING DRUG REFUSED ADMISSION.—If a registered exporter ships a drug to an individual pursuant to subsection (a)(2)(B) and the drug is refused admission to the United States, a written notice shall be sent to the individual and to the exporter that informs the individual and the exporter of such refusal and the reason for the refusal.

''(j) MAINTENANCE OF RECORDS AND SAMPLES.—

''(1) IN GENERAL.—A registration condition is that the importer or exporter involved shall—

''(A) maintain records required under this section for not less than 2 years; and

''(B) maintain samples of each lot of a qualifying drug required under this section for not less than 2 years.

''(2) PLACE OF RECORD MAINTENANCE.—The records described under paragraph (1) shall be maintained—

''(A) in the case of an importer, at the place of business of the importer at which the importer initially receives the qualifying drug after importation; or

''(B) in the case of an exporter, at the facility from which the exporter ships the qualifying drug to the United States.

''(k) DRUG RECALLS.—

''(1) MANUFACTURERS.—A person that manufactures a qualifying drug imported from a permitted country under this section shall promptly inform the Secretary—

''(A) if the drug is recalled or withdrawn from the market in a permitted country;

''(B) how the drug may be identified, including lot number; and

''(C) the reason for the recall or withdrawal.

''(2) SECRETARY.—With respect to each permitted country, the Secretary shall—

''(A) enter into an agreement with the government of the country to receive information about recalls and withdrawals of qualifying drugs in the country; or

''(B) monitor recalls and withdrawals of qualifying drugs in the country using any information that is available to the public in any media.

''(3) NOTICE.—The Secretary may notify, as appropriate, registered exporters, registered importers, wholesalers, pharmacies, or the public of a recall or withdrawal of a qualifying drug in a permitted country.

''(l) DRUG LABELING AND PACKAGING.—

''(1) IN GENERAL.—When a qualifying drug that is imported into the United States by an importer under subsection (a) is dispensed by a pharmacist to an individual, the pharmacist shall provide that the packaging and labeling of the drug complies with all applicable regulations promulgated under sections 3 and 4 of the Poison Prevention Packaging Act of 1970 (15 U.S.C. 1471 et seq.) and shall include with any other labeling provided to the individual the following:

''(A) The lot number assigned by the manufacturer.

''(B) The name and registration number of the importer.

''(C) If required under paragraph (2)(B)(vi)(III) of subsection (g), a prominent advisory that the drug is safe and effective but not bioequivalent to the U.S. label drug.

''(D) If the inactive ingredients of the drug are different from the inactive ingredients for the U.S. label drug—

''(i) a prominent advisory that persons with allergies should check the ingredient list of the drug because the ingredients of the drug differ from the ingredients of the U.S. label drug; and

''(ii) a list of the ingredients of the drug as would be required under section 502(e).

''(2) PACKAGING.—A qualifying drug that is packaged in a unit-of-use container (as those terms are defined in the United States Pharmacopeia and National Formulary) shall not be repackaged, provided that—

''(A) the packaging complies with all applicable regulations under sections 3 and 4 of the Poison Prevention Packaging Act of 1970 (15 U.S.C. 1471 et seq.); or

''(B) the consumer consents to waive the requirements of such Act, after being informed that the packaging does not comply with such Act and that the pharmacist will provide the drug in packaging that is compliant at no additional cost.

''(m) CHARITABLE CONTRIBUTIONS.—Notwithstanding any other provision of this section, this section does not authorize the importation into the United States of a qualifying drug donated or otherwise supplied for free or at nominal cost by the manufacturer of the drug to a charitable or humanitarian organization, including the United Nations and affiliates, or to a government of a foreign country.

''(n) UNFAIR AND DISCRIMINATORY ACTS AND PRACTICES.—

''(1) IN GENERAL.—It is unlawful for a manufacturer, directly or indirectly (including by being a party to a licensing agreement or other agreement), to—

''(A) discriminate by charging a higher price for a prescription drug sold to a registered exporter or other person in a permitted country that exports a qualifying drug to the United States under this section than the price that is charged, inclusive of rebates or other incentives to the permitted country or other person, to another person that is in the same country and that does not export a qualifying drug into the United States under this section;

''(B) discriminate by charging a higher price for a prescription drug sold to a registered importer or other person that distributes, sells, or uses a qualifying drug imported into the United States under this section than the price that is charged to another person in the United States that does not import a qualifying drug under this section, or that does not distribute, sell, or use such a drug;

''(C) discriminate by denying, restricting, or delaying supplies of a prescription drug to a registered exporter or other person in a permitted country that exports a qualifying drug to the United States under this section or to a registered importer or other person that distributes, sells, or uses a qualifying drug imported into the United States under this section;

''(D) discriminate by publicly, privately, or otherwise refusing to do business with a registered exporter or other person in a permitted country that exports a qualifying drug to the United States under this section or with a registered importer or other person that distributes, sells, or uses a qualifying drug imported into the United States under this section;

''(E) knowingly fail to submit a notice under subsection (g)(2)(B)(i), knowingly fail to submit such a notice on or before the date specified in subsection (g)(2)(B)(v) or as otherwise required under subsection (e) (3), (4), and (5) of section ___4 of the Pharmaceutical Market Access and Drug Safety Act of 2005, knowingly submit such a notice that makes a materially false, fictitious, or fraudulent statement, or knowingly fail to provide promptly any information requested by the Secretary to review such a notice;

''(F) knowingly fail to submit an application required under subsection (g)(2)(F), knowingly fail to submit such an application on or before the date specified in subsection (g)(2)(F)(ii), knowingly submit such an application that makes a materially false, fictitious, or fraudulent statement, or knowingly fail to provide promptly any information requested by the Secretary to review such an application;

''(G) cause there to be a difference (including a difference in active ingredient, route of administration, dosage form, strength, formulation, manufacturing establishment, manufacturing process, or person that manufactures the drug) between a prescription drug for distribution in the United States and the drug for distribution in a permitted country;

''(H) refuse to allow an inspection authorized under this section of an establishment that manufactures a qualifying drug that is, or will be, introduced for commercial distribution in a permitted country;

''(I) fail to conform to the methods used in, or the facilities used for, the manufacturing, processing, packing, or holding of a qualifying drug that is, or will be, introduced for commercial distribution in a permitted country to good manufacturing practice under this Act;

''(J) become a party to a licensing agreement or other agreement related to a qualifying drug that fails to provide for compliance with all requirements of this section with respect to such drug;

''(K) enter into a contract that restricts, prohibits, or delays the importation of a qualifying drug under this section;

''(L) engage in any other action to restrict, prohibit, or delay the importation of a qualifying drug under this section; or

''(M) engage in any other action that the Federal Trade Commission determines to discriminate against a person that engages or attempts to engage in the importation of a qualifying drug under this section.

''(2) AFFIRMATIVE DEFENSE.—

''(A) DISCRIMINATION.—It shall be an affirmative defense to a charge that a manufacturer has discriminated under subparagraph (A), (B), (C), (D), or (M) of paragraph (1) that the higher price charged for a prescription drug sold to a person, the denial, restriction, or delay of supplies of a prescription drug to a person, the refusal to do business with a person, or other discriminatory activity against a person, is not based, in whole or in part, on—

''(i) the person exporting or importing a qualifying drug into the United States under this section; or

''(ii) the person distributing, selling, or using a qualifying drug imported into the United States under this section.

''(B) DRUG DIFFERENCES.—It shall be an affirmative defense to a charge that a manufacturer has caused there to be a difference described in subparagraph (G) of paragraph (1) that—

''(i) the difference was required by the country in which the drug is distributed;

''(ii) the Secretary has determined that the difference was necessary to improve the safety or effectiveness of the drug;

''(iii) the person manufacturing the drug for distribution in the United States has given notice to the Secretary under subsection (g)(2)(B)(i) that the drug for distribution in the United States is not different from a drug for distribution in permitted countries whose combined population represents at least 50 percent of the total population of all permitted countries; or

''(iv) the difference was not caused, in whole or in part, for the purpose of restricting importation of the drug into the United States under this section.

''(3) EFFECT OF SUBSECTION.—

''(A) SALES IN OTHER COUNTRIES.—This subsection applies only to the sale or distribution of a prescription drug in a country if the manufacturer of the drug chooses to sell or distribute the drug in the country. Nothing in this subsection shall be construed to compel the manufacturer of a drug to distribute or sell the drug in a country.

''(B) DISCOUNTS TO INSURERS, HEALTH PLANS, PHARMACY BENEFIT MANAGERS, AND COVERED ENTITIES.—Nothing in this subsection shall be construed to—

''(i) prevent or restrict a manufacturer of a prescription drug from providing discounts to an insurer, health plan, pharmacy benefit manager in the United States, or covered entity in the drug discount program under section 340B of the Public Health Service Act (42 U.S.C. 256b) in return for inclusion of the drug on a formulary;

''(ii) require that such discounts be made available to other purchasers of the prescription drug; or

''(iii) prevent or restrict any other measures taken by an insurer, health plan, or pharmacy benefit manager to encourage consumption of such prescription drug.

''(C) CHARITABLE CONTRIBUTIONS.—Nothing in this subsection shall be construed to—

''(i) prevent a manufacturer from donating a prescription drug, or supplying a prescription drug at nominal cost, to a charitable or humanitarian organization, including the United Nations and affiliates, or to a government of a foreign country; or

''(ii) apply to such donations or supplying of a prescription drug.

''(4) ENFORCEMENT.—

''(A) UNFAIR OR DECEPTIVE ACT OR PRACTICE.—A violation of this subsection shall be treated as a violation of a rule defining an unfair or deceptive act or practice prescribed under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

''(B) ACTIONS BY THE COMMISSION.—The Federal Trade Commission—

''(i) shall enforce this subsection in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this section; and

''(ii) may seek monetary relief threefold the damages sustained, in addition to any other remedy available to the Federal Trade Commission under the Federal Trade Commission Act (15 U.S.C. 41 et seq.).

''(5) ACTIONS BY STATES.—

''(A) IN GENERAL.—

''(i) CIVIL ACTIONS.—In any case in which the attorney general of a State has reason to believe that an interest of the residents of that State have been adversely affected by any manufacturer that violates paragraph (1), the attorney general of a State may bring a civil action on behalf of the residents of the State, and persons doing business in the State, in a district court of the United States of appropriate jurisdiction to—

''(I) enjoin that practice;

''(II) enforce compliance with this subsection;

''(III) obtain damages, restitution, or other compensation on behalf of residents of the State and persons doing business in the State, including threefold the damages; or

''(IV) obtain such other relief as the court may consider to be appropriate.

''(ii) NOTICE.—

''(I) IN GENERAL.—Before filing an action under clause (i), the attorney general of the State involved shall provide to the Federal Trade Commission—

''(aa) written notice of that action; and

''(bb) a copy of the complaint for that action.

''(II) EXEMPTION.—Subclause (I) shall not apply with respect to the filing of an action by an attorney general of a State under this paragraph, if the attorney general determines that it is not feasible to provide the notice described in that subclause before filing of the action. In such case, the attorney general of a State shall provide notice and a copy of the complaint to the Federal Trade Commission at the same time as the attorney general files the action.

''(B) INTERVENTION.—

''(i) IN GENERAL.—On receiving notice under subparagraph (A)(ii), the Federal Trade Commission shall have the right to intervene in the action that is the subject of the notice.

''(ii) EFFECT OF INTERVENTION.—If the Federal Trade Commission intervenes in an action under subparagraph (A), it shall have the right—

''(I) to be heard with respect to any matter that arises in that action; and

''(II) to file a petition for appeal.

''(C) CONSTRUCTION.—For purposes of bringing any civil action under subparagraph (A), nothing in this subsection shall be construed to prevent an attorney general of a State from exercising the powers conferred on the attorney general by the laws of that State to—

''(i) conduct investigations;

''(ii) administer oaths or affirmations; or

''(iii) compel the attendance of witnesses or the production of documentary and other evidence.

''(D) ACTIONS BY THE COMMISSION.—In any case in which an action is instituted by or on behalf of the Federal Trade Commission for a violation of paragraph (1), a State may not, during the pendency of that action, institute an action under subparagraph (A) for the same violation against any defendant named in the complaint in that action.

''(E) VENUE.—Any action brought under subparagraph (A) may be brought in the district court of the United States that meets applicable requirements relating to venue under section 1391 of title 28, United States Code.

''(F) SERVICE OF PROCESS.—In an action brought under subparagraph (A), process may be served in any district in which the defendant—

''(i) is an inhabitant; or

''(ii) may be found.

''(G) MEASUREMENT OF DAMAGES.—In any action under this paragraph to enforce a cause of action under this subsection in which there has been a determination that a defendant has violated a provision of this subsection, damages may be proved and assessed in the aggregate by statistical or sampling methods, by the computation of illegal overcharges or by such other reasonable system of estimating aggregate damages as the court in its discretion may permit without the necessity of separately proving the individual claim of, or amount of damage to, persons on whose behalf the suit was brought.

''(H) EXCLUSION ON DUPLICATIVE RELIEF.—The district court shall exclude from the amount of monetary relief awarded in an action under this paragraph brought by the attorney general of a State any amount of monetary relief which duplicates amounts which have been awarded for the same injury.

''(6) EFFECT ON ANTITRUST LAWS.—Nothing in this subsection shall be construed to modify, impair, or supersede the operation of the antitrust laws. For the purpose of this subsection, the term 'antitrust laws' has the meaning given it in the first section of the Clayton Act, except that it includes section 5 of the Federal Trade Commission Act to the extent that such section 5 applies to unfair methods of competition.

''(7) MANUFACTURER.—In this subsection, the term 'manufacturer' means any entity, including any affiliate or licensee of that entity, that is engaged in—

''(A) the production, preparation, propagation, compounding, conversion, or processing of a prescription drug, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis; or

''(B) the packaging, repackaging, labeling, relabeling, or distribution of a prescription drug.''.

(b) PROHIBITED ACTS.—The Federal Food, Drug, and Cosmetic Act is amended—

(1) in section 301 (21 U.S.C. 331), by striking paragraph (aa) and inserting the following:

''(aa)(1) The sale or trade by a pharmacist, or by a business organization of which the pharmacist is a part, of a qualifying drug that under section 804(a)(2)(A) was imported by the pharmacist, other than—

''(A) a sale at retail made pursuant to dispensing the drug to a customer of the pharmacist or organization; or

''(B) a sale or trade of the drug to a pharmacy or a wholesaler registered to import drugs under section 804.

''(2) The sale or trade by an individual of a qualifying drug that under section 804(a)(2)(B) was imported by the individual.

''(3) The making of a materially false, fictitious, or fraudulent statement or representation, or a material omission, in a notice under clause (i) of section 804(g)(2)(B) or in an application required under section 804(g)(2)(F), or the failure to submit such a notice or application.

''(4) The importation of a drug in violation of a registration condition or other requirement under section 804, the falsification of any record required to be maintained, or provided to the Secretary, under such section, or the violation of any registration condition or other requirement under such section.''; and

(2) in section 303(a) (21 U.S.C. 333(a)), by striking paragraph (6) and inserting the following:

''(6) Notwithstanding subsection (a), any person that knowingly violates section 301(i)(2) or (3) or section 301(aa)(4) shall be imprisoned not more than 10 years, or fined in accordance with title 18, United States Code, or both.''.

(c) AMENDMENT OF CERTAIN PROVISIONS.—

(1) IN GENERAL.—Section 801 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381) is amended by striking subsection (g) and inserting the following:

''(g) With respect to a prescription drug that is imported or offered for import into the United States by an individual who is not in the business of such importation, that is not shipped by a registered exporter under section 804, and that is refused admission under subsection (a), the Secretary shall notify the individual that—

''(1) the drug has been refused admission because the drug was not a lawful import under section 804;

''(2) the drug is not otherwise subject to a waiver of the requirements of subsection (a);

''(3) the individual may under section 804 lawfully import certain prescription drugs from exporters registered with the Secretary under section 804; and

''(4) the individual can find information about such importation, including a list of registered exporters, on the Internet website of the Food and Drug Administration or through a toll-free telephone number required under section 804.''.

(2) ESTABLISHMENT REGISTRATION.—Section 510(i) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(i)) is amended in paragraph (1) by inserting after ''import into the United States'' the following: '', including a drug that is, or may be, imported or offered for import into the United States under section 804,''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date that is 90 days after the date of enactment of this title.

(d) EXHAUSTION.—

(1) IN GENERAL.—Section 271 of title 35, United States Code, is amended—

(A) by redesignating subsections (h) and (i) as (i) and (j), respectively; and

(B) by inserting after subsection (g) the following:

''(h) It shall not be an act of infringement to use, offer to sell, or sell within the United States or to import into the United States any patented invention under section 804 of the Federal Food, Drug, and Cosmetic Act that was first sold abroad by or under authority of the owner or licensee of such patent.''.

(2) RULE OF CONSTRUCTION.—Nothing in the amendment made by paragraph (1) shall be construed to affect the ability of a patent owner or licensee to enforce their patent, subject to such amendment.

(e) EFFECT OF SECTION 804.—

(1) IN GENERAL.—Section 804 of the Federal Food, Drug, and Cosmetic Act, as added by subsection (a), shall permit the importation of qualifying drugs (as defined in such section 804) into the United States without regard to the status of the issuance of implementing regulations—

(A) from exporters registered under such section 804 on the date that is 90 days after the date of enactment of this title; and

(B) from permitted countries, as defined in such section 804, by importers registered under such section 804 on the date that is 1 year after the date of enactment of this title.

(2) REVIEW OF REGISTRATION BY CERTAIN EXPORTERS.—

(A) REVIEW PRIORITY.—In the review of registrations submitted under subsection (b) of such section 804, registrations submitted by entities in Canada that are significant exporters of prescription drugs to individuals in the United States as of the date of enactment of this title will have priority during the 90 day period that begins on such date of enactment.

(B) PERIOD FOR REVIEW.—During such 90-day period, the reference in subsection (b)(2)(A) of such section 804 to 90 days (relating to approval or disapproval of registrations) is, as applied to such entities, deemed to be 30 days.

(C) LIMITATION.—That an exporter in Canada exports, or has exported, prescription drugs to individuals in the United States on or before the date that is 90 days after the date of enactment of this title shall not serve as a basis, in whole or in part, for disapproving a registration under such section 804 from the exporter.

(D) FIRST YEAR LIMIT ON NUMBER OF EXPORTERS.—During the 1-year period beginning on the date of enactment of this title, the Secretary of Health and Human Services (referred to in this section as the ''Secretary'') may limit the number of registered exporters under such section 804 to not less than 50, so long as the Secretary gives priority to those exporters with demonstrated ability to process a high volume of shipments of drugs to individuals in the United States.

(E) SECOND YEAR LIMIT ON NUMBER OF EXPORTERS.—During the 1-year period beginning on the date that is 1 year after the date of enactment of this title, the Secretary may limit the number of registered exporters under such section 804 to not less than 100, so long as the Secretary gives priority to those exporters with demonstrated ability to process a high volume of shipments of drugs to individuals in the United States.

(F) FURTHER LIMIT ON NUMBER OF EXPORTERS.—During any 1-year period beginning on a date that is 2 or more years after the date of enactment of this title, the Secretary may limit the number of registered exporters under such section 804 to not less than 25 more than the number of such exporters during the previous 1-year period, so long as the Secretary gives priority to those exporters with demonstrated ability to process a high volume of shipments of drugs to individuals in the United States.

(3) LIMITS ON NUMBER OF IMPORTERS.—

(A) FIRST YEAR LIMIT ON NUMBER OF IMPORTERS.—During the 1-year period beginning on the date that is 1 year after the date of enactment of this title, the Secretary may limit the number of registered importers under such section 804 to not less than 100 (of which at least a significant number shall be groups of pharmacies, to the extent feasible given the applications submitted by such groups), so long as the Secretary gives priority to those importers with demonstrated ability to process a high volume of shipments of drugs imported into the United States.

(B) SECOND YEAR LIMIT ON NUMBER OF IMPORTERS.—During the 1-year period beginning on the date that is 2 years after the date of enactment of this title, the Secretary may limit the number of registered importers under such section 804 to not less than 200 (of which at least a significant number shall be groups of pharmacies, to the extent feasible given the applications submitted by such groups), so long as the Secretary gives priority to those importers with demonstrated ability to process a high volume of shipments of drugs into the United States.

(C) FURTHER LIMIT ON NUMBER OF IMPORTERS.—During any 1-year period beginning on a date that is 3 or more years after the date of enactment of this title, the Secretary may limit the number of registered importers under such section 804 to not less than 50 more (of which at least a significant number shall be groups of pharmacies, to the extent feasible given the applications submitted by such groups) than the number of such importers during the previous 1-year period, so long as the Secretary gives priority to those importers with demonstrated ability to process a high volume of shipments of drugs to the United States.

(4) NOTICES FOR DRUGS FOR IMPORT FROM CANADA.—The notice with respect to a qualifying drug introduced for commercial distribution in Canada as of the date of enactment of this title that is required under subsection (g)(2)(B)(i) of such section 804 shall be submitted to the Secretary not later than 30 days after the date of enactment of this title if—

(A) the U.S. label drug (as defined in such section 804) for the qualifying drug is 1 of the 100 prescription drugs with the highest dollar volume of sales in the United States based on the 12 calendar month period most recently completed before the date of enactment of this title; or

(B) the notice is a notice under subsection (g)(2)(B)(i)(II) of such section 804.

(5) NOTICE FOR DRUGS FOR IMPORT FROM OTHER COUNTRIES.—The notice with respect to a qualifying drug introduced for commercial distribution in a permitted country other than Canada as of the date of enactment of this title that is required under subsection (g)(2)(B)(i) of such section 804 shall be submitted to the Secretary not later than 180 days after the date of enactment of this title if—

(A) the U.S. label drug for the qualifying drug is 1 of the 100 prescription drugs with the highest dollar volume of sales in the United States based on the 12 calendar month period that is first completed on the date that is 120 days after the date of enactment of this title; or

(B) the notice is a notice under subsection (g)(2)(B)(i)(II) of such section 804.

(6) NOTICE FOR OTHER DRUGS FOR IMPORT.—

(A) GUIDANCE ON SUBMISSION DATES.—The Secretary shall by guidance establish a series of submission dates for the notices under subsection (g)(2)(B)(i) of such section 804 with respect to qualifying drugs introduced for commercial distribution as of the date of enactment of this title and that are not required to be submitted under paragraph (4) or (5).

(B) CONSISTENT AND EFFICIENT USE OF RESOURCES.—The Secretary shall establish the dates described under subparagraph (A) so that such notices described under subparagraph (A) are submitted and reviewed at a rate that allows consistent and efficient use of the resources and staff available to the Secretary for such reviews. The Secretary may condition the requirement to submit such a notice, and the review of such a notice, on the submission by a registered exporter or a registered importer to the Secretary of a notice that such exporter or importer intends to import such qualifying drug to the United States under such section 804.

(C) PRIORITY FOR DRUGS WITH HIGHER SALES.—The Secretary shall establish the dates described under subparagraph (A) so that the Secretary reviews the notices described under such subparagraph with respect to qualifying drugs with higher dollar volume of sales in the United States before the notices with respect to drugs with lower sales in the United States.

(7) NOTICES FOR DRUGS APPROVED AFTER EFFECTIVE DATE.—The notice required under subsection (g)(2)(B)(i) of such section 804 for a qualifying drug first introduced for commercial distribution in a permitted country (as defined in such section 804) after the date of enactment of this title shall be submitted to and reviewed by the Secretary as provided under subsection (g)(2)(B) of such section 804, without regard to paragraph (4), (5), or (6).

(8) REPORT.—Beginning with fiscal year 2006, not later than 90 days after the end of each fiscal year during which the Secretary reviews a notice referred to in paragraph (4), (5), or (6), the Secretary shall submit a report to Congress concerning the progress of the Food and Drug Administration in reviewing the notices referred to in paragraphs (4), (5), and (6).

(9) USER FEES.—

(A) EXPORTERS.—When establishing an aggregate total of fees to be collected from exporters under subsection (f)(2) of such section 804, the Secretary shall, under subsection (f)(3)(C)(i) of such section 804, estimate the total price of drugs imported under subsection (a) of such section 804 into the United States by registered exporters during fiscal year 2006 to be $1,000,000,000.

(B) IMPORTERS.—When establishing an aggregate total of fees to be collected from importers under subsection (e)(2) of such section 804, the Secretary shall, under subsection (e)(3)(C)(i) of such section 804, estimate the total price of drugs imported under subsection (a) of such section 804 into the United States by registered importers during—

(i) fiscal year 2006 to be $1,000,000,000; and

(ii) fiscal year 2007 to be $10,000,000,000.

(C) FISCAL YEAR 2007 ADJUSTMENT.—

(i) REPORTS.—Not later than February 20, 2007, registered importers shall report to the Secretary the total price and the total volume of drugs imported to the United States by the importer during the 4-month period from October 1, 2006, through January 31, 2007.

(ii) REESTIMATE.—Notwithstanding subsection (e)(3)(C)(ii) of such section 804 or subparagraph (B), the Secretary shall reestimate the total price of qualifying drugs imported under subsection (a) of such section 804 into the United States by registered importers during fiscal year 2007. Such reestimate shall be equal to—

(I) the total price of qualifying drugs imported by each importer as reported under clause (i); multiplied by

(II) 3.

(iii) ADJUSTMENT.—The Secretary shall adjust the fee due on April 1, 2007, from each importer so that the aggregate total of fees collected under subsection (e)(2) for fiscal year 2007 does not exceed the total price of qualifying drugs imported under subsection (a) of such section 804 into the United States by registered importers during fiscal year 2007 as reestimated under clause (ii).

(D) ANNUAL REPORT.—

(i) FOOD AND DRUG ADMINISTRATION.—Beginning with fiscal year 2006, not later than 180 days after the end of each fiscal year during which fees are collected under subsection (e), (f), or (g)(2)(B)(iv) of such section 804, the Secretary shall prepare and submit to the House of Representatives and the Senate a report on the implementation of the authority for such fees during such fiscal year and the use, by the Food and Drug Administration, of the fees collected for the fiscal year for which the report is made and credited to the Food and Drug Administration.

(ii) CUSTOMS AND BORDER CONTROL.—Beginning with fiscal year 2006, not later than 180 days after the end of each fiscal year during which fees are collected under subsection (e) or (f) of such section 804, the Secretary of Homeland Security, in consultation with the Secretary of the Treasury, shall prepare and submit to the House of Representatives and the Senate a report on the use, by the Bureau of Customs and Border Protection, of the fees, if any, transferred by the Secretary to the Bureau of Customs and Border Protection for the fiscal year for which the report is made.

(10) SPECIAL RULE REGARDING IMPORTATION BY INDIVIDUALS.—

(A) IN GENERAL.—Notwithstanding any provision of this title (or an amendment made by this title), the Secretary shall designate additional countries from which an individual may import a qualifying drug into the United States under such section 804 if any action implemented by the Government of Canada has the effect of limiting or prohibiting the importation of qualifying drugs into the United States from Canada.

(B) TIMING AND CRITERIA.—The Secretary shall designate such additional countries under subparagraph (A)—

(i) not later than 6 months after the date of the action by the Government of Canada described under such subparagraph; and

(ii) using the criteria described under subsection (a)(4)(D)(i)(II) of such section 804.

(f) IMPLEMENTATION OF SECTION 804.—

(1) INTERIM RULE.—The Secretary may promulgate an interim rule for implementing section 804 of the Federal Food, Drug, and Cosmetic Act, as added by subsection (a) of this section.

(2) NO NOTICE OF PROPOSED RULEMAKING.—The interim rule described under paragraph (1) may be developed and promulgated by the Secretary without providing general notice of proposed rulemaking.

(3) FINAL RULE.—Not later than 1 year after the date on which the Secretary promulgates an interim rule under paragraph (1), the Secretary shall, in accordance with procedures under section 553 of title 5, United States Code, promulgate a final rule for implementing such section 804, which may incorporate by reference provisions of the interim rule provided for under paragraph (1), to the extent that such provisions are not modified.

(g) CONSUMER EDUCATION.—The Secretary shall carry out activities that educate consumers—

(1) with regard to the availability of qualifying drugs for import for personal use from an exporter registered with and approved by the Food and Drug Administration under section 804 of the Federal Food, Drug, and Cosmetic Act, as added by this section, including information on how to verify whether an exporter is registered and approved by use of the Internet website of the Food and Drug Administration and the toll-free telephone number required by this title;

(2) that drugs that consumers attempt to import from an exporter that is not registered with and approved by the Food and Drug Administration can be seized by the United States Customs Service and destroyed, and that such drugs may be counterfeit, unapproved, unsafe, or ineffective; and

(3) with regard to the availability at domestic retail pharmacies of qualifying drugs imported under such section 804 by domestic wholesalers and pharmacies registered with and approved by the Food and Drug Administration.

(h) EFFECT ON ADMINISTRATION PRACTICES.—Notwithstanding any provision of this title (and the amendments made by this title), nothing in this title (or the amendments made by this title) shall be construed to change, limit, or restrict the practices of the Food and Drug Administration or the Bureau of Customs and Border Protection in effect on January 1, 2004, with respect to the importation of prescription drugs into the United States by an individual, on the person of such individual, for personal use.

(i) REPORT TO CONGRESS.—The Federal Trade Commission shall, on an annual basis, submit to Congress a report that describes any action taken during the period for which the report is being prepared to enforce the provisions of section 804(n) of the Federal Food, Drug, and Cosmetic Act (as added by this title), including any pending investigations or civil actions under such section.

SEC. ___5. DISPOSITION OF CERTAIN DRUGS DENIED ADMISSION INTO UNITED STATES.

(a) IN GENERAL.—Chapter VIII of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381 et seq.), as amended by section ___3, is further amended by adding at the end the following section:

"SEC. 805. DISPOSITION OF CERTAIN DRUGS DENIED ADMISSION.

"(a) IN GENERAL.—The Secretary of Homeland Security shall deliver to the Secretary a shipment of drugs that is imported or offered for import into the United States if—

"(1) the shipment has a declared value of less than $10,000; and

"(2)(A) the shipping container for such drugs does not bear the markings required under section 804(d)(2); or

"(B) the Secretary has requested delivery of such shipment of drugs.

"(b) NO BOND OR EXPORT.—Section 801(b) does not authorize the delivery to the owner or consignee of drugs delivered to the Secretary under subsection (a) pursuant to the execution of a bond, and such drugs may not be exported.

"(c) DESTRUCTION OF VIOLATIVE SHIPMENT.—The Secretary shall destroy a shipment of drugs delivered by the Secretary of Homeland Security to the Secretary under subsection (a) if—

"(1) in the case of drugs that are imported or offered for import from a registered exporter under section 804, the drugs are in violation of any standard described in section 804(g)(5); or

"(2) in the case of drugs that are not imported or offered for import from a registered exporter under section 804, the drugs are in violation of a standard referred to in section 801(a) or 801(d)(1).

"(d) CERTAIN PROCEDURES.—

"(1) IN GENERAL.—The delivery and destruction of drugs under this section may be carried out without notice to the importer, owner, or consignee of the drugs except as required by section 801(g) or section 804(i)(2). The issuance of receipts for the drugs, and recordkeeping activities regarding the drugs, may be carried out on a summary basis.

"(2) OBJECTIVE OF PROCEDURES.—Procedures promulgated under paragraph (1) shall be designed toward the objective of ensuring that, with respect to efficiently utilizing Federal resources available for carrying out this section, a substantial majority of shipments of drugs subject to described in subsection (c) are identified and destroyed.

"(e) EVIDENCE EXCEPTION.—Drugs may not be destroyed under subsection (c) to the extent that the Attorney General of the United States determines that the drugs should be preserved as evidence or potential evidence with respect to an offense against the United States.

"(f) RULE OF CONSTRUCTION.—This section may not be construed as having any legal effect on applicable law with respect to a shipment of drugs that is imported or offered for import into the United States and has a declared value equal to or greater than $10,000.".

(b) PROCEDURES.—Procedures for carrying out section 805 of the Federal Food, Drug, and Cosmetic Act, as added by subsection (a), shall be established not later than 90 days after the date of the enactment of this title.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date that is 90 days after the date of enactment of this title.

SEC. ___6. WHOLESALE DISTRIBUTION OF DRUGS; STATEMENTS REGARDING PRIOR SALE, PURCHASE, OR TRADE.

(a) STRIKING OF EXEMPTIONS; APPLICABILITY TO REGISTERED EXPORTERS.—Section 503(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 353(e)) is amended—

(1) in paragraph (1)—

(A) by striking "and who is not the manufacturer or an authorized distributor of record of such drug";

(B) by striking "to an authorized distributor of record or"; and

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

"(B) The fact that a drug subject to subsection (b) is exported from the United States does not with respect to such drug exempt any person that is engaged in the business of the wholesale distribution of the drug from providing the statement described in subparagraph (A) to the person that receives the drug pursuant to the export of the drug.

''(C)(i) The Secretary shall by regulation establish requirements that supersede subparagraph (A) (referred to in this subparagraph as 'alternative requirements') to identify the chain of custody of a drug subject to subsection (b) from the manufacturer of the drug throughout the wholesale distribution of the drug to a pharmacist who intends to sell the drug at retail if the Secretary determines that the alternative requirements, which may include standardized anti-counterfeiting or track-and-trace technologies, will identify such chain of custody or the identity of the discrete package of the drug from which the drug is dispensed with equal or greater certainty to the requirements of subparagraph (A), and that the alternative requirements are economically and technically feasible.

''(ii) When the Secretary promulgates a final rule to establish such alternative requirements, the final rule in addition shall, with respect to the registration condition established in clause (i) of section 804(c)(3)(B), establish a condition equivalent to the alternative requirements, and such equivalent condition may be met in lieu of the registration condition established in such clause (i).'';

(2) in paragraph (2)(A), by adding at the end the following: ''The preceding sentence may not be construed as having any applicability with respect to a registered exporter under section 804.''; and

(3) in paragraph (3), by striking ''and subsection (d)—'' in the matter preceding subparagraph (A) and all that follows through ''the term 'wholesale distribution' means'' in subparagraph (B) and inserting the following: ''and subsection (d), the term 'wholesale distribution' means''.

(b) CONFORMING AMENDMENT.—Section 503(d) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 353(d)) is amended by adding at the end the following:

''(4) Each manufacturer of a drug subject to subsection (b) shall maintain at its corporate offices a current list of the authorized distributors of record of such drug.

''(5) For purposes of this subsection, the term 'authorized distributors of record' means those distributors with whom a manufacturer has established an ongoing relationship to distribute such manufacturer's products.''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by paragraphs (1) and (3) of subsection (a) and by subsection (b) shall take effect on January 1, 2010.

(2) DRUGS IMPORTED BY REGISTERED IMPORTERS UNDER SECTION 804.—Notwithstanding paragraph (1), the amendments made by paragraphs (1) and (3) of subsection (a) and by subsection (b) shall take effect on the date that is 90 days after the date of enactment of this title with respect to qualifying drugs imported under section 804 of the Federal Food, Drug, and Cosmetic Act, as added by section ___4.

(3) HIGH-RISK DRUGS.—

(A) IN GENERAL.—Notwithstanding paragraph (1), the Secretary of Health and Human Services (referred to in this section as the ''Secretary'') may apply the amendments made by paragraphs (1) and (3) of subsection (a) and by subsection (b) before January 1, 2010, with respect to a prescription drug if the Secretary—

(i) determines that the drug is at high risk for being counterfeited; and

(ii) publishes the determination and the basis for the determination in the Federal Register.

(B) PEDIGREE NOT REQUIRED.—Notwithstanding a determination under subparagraph (A) with respect to a prescription drug, the amendments described in such subparagraph shall not apply with respect to a wholesale distribution of such drug if the drug is distributed by the manufacturer of the drug to a person that distributes the drug to a retail pharmacy for distribution to the consumer or patient, with no other intervening transactions.

(C) LIMITATION.—The Secretary may make the determination under subparagraph (A) with respect to not more than 50 drugs before January 1, 2010.

(4) EFFECT WITH RESPECT TO REGISTERED EXPORTERS.—The amendment made by subsection (a)(2) shall take effect on the date that is 90 days after the date of enactment of this title.

(5) ALTERNATIVE REQUIREMENTS.—The Secretary shall issue regulations to establish the alternative requirements, referred to in the amendment made by subsection (a)(1), that take effect not later than—

(A) January 1, 2008, with respect to a prescription drug determined under paragraph (3)(A) to be at high risk for being counterfeited; and

(B) January 1, 2010, with respect to all other prescription drugs.

(6) INTERMEDIATE REQUIREMENTS.—With respect to the prescription drugs described under paragraph (5)(B), the Secretary shall by regulation require the use of standardized anti-counterfeiting or track-and-trace technologies on such prescription drugs at the case and pallet level effective not later than January 1, 2008.

SEC. ___7. INTERNET SALES OF PRESCRIPTION DRUGS.

(a) IN GENERAL.—Chapter V of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351 et seq.) is amended by inserting after section 503A the following:

''SEC. 503B. INTERNET SALES OF PRESCRIPTION DRUGS.

''(a) REQUIREMENTS REGARDING INFORMATION ON INTERNET SITE.—

''(1) IN GENERAL.—A person may not dispense a prescription drug pursuant to a sale of the drug by such person if—

''(A) the purchaser of the drug submitted the purchase order for the drug, or conducted any other part of the sales transaction for the drug, through an Internet site;

''(B) the person dispenses the drug to the purchaser by mailing or shipping the drug to the purchaser; and

''(C) such site, or any other Internet site used by such person for purposes of sales of a prescription drug, fails to meet each of the requirements specified in paragraph (2), other than a site or pages on a site that—

''(i) are not intended to be accessed by purchasers or prospective purchasers; or

''(ii) provide an Internet information location tool within the meaning of section 231(e)(5) of the Communications Act of 1934 (47 U.S.C. 231(e)(5)).

''(2) REQUIREMENTS.—With respect to an Internet site, the requirements referred to in subparagraph (C) of paragraph (1) for a person to whom such paragraph applies are as follows:

''(A) Each page of the site shall include either the following information or a link to a page that provides the following information:

''(i) The name of such person.

''(ii) Each State in which the person is authorized by law to dispense prescription drugs.

''(iii) The address and telephone number of each place of business of the person with respect to sales of prescription drugs through the Internet, other than a place of business that does not mail or ship prescription drugs to purchasers.

''(iv) The name of each individual who serves as a pharmacist for prescription drugs that are mailed or shipped pursuant to the site, and each State in which the individual is authorized by law to dispense prescription drugs.

''(v) If the person provides for medical consultations through the site for purposes of providing prescriptions, the name of each individual who provides such consultations; each State in which the individual is licensed or otherwise authorized by law to provide such consultations or practice medicine; and the type or types of health professions for which the individual holds such licenses or other authorizations.

''(B) A link to which paragraph (1) applies shall be displayed in a clear and prominent place and manner, and shall include in the caption for the link the words 'licensing and contact information'.

''(b) INTERNET SALES WITHOUT APPROPRIATE MEDICAL RELATIONSHIPS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), a person may not dispense a prescription drug, or sell such a drug, if—

''(A) for purposes of such dispensing or sale, the purchaser communicated with the person through the Internet;

''(B) the patient for whom the drug was dispensed or purchased did not, when such communications began, have a prescription for the drug that is valid in the United States;

''(C) pursuant to such communications, the person provided for the involvement of a practitioner, or an individual represented by the person as a practitioner, and the practitioner or such individual issued a prescription for the drug that was purchased;

''(D) the person knew, or had reason to know, that the practitioner or the individual referred to in subparagraph (C) did not, when issuing the prescription, have a qualifying medical relationship with the patient; and

''(E) the person received payment for the dispensing or sale of the drug.

For purposes of subparagraph (E), payment is received if money or other valuable consideration is received.

''(2) EXCEPTIONS.—Paragraph (1) does not apply to—

''(A) the dispensing or selling of a prescription drug pursuant to telemedicine practices sponsored by—

''(i) a hospital that has in effect a provider agreement under title XVIII of the Social Security Act (relating to the Medicare program); or

''(ii) a group practice that has not fewer than 100 physicians who have in effect provider agreements under such title; or

''(B) the dispensing or selling of a prescription drug pursuant to practices that promote the public health, as determined by the Secretary by regulation.

''(3) QUALIFYING MEDICAL RELATIONSHIP.—

''(A) IN GENERAL.—With respect to issuing a prescription for a drug for a patient, a practitioner has a qualifying medical relationship with the patient for purposes of this section if—

''(i) at least one in-person medical evaluation of the patient has been conducted by the practitioner; or

''(ii) the practitioner conducts a medical evaluation of the patient as a covering practitioner.

''(B) IN-PERSON MEDICAL EVALUATION.—A medical evaluation by a practitioner is an in-person medical evaluation for purposes of this section if the practitioner is in the physical presence of the patient as part of conducting the evaluation, without regard to whether portions of the evaluation are conducted by other health professionals.

''(C) COVERING PRACTITIONER.—With respect to a patient, a practitioner is a covering practitioner for purposes of this section if

the practitioner conducts a medical evaluation of the patient at the request of a practitioner who has conducted at least one in-person medical evaluation of the patient and is temporarily unavailable to conduct the evaluation of the patient. A practitioner is a covering practitioner without regard to whether the practitioner has conducted any in-person medical evaluation of the patient involved.

''(4) RULES OF CONSTRUCTION.—

''(A) INDIVIDUALS REPRESENTED AS PRACTITIONERS.—A person who is not a practitioner (as defined in subsection (e)(1)) lacks legal capacity under this section to have a qualifying medical relationship with any patient.

''(B) STANDARD PRACTICE OF PHARMACY.—Paragraph (1) may not be construed as prohibiting any conduct that is a standard practice in the practice of pharmacy.

''(C) APPLICABILITY OF REQUIREMENTS.—Paragraph (3) may not be construed as having any applicability beyond this section, and does not affect any State law, or interpretation of State law, concerning the practice of medicine.

''(c) ACTIONS BY STATES.—

''(1) IN GENERAL.—Whenever an attorney general of any State has reason to believe that the interests of the residents of that State have been or are being threatened or adversely affected because any person has engaged or is engaging in a pattern or practice that violates section 301(l), the State may bring a civil action on behalf of its residents in an appropriate district court of the United States to enjoin such practice, to enforce compliance with such section (including a nationwide injunction), to obtain damages, restitution, or other compensation on behalf of residents of such State, to obtain reasonable attorneys fees and costs if the State prevails in the civil action, or to obtain such further and other relief as the court may deem appropriate.

''(2) NOTICE.—The State shall serve prior written notice of any civil action under paragraph (1) or (5)(B) upon the Secretary and provide the Secretary with a copy of its complaint, except that if it is not feasible for the State to provide such prior notice, the State shall serve such notice immediately upon instituting such action. Upon receiving a notice respecting a civil action, the Secretary shall have the right—

''(A) to intervene in such action;

''(B) upon so intervening, to be heard on all matters arising therein; and

''(C) to file petitions for appeal.

''(3) CONSTRUCTION.—For purposes of bringing any civil action under paragraph (1), nothing in this chapter shall prevent an attorney general of a State from exercising the powers conferred on the attorney general by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.

''(4) VENUE; SERVICE OF PROCESS.—Any civil action brought under paragraph (1) in a district court of the United States may be brought in the district in which the defendant is found, is an inhabitant, or transacts business or wherever venue is proper under section 1391 of title 28, United States Code. Process in such an action may be served in any district in which the defendant is an inhabitant or in which the defendant may be found.

''(5) ACTIONS BY OTHER STATE OFFICIALS.—

''(A) Nothing contained in this section shall prohibit an authorized State official from proceeding in State court on the basis of an alleged violation of any civil or criminal statute of such State.

''(B) In addition to actions brought by an attorney general of a State under paragraph (1), such an action may be brought by officers of such State who are authorized by the State to bring actions in such State on behalf of its residents.

''(d) EFFECT OF SECTION.—This section shall not apply to a person that is a registered exporter under section 804.

''(e) GENERAL DEFINITIONS.—For purposes of this section:

''(1) The term 'practitioner' means a practitioner referred to in section 503(b)(1) with respect to issuing a written or oral prescription.

''(2) The term 'prescription drug' means a drug that is described in section 503(b)(1).

''(3) The term 'qualifying medical relationship', with respect to a practitioner and a patient, has the meaning indicated for such term in subsection (b).

''(f) INTERNET-RELATED DEFINITIONS.—

''(1) IN GENERAL.—For purposes of this section:

''(A) The term 'Internet' means collectively the myriad of computer and telecommunications facilities, including equipment and operating software, which comprise the interconnected world-wide network of networks that employ the transmission control protocol/internet protocol, or any predecessor or successor protocols to such protocol, to communicate information of all kinds by wire or radio.

''(B) The term 'link', with respect to the Internet, means one or more letters, words, numbers, symbols, or graphic items that appear on a page of an Internet site for the purpose of serving, when activated, as a method for executing an electronic command—

''(i) to move from viewing one portion of a page on such site to another portion of the page;

''(ii) to move from viewing one page on such site to another page on such site; or

''(iii) to move from viewing a page on one Internet site to a page on another Internet site.

''(C) The term 'page', with respect to the Internet, means a document or other file accessed at an Internet site.

''(D)(i) The terms 'site' and 'address', with respect to the Internet, mean a specific location on the Internet that is determined by Internet Protocol numbers. Such term includes the domain name, if any.

''(ii) The term 'domain name' means a method of representing an Internet address without direct reference to the Internet Protocol numbers for the address, including methods that use designations such as '.com', '.edu', '.gov', '.net', or '.org'.

''(iii) The term 'Internet Protocol numbers' includes any successor protocol for determining a specific location on the Internet.

''(2) AUTHORITY OF SECRETARY.—The Secretary may by regulation modify any definition under paragraph (1) to take into account changes in technology.

''(g) INTERACTIVE COMPUTER SERVICE; ADVERTISING.—No provider of an interactive computer service, as defined in section 230(f)(2) of the Communications Act of 1934 (47 U.S.C. 230(f)(2)), or of advertising services shall be liable under this section for dispensing or selling prescription drugs in violation of this section on account of another person's selling or dispensing such drugs, provided that the provider of the interactive computer service or of advertising services does not own or exercise corporate control over such person.''.

(b) INCLUSION AS PROHIBITED ACT.—Section 301 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331) is amended by inserting after paragraph (k) the following:

''(l) The dispensing or selling of a prescription drug in violation of section 503B.''.

(c) INTERNET SALES OF PRESCRIPTION DRUGS; CONSIDERATION BY SECRETARY OF PRACTICES AND PROCEDURES FOR CERTIFICATION OF LEGITIMATE BUSINESSES.—In carrying out section 503B of the Federal Food, Drug, and Cosmetic Act (as added by subsection (a) of this section), the Secretary of Health and Human Services shall take into consideration the practices and procedures of public or private entities that certify that businesses selling prescription drugs through Internet sites are legitimate businesses, including practices and procedures regarding disclosure formats and verification programs.

(d) REPORTS REGARDING INTERNET-RELATED VIOLATIONS OF FEDERAL AND STATE LAWS ON DISPENSING OF DRUGS.—

(1) IN GENERAL.—The Secretary of Health and Human Services (referred to in this subsection as the ''Secretary'') shall, pursuant to the submission of an application meeting the criteria of the Secretary, make an award of a grant or contract to the National Clearinghouse on Internet Prescribing (operated by the Federation of State Medical Boards) for the purpose of—

(A) identifying Internet sites that appear to be in violation of Federal or State laws concerning the dispensing of drugs;

(B) reporting such sites to State medical licensing boards and State pharmacy licensing boards, and to the Attorney General and the Secretary, for further investigation; and

(C) submitting, for each fiscal year for which the award under this subsection is made, a report to the Secretary describing investigations undertaken with respect to violations described in subparagraph (A).

(2) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out paragraph (1), there is authorized to be appropriated $100,000 for each of the fiscal years 2005 through 2007.

(e) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) take effect 90 days after the date of enactment of this title, without regard to whether a final rule to implement such amendments has been promulgated by the Secretary of Health and Human Services under section 701(a) of the Federal Food, Drug, and Cosmetic Act. The preceding sentence may not be construed as affecting the authority of such Secretary to promulgate such a final rule.

SEC. ___8. PROHIBITING PAYMENTS TO UNREGISTERED FOREIGN PHARMACIES.

(a) IN GENERAL.—Section 303 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 333) is amended by adding at the end the following:

''(g) RESTRICTED TRANSACTIONS.—

''(1) IN GENERAL.—The introduction of restricted transactions into a payment system or the completion of restricted transactions using a payment system is prohibited.

''(2) PAYMENT SYSTEM.—

''(A) IN GENERAL.—The term 'payment system' means a system used by a person described in subparagraph (B) to effect a credit transaction, electronic fund transfer, or money transmitting service that may be used in connection with, or to facilitate, a restricted transaction, and includes—

''(i) a credit card system;

''(ii) an international, national, regional, or local network used to effect a credit transaction, an electronic fund transfer, or a money transmitting service; and

''(iii) any other system that is centrally managed and is primarily engaged in the transmission and settlement of credit transactions, electronic fund transfers, or money transmitting services.

''(B) PERSONS DESCRIBED.—A person referred to in subparagraph (A) is—

''(i) a creditor;

''(ii) a credit card issuer;

''(iii) a financial institution;

''(iv) an operator of a terminal at which an electronic fund transfer may be initiated;

''(v) a money transmitting business; or

''(vi) a participant in an international, national, regional, or local network used to effect a credit transaction, electronic fund transfer, or money transmitting service.

''(3) RESTRICTED TRANSACTION.—The term 'restricted transaction' means a transaction or transmittal, on behalf of an individual who places an unlawful drug importation request to any person engaged in the operation of an unregistered foreign pharmacy, of—

''(A) credit, or the proceeds of credit, extended to or on behalf of the individual for the purpose of the unlawful drug importation request (including credit extended through the use of a credit card);

''(B) an electronic fund transfer or funds transmitted by or through a money transmitting business, or the proceeds of an electronic fund transfer or money transmitting service, from or on behalf of the individual for the purpose of the unlawful drug importation request;

''(C) a check, draft, or similar instrument which is drawn by or on behalf of the individual for the purpose of the unlawful drug importation request and is drawn on or payable at or through any financial institution; or

''(D) the proceeds of any other form of financial transaction (identified by the Board by regulation) that involves a financial institution as a payor or financial intermediary on behalf of or for the benefit of the individual for the purpose of the unlawful drug importation request.

''(4) UNLAWFUL DRUG IMPORTATION REQUEST.—The term 'unlawful drug importation request' means the request, or transmittal of a request, made to an unregistered foreign pharmacy for a prescription drug by mail (including a private carrier), facsimile, phone, or electronic mail, or by a means that involves the use, in whole or in part, of the Internet.

''(5) UNREGISTERED FOREIGN PHARMACY.—The term 'unregistered foreign pharmacy' means a person in a country other than the United States that is not a registered exporter under section 804.

''(6) OTHER DEFINITIONS.—

''(A) CREDIT; CREDITOR; CREDIT CARD.—The terms 'credit', 'creditor', and 'credit card' have the meanings given the terms in section 103 of the Truth in Lending Act (15 U.S.C. 1602).

''(B) ACCESS DEVICE; ELECTRONIC FUND TRANSFER.—The terms 'access device' and 'electronic fund transfer'—

''(i) have the meaning given the term in section 903 of the Electronic Fund Transfer Act (15 U.S.C. 1693a); and

''(ii) the term 'electronic fund transfer' also includes any fund transfer covered under Article 4A of the Uniform Commercial Code, as in effect in any State.

''(C) FINANCIAL INSTITUTION.—The term 'financial institution'—

''(i) has the meaning given the term in section 903 of the Electronic Transfer Fund Act (15 U.S.C. 1693a); and

''(ii) includes a financial institution (as defined in section 509 of the Gramm-Leach-Bliley Act (15 U.S.C. 6809)).

''(D) MONEY TRANSMITTING BUSINESS; MONEY TRANSMITTING SERVICE.—The terms 'money transmitting business' and 'money transmitting service' have the meaning given the terms in section 5330(d) of title 31, United States Code.

''(E) BOARD.—The term 'Board' means the Board of Governors of the Federal Reserve System.

''(7) POLICIES AND PROCEDURES REQUIRED TO PREVENT RESTRICTED TRANSACTIONS.—

''(A) REGULATIONS.—The Board shall promulgate regulations requiring—

''(i) an operator of a credit card system;

''(ii) an operator of an international, national, regional, or local network used to effect a credit transaction, an electronic fund transfer, or a money transmitting service;

''(iii) an operator of any other payment system that is centrally managed and is primarily engaged in the transmission and settlement of credit transactions, electronic transfers or money transmitting services where at least one party to the transaction or transfer is an individual; and

''(iv) any other person described in paragraph (2)(B) and specified by the Board in such regulations,

to establish policies and procedures that are reasonably designed to prevent the introduction of a restricted transaction into a payment system or the completion of a restricted transaction using a payment system.

''(B) REQUIREMENTS FOR POLICIES AND PROCEDURES.—In promulgating regulations under subparagraph (A), the Board shall—

''(i) identify types of policies and procedures, including nonexclusive examples, that shall be considered to be reasonably designed to prevent the introduction of restricted transactions into a payment system or the completion of restricted transactions using a payment system; and

''(ii) to the extent practicable, permit any payment system, or person described in paragraph (2)(B), as applicable, to choose among alternative means of preventing the introduction or completion of restricted transactions.

''(C) NO LIABILITY FOR BLOCKING OR REFUSING TO HONOR RESTRICTED TRANSACTION.—

''(i) IN GENERAL.—A payment system, or a person described in paragraph (2)(B) that is subject to a regulation issued under this subsection, and any participant in such payment system that prevents or otherwise refuses to honor transactions in an effort to implement the policies and procedures required under this subsection or to otherwise comply with this subsection shall not be liable to any party for such action.

''(ii) COMPLIANCE.—A person described in paragraph (2)(B) meets the requirements of this subsection if the person relies on and complies with the policies and procedures of a payment system of which the person is a member or in which the person is a participant, and such policies and procedures of the payment system comply with the requirements of the regulations promulgated under subparagraph (A).

''(D) ENFORCEMENT.—

''(i) IN GENERAL.—This section shall be enforced by the Federal functional regulators and the Federal Trade Commission under applicable law in the manner provided in section 505(a) of the Gramm-Leach-Bliley Act (15 U.S.C. 6805(a)).

''(ii) FACTORS TO BE CONSIDERED.—In considering any enforcement action under this subsection against a payment system or person described in paragraph (2)(B), the Federal functional regulators and the Federal Trade Commission shall consider the following factors:

''(I) The extent to which the payment system or person knowingly permits restricted transactions.

''(II) The history of the payment system or person in connection with permitting restricted transactions.

''(III) The extent to which the payment system or person has established and is maintaining policies and procedures in compliance with regulations prescribed under this subsection.

''(8) TRANSACTIONS PERMITTED.—A payment system, or a person described in paragraph (2)(B) that is subject to a regulation issued under this subsection, is authorized to engage in transactions with foreign pharmacies in connection with investigating violations or potential violations of any rule or requirement adopted by the payment system or person in connection with complying with paragraph (7). A payment system, or such a person, and its agents and employees shall not be found to be in violation of, or liable under, any federal, state or other law by virtue of engaging in any such transaction.

''(9) RELATION TO STATE LAWS.—No requirement, prohibition, or liability may be imposed on a payment system, or a person described in paragraph (2)(B) that is subject to a regulation issued under this subsection, under the laws of any state with respect to any payment transaction by an individual because the payment transaction involves a payment to a foreign pharmacy.

''(10) TIMING OF REQUIREMENTS.—A payment system, or a person described in paragraph (2)(B) that is subject to a regulation issued under this subsection, must adopt policies and procedures reasonably designed to comply with any regulations required under paragraph (7) within 60 days after such regulations are issued in final form.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the day that is 90 days after the date of enactment of this title.

(c) IMPLEMENTATION.—The Board of Governors of the Federal Reserve System shall promulgate regulations as required by subsection (g)(7) of section 303 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 333), as added by subsection (a), not later than 90 days after the date of enactment of this title.

SEC. ___9. IMPORTATION EXEMPTION UNDER CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT.

Section 1006(a)(2) of the Controlled Substances Import and Export Act (21 U.S.C. 956(a)(2)) is amended by striking ''not import the controlled substance into the United States in an amount that exceeds 50 dosage units of the controlled substance.'' and inserting ''import into the United States not more than 10 dosage units combined of all such controlled substances.''.

SA 1533. Mr. MARTINEZ (for himself and Mr. NELSON of Florida) submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

SENSE OF THE SENATE REGARDING OIL AND GAS EXPLORATION ON MILITARY OPERATIONS

(A) FINDINGS.—The Senate finds the following:

(1) Whereas the U.S. Air Force and Navy conduct vital and critical national security preparedness missions in the Eastern Gulf of Mexico

(2) Whereas the U.S. Air Force and Navy have had to move their live-fire training operations from Vieques, Puerto Rico

(3) Whereas these training operations are critical for the battle-preparedness of military personnel

(4) Whereas the training areas for these live-fire missions are restricted to an increasingly limited area

(5) Whereas a oil and gas exploration operations in the vicinity of U.S. military training operations poses a risk to human life and

an accident could threaten and impact coastal communities and beaches

(6) Where as military personnel have expressed concerns with oil and gas operations impeding on their training in the Eastern Gulf of Mexico

(B) THE SENSE OF THE SENATE.—It is the Sense of the Senate that oil and gas exploration operations should not interfere with the training missions and operations of the Department of Defense.

SA 1534. Mr. DEWINE (for himself, Mr. BIDEN, and Mr. LIEBERMAN) submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 286, between lines 7 and 8, insert the following:

SEC. 1073. EXPANSION OF EMERGENCY SERVICES UNDER RECIPROCAL AGREEMENTS.

Subsection (b) of the first section of the Act of May 27, 1955 (69 Stat. 66, chapter 105; 42 U.S.C. 1856(b)) is amended by striking ''and fire fighting'' and inserting '', fire fighting, and emergency services, including basic and advanced life support, hazardous material containment and confinement, and special rescue events involving vehicular and water mishaps, and trench, building, and confined space extractions''.

SA 1535. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 213, between lines 2 and 3, insert the following:

SEC. 807. MODIFICATION OF LIMITATION ON CONVERSION TO CONTRACTOR PERFORMANCE.

Section 8014(a)(3) of the Department of Defense Appropriations Act, 2005 (Public law 108–287; 118 Stat. 972) is amended—

(1) in subparagraph (A), by inserting '', payment that could be used in lieu of such a plan, health savings account, or medical savings account'' after ''health insurance plan''; and

(2) in subparagraph (B), by striking ''that requires'' and all that follows through the end of the subparagraph and inserting ''that does not comply with the requirements of any Federal law governing the provision of health care benefits by Government contractors that would be applicable if the contractor performed the activity or function under the contract.''.

SA 1536. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 220, strike lines 1 through 3, and insert the following:

(e) COMMERCIALIZATION PILOT PROGRAM.—

(1) IN GENERAL.—The Secretary of Defense and each Secretary of a military department, until September 30, 2008, shall create and administer a pilot program to accelerate the transition of technologies, products, and services developed under the Small Business Innovation Research Program and the Small Business Technology Transfer Program to Phase III of the applicable program.

(2) FUNDING.—For purposes of the pilot program under this subsection, the Secretary of Defense and each Secretary of a military department is authorized to use not more than an amount equal to 1 percent of the funds available to the Department of Defense or the military department to carry out the Small Business Innovation Research Program and the Small Business Technology Transfer Program under subsections (f) and (n) of section 9 of the Small Business Act (15 U.S.C. 638).

(3) EXEMPTION.—The pilot program authorized by this subsection shall not be subject to the limitations on the use of funds in subsections (f)(2) and (n)(2) of section 9 of the Small Business Act (15 U.S.C. 638).

(4) REPORTS.—

(A) IN GENERAL.—Once the Secretary of Defense or the Secretary of a military department creates a pilot program under this subsection, such Secretary shall submit to the Committee on Armed Services and the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Armed Services and the Committee on Small Business of the House of Representatives at the end of each fiscal year a report regarding the activities under the pilot program during the preceding year.

(B) CONTENTS.—Each report under subparagraph (A) shall include, for the year covered by such report—

(i) an accounting of the funds used in any pilot program;

(ii) a detailed description of the pilot program; and

(iii) a detailed compilation of results achieved by such pilot program in terms of businesses assisted and the number of inventions transitioned.

(f) AWARD INFLATION ADJUSTMENTS.—Section 9 of the Small Business Act (15 U.S.C. 638) is amended—

(1) in subsection (j)(2)(D)—

(A) by striking ''an increase to $100,000'' and inserting the following: ''a process to—

''(i) make an increase to $100,000'';

(B) by striking ''once every 5 years'' and inserting the following: ''under section 35A of the Office of Federal Procurement Policy Act (41 U.S.C. 431a)''; and

(C) by adding at the end the following:

''(ii) permit the head of an agency to further adjust the amount of funds an agency may award in the first and second phase of an SBIR program;''; and

(2) in subsection (p)(2)(B)(ix)—

(A) by striking ''and'' before ''2-year awards''; and

(B) by inserting before ''greater or lesser amounts'' the following: ''and an adjustment of such amounts under section 35A of the Office of Federal Procurement Policy Act (41 U.S.C. 431a),''.

(g) MENTOR-PROTEGE ASSISTANCE.—Section 8(d)(4)(E) of the Small Business Act (15 U.S.C. 637(d)(4)(E)) is amended by inserting before the period at the end the following: '': *Provided further*, That Federal agencies are encouraged to provide such incentives to small business concerns participating in the Small Business Innovation Research and Small Business Technology Transfer Programs in accordance with requirements for such programs under section 9''.

(h) TESTING AND EVALUATION AUTHORITY.—Section 9(e) of the Small Business Act (15 U.S.C. 638(e)) is amended—

(1) in paragraph (7), by striking ''and'' at the end;

(2) in paragraph (8), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(9) the term 'commercial applications' includes testing and evaluation of products, services, or technologies for use in technical or weapons systems.''.

(i) SMALL BUSINESS INNOVATION RESEARCH PROGRAM DEFINED.—In this section, the term ''Small Business Innovation Research Program'' has the meaning

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SA 1537. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 220, strike lines 1 through 3, and insert the following:

(e) COMMERCIALIZATION PILOT PROGRAM.—

(1) IN GENERAL.—The Secretary of Defense and each Secretary of a military department, until September 30, 2008, is authorized to create and administer a pilot program to accelerate the transition of technologies, products, and services developed under the Small Business Innovation Research Program and the Small Business Technology Transfer Program to Phase III of the applicable program.

(2) FUNDING.—For purposes of the pilot program under this subsection, the Secretary of Defense and each Secretary of a military department is authorized to use not more than an amount equal to 1 percent of the funds available to the Department of Defense or the military department to carry out the Small Business Innovation Research Program and the Small Business Technology Transfer Program under subsections (f) and (n) of section 9 of the Small Business Act (15 U.S.C. 638).

(3) EXEMPTION.—The pilot program authorized by this subsection shall not be subject to the limitations on the use of funds in subsections (f)(2) and (n)(2) of section 9 of the Small Business Act (15 U.S.C. 638).

(4) REPORTS.—

(A) IN GENERAL.—If the Secretary of Defense or the Secretary of a military department creates a pilot program under this subsection, such Secretary shall submit to the Committee on Armed Services and the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Armed Services and the Committee on Small Business of the House of Representatives at the end of each fiscal year a report regarding the activities under the pilot program during the preceding year.

(B) CONTENTS.—Each report under subparagraph (A) shall include, for the year covered by such report—

(i) an accounting of the funds used in any pilot program;

(ii) a detailed description of the pilot program; and

(iii) a detailed compilation of results achieved by such pilot program in terms of

businesses assisted and the number of inventions transitioned.

(f) AWARD INFLATION ADJUSTMENTS.—Section 9 of the Small Business Act (15 U.S.C. 638) is amended—

(1) in subsection (j)(2)(D)—

(A) by striking ''an increase to $100,000'' and inserting the following: ''a process to—

''(i) make an increase to $100,000'';

(B) by striking ''once every 5 years'' and inserting the following: ''under section 35A of the Office of Federal Procurement Policy Act (41 U.S.C. 431a)''; and

(C) by adding at the end the following:

''(ii) permit the head of an agency to further adjust the amount of funds an agency may award in the first and second phase of an SBIR program;''; and

(2) in subsection (p)(2)(B)(ix)—

(A) by striking ''and'' before ''2-year awards''; and

(B) by inserting before ''greater or lesser amounts'' the following: ''and an adjustment of such amounts under section 35A of the Office of Federal Procurement Policy Act (41 U.S.C. 431a),''.

(g) MENTOR-PROTEGE ASSISTANCE.—Section 8(d)(4)(E) of the Small Business Act (15 U.S.C. 637(d)(4)(E)) is amended by inserting before the period at the end the following: '': *Provided further*, That Federal agencies are encouraged to provide such incentives to small business concerns participating in the Small Business Innovation Research and Small Business Technology Transfer Programs in accordance with requirements for such programs under section 9''.

(h) TESTING AND EVALUATION AUTHORITY.—Section 9(e) of the Small Business Act (15 U.S.C. 638(e)) is amended—

(1) in paragraph (7), by striking ''and'' at the end;

(2) in paragraph (8), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(9) the term 'commercial applications' includes testing and evaluation of products, services, or technologies for use in technical or weapons systems.''.

(i) SMALL BUSINESS INNOVATION RESEARCH PROGRAM DEFINED.—In this section, the term ''Small Business Innovation Research Program'' has the meaning

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SA 1538. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 237, after line 17, insert the following:

SEC. 846. TERMINATION OF PROGRAM.

Section 711(c) of the Small Business Competitive Demonstration Program Act of 1988 (15 U.S.C. 644 note) is amended by inserting after ''January 1, 1989'' the following: '', and shall terminate on the date of enactment of the National Defense Authorization Act for Fiscal Year 2006''.

SA 1539. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert:

SEC. . BUILDING THE PARTNERSHIP SECURITY CAPACITY OF FOREIGN MILITARY AND SECURITY FORCES.

(a) AUTHORITY.—The President may authorize building the capacity of partner nations' military or security forces to disrupt or destroy terrorist networks, close safe havens, or participate in or support United States, coalition, or international military or stability operations.

(b) TYPES OF PARTNERSHIP SECURITY CAPACITY BUILDING.—The partnership security capacity building authorized under subsection (a) may include the provision of equipment, supplies, services, training, and funding.

(c) AVAILABILITY OF FUNDS.—The Secretary of Defense may, with the concurrence of the Secretary of State, implement partnership security capacity building as authorized under section (a) including by transferring funds available to the Department of Defense to the Department of State, or to any other federal agency. Any funds so transferred shall remain available until expended. The amount of such partnership security capacity building provided by the Department of Defense under this section may not exceed $750,000,000 in any fiscal year.

(d) CONGRESSIONAL NOTIFICATION.—Before building partnership security capacity under this section, the Secretaries of State and Defense shall submit to their congressional oversight committees a notification of the nations designated by the President with which partnership security capacity will be built under this section and the nature and amounts of security capacity building to occur. Any such notification shall be building. submitted not less than 7 days before the provision of such partnership security capacity building.

(e) MILITARY AND SECURITY FORCES DEFINED.—For purposes of this section, the term 'military and security forces' includes armies, guard, border security, civil defense, infrastructure protection, and police forces.

(f) COMPLEMENTARY AUTHORITY.—The authority to build partnership security capacity under this section is in addition to any other authority of the Department of Defense to provide assistance to a foreign country.

SEC. . SECURITY AND STABILIZATION ASSISTANCE.

(a) IN GENERAL.—Notwithstanding any other provision of law, upon a request from the Secretary of State and upon a determination by the Secretary of Defense that an unforeseen emergency exists that requires immediate reconstruction, security, or stabilization assistance to a foreign country for the purpose of restoring or maintaining peace and security in that country, and that the provision of such assistance is in the national security interests of the United States, the Secretary of Defense may authorize the use or transfer of defense articles, services, training or other support, including support acquired by contract or otherwise, to provide such assistance.

(b) AVAILABILITY OF FUNDS.—Subject to subsection (a), the Secretary of Defense may transfer funds available to the Department of Defense to the Department of State, or to any other federal agency, to carry out the purposes of this section, and funds so transferred shall remain available until expended.

(c) LIMITATION.—The aggregate value of assistance provided or funds transferred under the authority of this section may not exceed $200,000,000.

(d) COMPLEMENTARY AUTHORITY.—The authority to provide assistance under this section shall be in addition to any other authority to provide assistance to a foreign country.

(e) EXPIRATION.—The authority in this section shall expire on September 30, 2006.

SA 1540. Ms. SNOWE (for herself and Mr. KERRY) submitted an amendment intended to be proposed by her to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 237, after line 17, insert the following:

SEC. 846. SMALL BUSINESS CONTRACTING IN OVERSEAS PROCUREMENTS.

(a) CONGRESSIONAL FINDINGS AND REAFFIRMATION OF EXISTING POLICY.—

(1) FINDINGS.—Congress finds that—

(A) small business contracting in support of overseas activities of the Federal Government strengthens the trade posture of the United States in the global marketplace;

(B) small business contractors are a vital component of the civilian and defense industrial base, and they have provided outstanding value in support of the activities of the Federal Government domestically and internationally, especially in the international reconstruction, stabilization, and assistance activities in the Global War on Terror;

(C) maintaining a vital small business industrial base protects the Federal Government from higher costs and reduced innovation that accompany undue consolidation of Government contracts;

(D) Congress has a strong interest in preserving the competitive nature of the Government contracting marketplace, particularly with regard to performance of Federal contracts and subcontracts overseas;

(E) small business contractors suffer competitive harm and the Federal Government suffers a needless reduction in competition and a needless shrinkage of its industrial base when Federal agencies exempt contracts and subcontracts awarded for performance overseas from the application of the Small Business Act;

(F) small businesses desiring to support the troops deployed in the Global War on Terror and the reconstruction of Iraq and Afghanistan have faced needless hurdles to meaningful participation in Government contracts and subcontracts; and

(G) Congress has a strong interest in holding large prime contractors accountable for fulfilling their subcontracting plans on overseas assistance and reconstruction projects.

(2) REAFFIRMATION OF POLICY.—In light of the findings in paragraph (1), Congress reaffirms its policy contained in sections 2 and 15 of the Small Business Act (15 U.S.C. 631, 644) and section 302 of the Small Business Economic Policy Act of 1980 (15 U.S.C. 631a) to promote international competitiveness of United States small businesses and to ensure that small business concerns are awarded a fair portion of all Federal prime contracts, and subcontracts, regardless of geographic area.

(b) COMPLIANCE.—Not later than 270 days after the date of enactment of this Act, the head of each Federal agency, office, and department having jurisdiction over acquisition regulations shall conduct regulatory reviews to ensure that such regulations require

compliance with the Small Business Act in Federal prime contracts and subcontracts, regardless of the geographic place of award or performance, and shall promulgate any necessary conforming changes to such regulations.

(c) COOPERATION WITH THE SMALL BUSINESS ADMINISTRATION.—The Administrator and the Chief Counsel for Advocacy of the Small Business Administration shall be consulted for recommendations concerning regulatory reviews and changes required by such reviews.

(d) CONFLICTING PROVISIONS OF LAW.—In conducting any regulatory review or promulgating any changes required by a review, due note and recognition shall be given to the specific requirements and procedures of any other Federal statute or treaty which may exempt any Federal prime contract or subcontract from the application of the Small Business Act in whole or in part.

(e) REPORT TO CONGRESSIONAL COMMITTEES.—Not later than 1 year after the date of enactment of this Act, the Administrator and the Chief Counsel for Advocacy of the Small Business Administration shall submit to the Committee on Small Business and Entrepreneurship of the Senate and to the Committee on Small Business of the House of Representatives a report on the activities of Federal agencies, offices, and departments in carrying out this section.

SA 1541. Ms. SNOWE (for herself and Mr. KERRY) submitted an amendment intended to be proposed by her to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 237, after line 17, insert the following:

SEC. 846. FAIR ACCESS TO MULTIPLE-AWARD CONTRACTS.

(a) FINDINGS AND REAFFIRMATIONS OF CONGRESSIONAL POLICY.—

(1) FINDINGS.—Congress finds that—

(A) multiple-award contracts have increased administrative efficiency in Government procurement;

(B) at the same time, small businesses and firms new to Government contracting have experienced problems with transparency and fairness in gaining access to multiple-award contracts;

(C) data presented before the Acquisition Advisory Panel for the Office of Federal Procurement Policy indicates that the small business share of sales under the Federal Supply Schedules amounts to less than half of the small business share of Federal Supply Schedule contracts;

(D) Federal contracting officials incorrectly persist in limiting competition under the Federal Supply Schedule acquisitions to no more than 3 bidders; and

(E) the small business reservation and greater notice requirements will promote greater and fairer access to multiple-award contracts.

(2) CONGRESSIONAL POLICY.—

(A) IN GENERAL.—Congress reaffirms its policy stated in section 15(j) of the Small Business Act (15 U.S.C. 644(j)), to provide a small business reservation for all contracts below the simplified acquisition threshold, specifically including Federal Supply Schedule contracts and multi-agency contracts.

(B) MULTIPLE-AWARD CONTRACTS.—Congress favors increasing competition in the use of multiple-award contracts by civilian agencies, as was previously increased for defense agencies in section 803 of the National Defense Authorization Act for Fiscal Year 2002 (10 U.S.C. 2304 note).

(b) SMALL BUSINESS PARTICIPATION ASSURANCES.—Section 15(j) of the Small Business Act (15 U.S.C. 644(j)) is amended—

(1) in paragraph (2), by striking ''(2) In carrying out paragraph (1)'' and inserting the following:

''(3) In carrying out paragraphs (1) and (2)'';

(2) in paragraph (3), by striking ''(3) Nothing in paragraph (1)'' and inserting:

''(4) Nothing in this subsection''; and

(3) by inserting after paragraph (1) the following:

''(2)(A) In the case of orders under multiple-award contracts, including Federal Supply Schedule contracts and multi-agency contracts, contracting officers shall consider not fewer than 2 small business concerns, if such small business concerns can offer the items sought by the contracting officer on terms that are competitive with respect to price, quality, and delivery schedule with the goods or services otherwise available in the market.

''(B) If only 1 small business concern can satisfy the requirement, the contracting officer shall consider such small business concern in awarding the contract.''.

(c) COMPETITION REQUIREMENT FOR PURCHASE OF SERVICES PURSUANT TO MULTIPLE-AWARD CONTRACTS.—Not later than 180 days after the date of enactment of this Act, the Federal Acquisition Regulation shall be amended to promote competition in multiple-award contracts by civilian agencies on the same terms as are applicable to the Department of Defense and defense agencies pursuant to section 803 of the National Defense Authorization Act for Fiscal Year 2002 (10 U.S.C. 2304 note).

(d) REPORT REQUIREMENT.—

(1) IN GENERAL.—Not less frequently than once every 180 days, the Administrator of the Small Business Administration shall submit a report on the level of participation of small business concerns in multiple-award contracts, including Federal Supply Schedule contracts, to—

(A) the Administrator, Office for Federal Procurement Policy;

(B) the Committee on Small Business and Entrepreneurship of the Senate; and

(C) the Committee on Small Business of the House of Representatives.

(2) CONTENTS.—Each report submitted under paragraph (1) shall contain, for the 6-month reporting period—

(A) the total number of multiple-award contracts;

(B) the total number of small business concerns that received multiple-award contracts;

(C) the total number of orders;

(D) the total value of orders;

(E) the number of orders received by small business concerns;

(F) the value of orders received by small business concerns;

(G) the number of small business concerns that received orders; and

(H) such other information that may be relevant.

SA 1542. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 237, after line 12, insert the following:

SEC. 846. BATTLEFIELD SMALL BUSINESS CONTRACTORS.

Section 3 of the Small Business Act (15 U.S.C. 632) is amended by adding at the end:

''(s) BATTLEFIELD SMALL BUSINESS CONTRACTORS.—

''(1) IN GENERAL.—The Administrator shall—

''(A) not later than 30 days after the date of enactment of the National Defense Authorization Act for Fiscal Year 2006, promulgate a regulation or issue an order excluding receipts received by a small business concern as reimbursements for security services related to business operations of such small business concern under any Federal contract or subcontract performed in a qualified area from applicable size standards; and

''(B) not later than 180 days after the date of enactment of the National Defense Authorization Act for Fiscal Year 2006, submit a report to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives concerning the desirability and feasability of providing any other size standards exemptions for small business concerns working under Federal contracts or subcontracts in a qualified area.

''(2) DEFINITION.—In this subsection, the term 'qualified area' means—

''(A) Iraq,

''(B) Afghanistan, and

''(C) any foreign country which included a combat zone, as that term is defined in section 112(c)(2) of the Internal Revenue Code of 1986, at the time of performance of the relevant Federal contract or subcontract.''.

SA 1543. Mr. DOMENICI (for himself and Mr. GRAHAM) submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 372, line 3, insert after ''$1,637,239,000'' the following: '', of which amount $338,565,000 shall be available for project 99–D–143, the Mixed Oxide Fuel Fabrication Facility, Savannah River Site, Aiken, South Carolina, and $24,000,000 shall be available for project 99–D–141, the Pit Disassembly and Conversion Facility, Savannah River Site, Aiken, South Carolina''.

SA 1544. Mr. DOMENICI (for himself and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle B of title II, add the following:

SEC. 213. LONG WAVELENGTH ARRAY LOW FREQUENCY RADIO ASTRONOMY INSTRUMENTS.

(a) ADDITIONAL AMOUNT FOR RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, NAVY.—The amount authorized to be appropriated by section 201(2) for research, development, test, and evaluation for the Navy is hereby increased by $6,000,000.

(b) AVAILABILITY OF AMOUNT.—

(1) IN GENERAL.—Of the amount authorized to be appropriated by section 201(2) for research, development, test, and evaluation for the Navy, as increased by subsection (a), $6,000,000 may be available for research and development on Long Wavelength Array low frequency radio astronomy instruments.

(2) CONSTRUCTION WITH OTHER AMOUNTS.—The amount available under paragraph (1) for the purpose set forth in that paragraph is in addition to any other amounts available under this Act for that purpose.

(c) OFFSET.—The amount authorized to be appropriated by section 301(1) for operation and maintenance for the Army is hereby reduced by $6,000,000.

SA 1545. Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle A of title V, add the following:

SEC. 509. RETIRED RANK OF VICE ADMIRAL FOR CHIEF OF NAVAL RESEARCH AFTER CERTAIN YEARS OF SERVICE IN POSITION.

Section 5022(a) of title 10, United States Code, is amended by adding at the end the following new paragraph:

''(3) An officer who is retired after completing service as Chief of Naval Research and serving in such position in the grade of rear admiral (upper half) may, at the discretion of the President, be retired with the rank and grade of vice admiral. If so retired in the grade of vice admiral, the officer is entitled to the retired pay of that grade, unless entitled to higher pay under another provision of law.''.

SA 1546. Mr. DOMENICI (for himself, Mrs. HUTCHISON, and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle G of title X, add the following:

SEC. 1073. ELIMINATION OF THE 2-YEAR WAIT OUT PERIOD FOR GRANT RECIPIENTS.

Section 504(a) of the Higher Education Act of 1965 (20 U.S.C. 1101c(a)) is amended—

(1) by striking ''PERIOD.—'' and all that follows through ''The Secretary'' and inserting ''PERIOD.—The Secretary''; and

(2) by striking paragraph (2).

SA 1547. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

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

SEC. 330. TRAINING SUPPORT EQUIPMENT FOR THE MARINE CORPS RESERVE.

(a) ADDITIONAL AMOUNT FOR OPERATION AND MAINTENANCE, MARINE CORPS.—The amount authorized to be appropriated by section 301(3) for operation and maintenance for the Marine Corps is hereby increased by $20,379,000.

(b) AVAILABILITY OF AMOUNT.—

(1) IN GENERAL.—Of the amount authorized to be appropriated by section 301(3) for operation and maintenance for the Marine Corps, as increased by subsection (a), $20,379,000 may be available for training support equipment for the Marine Corps Reserve, including the procurement of the following:

(A) Improved load bearing equipment (ILBE).

(B) Lightweight helmets (LWH).

(C) Goggles and spectacles under of the military eye protection system (MEPS).

(D) Outer tactical vests (OTV).

(E) Full spectrum battle equipment (FSBE) for individuals and platoons.

(F) Combat assault slings (CAS).

(G) Individual first aid kits (IFAK).

(H) Individual water purification (IWP) systems.

(I) Field tarps.

(J) All purpose environmental clothing.

(K) Extended cold weather (APEC) gortex clothing.

(L) Reversible helmet covers (RHC).

(M) Small arms protective insert (SAPI) plates.

(2) SUPPLEMENT NOT SUPPLANT.—Amounts available under paragraph (1) for purposes specified in that paragraph are in addition to any other amounts available in this Act for such purposes.

SA 1548. Mr. CONRAD submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 305, strike line 2 and all that follows through line 6, and insert the following:

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal year 2006 for the procurement accounts for the Air Force in the amounts as follows:

(1) For aircraft, $323,200,000.

(2) For other procurement, $51,900,000.

(b) AVAILABILITY OF CERTAIN AMOUNTS.—Of the amounts authorized to be appropriated by subsection (a)(1), $218,500,000 shall be available for purposes as follows:

(1) Procurement of Predator MQ-1 air vehicles, initial spares, and RSP kits.

(2) Procurement of Containerized Dual Control Station Launch and Recovery Elements.

(3) Procurement of a Fixed Ground Control Station.

(4) Procurement of other upgrades to Predator MQ–1 Ground Control Stations, spares, and signals intelligence packages.

SEC. 1405A. REDUCTION IN AUTHORIZATION OF APPROPRIATIONS FOR IRAQ FREEDOM FUND.

The amount authorized to be appropriated for fiscal year 2006 for the Iraq Freedom Fund is the amount specified by section 1409(a) of this Act, reduced by $218,500,000.

SA 1549. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle G of title X, insert the following:

SEC. 1073. PILOT PROGRAMS FOR USE OF LEAVE BY SPOUSES OF INDIVIDUALS PERFORMING NATIONAL GUARD OR RESERVE SERVICE.

(a) SHORT TITLE.—This section may be cited as the ''National Guard and Reserve Service Leave Act of 2005''.

(b) FEDERAL EMPLOYEES PROGRAM.—

(1) DEFINITIONS.—In this subsection:

(A) AGENCY.—The term ''agency'' means an Executive agency that employs an employee.

(B) COVERED PERIOD OF SERVICE.—The term ''covered period of service'' means any period of service performed by the spouse of an employee while that spouse—

(i) is a member of a reserve component of the Armed Forces as described under section 10101 of title 10, United States Code; and

(ii) is serving on active duty in the Armed Forces in support of a contingency operation as defined under section 101(a)(13) of title 10, United States Code.

(C) EMPLOYEE.—The term ''employee'' has the meaning given under section 6331 of title 5, United States Code.

(D) EXECUTIVE AGENCY.—The term ''Executive agency'' has the meaning given under section 105 of title 5, United States Code.

(2) ESTABLISHMENT OF PROGRAM.—The Office of Personnel Management shall establish a pilot program to authorize an employee to—

(A) use any sick leave of that employee during a covered period of service in the same manner and to the same extent as annual leave is used; and

(B) use any leave available to that employee under subchapter III or IV of chapter 63 of title 5, United States Code, during a covered period of service as though that covered period of service is a medical emergency.

(3) AGENCY PARTICIPATION.—Agencies may apply to the Office of Personnel Management to participate in the pilot program under this subsection. The Office of Personnel Management shall select at least 5 agencies to participate in the pilot program. For purposes of this paragraph the Office of Personnel Management may treat any office or other organizational entity within an agency as an agency.

(4) REGULATIONS.—Not later than 120 days after the date of enactment of this Act, the Office of Personnel Management shall prescribe regulations to carry out this subsection.

(5) TERMINATION.—The pilot program under this subsection shall terminate on December 31, 2007.

(c) VOLUNTARY PRIVATE SECTOR LEAVE PROGRAM.—

(1) DEFINITIONS.—In this subsection:

(A) COVERED PERIOD OF SERVICE.—The term ''covered period of service'' means any period of service performed by the spouse of an employee while that spouse—

(i) is a member of a reserve component of the Armed Forces as described under section 10101 of title 10, United States Code; and

(ii) is serving on active duty in the Armed Forces in support of a contingency operation as defined under section 101(a)(13) of title 10, United States Code.

(B) EMPLOYEE.—The term ''employee'' means an employee of a business entity participating in the program under this subsection.

(2) ESTABLISHMENT OF PROGRAM.—

(A) IN GENERAL.—The Secretary of Labor shall establish a pilot program to authorize employees of business entities described under paragraph (3) to use sick leave, or any other leave available to an employee, during a covered period of service in the same manner and to the same extent as annual leave (or its equivalent) is used.

(B) EXCEPTION.—Subparagraph (A) shall not apply to leave made available under the Family and Medical Leave Act of 1993 (29 U.S.C. 2601 et seq.).

(3) VOLUNTARY BUSINESS PARTICIPATION.—The Secretary of Labor shall solicit business entities to voluntarily participate in the pilot program under this subsection.

(4) REGULATIONS.—Not later than 120 days after the date of enactment of this Act, the Secretary of Labor shall prescribe regulations to carry out this subsection.

(5) TERMINATION.—The pilot program under this subsection shall terminate on December 31, 2007.

(d) GAO REPORT.—Not later than December 31, 2006, the Government Accountability Office shall submit a report to Congress on the programs under subsections (a) and (b) that includes—

(1) an evaluation of the success of each program; and

(2) recommendations for the continuance or termination of each program.

SA 1550. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 48, line 21, strike ''$18,584,469,000'' and insert ''$18,581,369,000''.

At the appropriate place, insert the following:

SEC. ___. PILOT PROJECT FOR CIVILIAN LINGUIST RESERVE CORPS.

(a) ESTABLISHMENT.—The Secretary of Defense (referred to in this section as the ''Secretary''), through the National Security Education Program, shall conduct a 3-year pilot project to establish the Civilian Linguist Reserve Corps, which shall be composed of United States citizens with advanced levels of proficiency in foreign languages who would be available, upon request from the President, to perform any services or duties with respect to such foreign languages in the Federal Government as the President may require.

(b) IMPLEMENTATION.—In establishing the Civilian Linguist Reserve Corps, the Secretary, after reviewing the findings and recommendations contained in the report required under section 325 of the Intelligence Authorization Act for Fiscal Year 2003 (Public Law 107–306; 116 Stat. 2393), shall—

(1) identify several foreign languages that are critical for the national security of the United States and the relative priority of each such language;

(2) identify United States citizens with advanced levels of proficiency in those foreign languages who would be available to perform the services and duties referred to in subsection (a);

(3) cooperate with other Federal agencies with national security responsibilities to implement a procedure for calling for the performance of the services and duties referred to in subsection (a); and

(4) implement a call for the performance of such services and duties.

(c) CONTRACT AUTHORITY.—In establishing the Civilian Linguist Reserve Corps, the Secretary may enter into contracts with appropriate agencies or entities.

(d) FEASIBILITY STUDY.—During the course of the pilot project, the Secretary shall conduct a study of the best practices in implementing the Civilian Linguist Reserve Corps, including—

(1) administrative structure;

(2) languages to be offered;

(3) number of language specialists needed for each language;

(4) Federal agencies who may need language services;

(5) compensation and other operating costs;

(6) certification standards and procedures;

(7) security clearances;

(8) skill maintenance and training; and

(9) the use of private contractors to supply language specialists.

(e) REPORTS.—

(1) EVALUATION REPORTS.—

(A) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, and annually thereafter until the expiration of the 3-year period beginning on such date of enactment, the Secretary shall submit to Congress an evaluation report on the pilot project conducted under this section.

(B) CONTENTS.—Each report required under subparagraph (A) shall contain information on the operation of the pilot project, the success of the pilot project in carrying out the objectives of the establishment of a Civilian Linguist Reserve Corps, and recommendations for the continuation or expansion of the pilot project.

(2) FINAL REPORT.—Not later than 6 months after the completion of the pilot project, the Secretary shall submit to Congress a final report summarizing the lessons learned, best practices, and recommendations for full implementation of the Civilian Linguist Reserve Corps.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $3,100,000 for fiscal year 2006 to carry out the pilot project under this section.

SA 1551. Mr. BAYH submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

DIVISION D—CERTAIN MERGERS, ACQUISITIONS, AND TAKEOVERS

TITLE XLI—MERGERS, ACQUISITIONS, AND TAKEOVERS

SEC. 4101. DEFENSE PRODUCTION ACT.

(a) IN GENERAL.—Section 721 of the Defense Production Act (50 U.S.C. App. 2170) is amended—

(1) by redesignating subsections (g) and (h) as subsections (i) and (j), respectively; and

(2) by inserting after subsection (f) the following:

''(g) NOTIFICATION AND INVESTIGATION.—

''(1) NOTIFICATION.—

''(A) IN GENERAL.—Any entity described in subparagraph (B) shall notify the President at least 60 days before a proposed merger, acquisition, or takeover described in subparagraph (B)(ii).

''(B) ENTITY DESCRIBED.—An entity described in this subparagraph is an entity that—

''(i) is controlled by, or acting on behalf of, a foreign government; and

''(ii) seeks to engage in a merger, acquisition, or takeover of a United States entity that has energy assets valued at $1,000,000,000 or more, that could result in control of a person engaged in interstate commerce in the United States that could affect the national security of the United States.

''(2) INVESTIGATION.—A mandatory investigation under subsection (b) shall be required in the case of a merger, acquisition, or takeover described in paragraph (1)(B)(ii) by an entity described in paragraph (1)(B).

''(h) PRESIDENT'S DESIGNEE DEFINED.—In this section, the term 'President's designee' means the Secretary of Commerce, the Secretary of Defense, the Secretary of Homeland Security, the Secretary of State, the Secretary of the Treasury, the Attorney General, the Director of National Intelligence, and appropriate employees of the Executive Office of the President.''.

(b) NOTIFICATION.—Section 721(i) of the Defense Production Act (50 U.S. C. App. 2170), as redesignated by subsection (a)(1), is amended—

(1) by striking ''The President'' and inserting ''(1) REPORT ON ACTION.—The President''; and

(2) by adding at the end the following:

''(2) REPORT ON NOTIFICATION.—The President shall immediately transmit to the Secretary of the Senate and the Clerk of the House of Representatives written notification as soon as the President receives a notification under subsection (b) or (g).''.

(c) FACTORS TO BE CONSIDERED.—Section 721(f) of the Defense Production Act (50 U.S.C. App. 2170(f)) is amended—

(1) by striking ''and'' at end of paragraph (4);

(2) by striking the period at the end of paragraph (5) and inserting '';''; and

(3) by adding at the end the following:

''(6) the robust and expanding defense capabilities of the country in which the acquiring entity is located; and

''(7) the nature of the bilateral relationship with the country in which the acquiring entity is located.''.

SA 1552. Mrs. LINCOLN submitted an amendment intended to be proposed by her to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. INCLUSION OF VA HEALTH BENEFITS HOTLINE INFORMATION IN SOCIAL SECURITY BENEFIT DECISION AND ADJUSTMENT NOTICES AND ACCOUNT STATEMENTS.

(a) BENEFIT DECISION AND ADJUSTMENT NOTICES.—Section 205(s) of the Social Security Act (42 U.S.C. 405(s)) is amended—

(1) in the first sentence—

(A) by striking ''(1)'' and inserting ''(i)'';

(B) by striking ''(2)'' and inserting ''(ii)''; and

(C) by inserting ''(1)(A)'' after ''(s)'';

(2) in the second sentence—

(A) by inserting ''(B)'' before ''In''; and

(B) by striking ''paragraph (2)'' and inserting ''clause (ii) of subparagraph (A)''; and

(3) by adding at the end the following:

''(2) The Commissioner of Social Security shall ensure that any such notice which is a notice of a decision regarding an application for benefits under this title, or a notice of an adjustment to benefits paid under this title, includes the following statement:

''If you are a veteran, you may be eligible for comprehensive health benefits (hospital care, outpatient services, prescription medications, and more) from the Department of Veterans Affairs (VA). For more information on eligibility, benefits, co-payments, and VA health care facilities, please call the VA, toll-free, at 1–877–222–VETS(8387).'''.

(b) SOCIAL SECURITY ACCOUNT STATEMENTS.—Section 1143(a)(2) of the Social Security Act (42 U.S.C. 1320b–13(a)(2)) is amended—

(1) in subparagraph (D), by striking ''and'' at the end;

(2) in subparagraph (E), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(F) the following statement:

If you are a veteran, you may be eligible for comprehensive health benefits (hospital care, outpatient services, prescription medications, and more) from the Department of Veterans Affairs (VA). For more information on eligibility, benefits, co-payments, and VA health care facilities, please call the VA, toll-free, at 1–877–222–VETS(8387).'''.

(c) EFFECTIVE DATE.—The amendments made by this section apply to notices of decisions and benefit adjustments and social security account statements issued on or after the date that is 180 days after the date of enactment of this Act.

SA 1553. Mr. CONRAD (for himself, Mr. BAUCUS, Mr. BURNS, Mr. THOMAS, and Mr. ENZI) submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle G of title X, add the following:

SEC. 1073. POLICY OF THE UNITED STATES ON THE INTERCONTINENTAL BALLISTIC MISSILE FORCE.

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

(1) Consistent with warhead levels agreed to in the Moscow Treaty, the United States is permanently modifying the capacity of the Minuteman III intercontinental ballistic missile (ICBM) from its prior capability to carry up to three independent reentry vehicles to a single reentry vehicle system, a process known as downloading.

(2) Through the downloading process and the elimination of the Peacekeeper (MX) intercontinental ballistic missile, the United States is now transitioning to a land-based intercontinental ballistic missile force of 500 Minuteman III missiles, each equipped with a single nuclear warhead.

(3) A series of Department of Defense studies of United States strategic forces has confirmed the need for 500 Minuteman III missiles with a single warhead, including the 1993 Nuclear Posture Review, the 2001 Nuclear Posture Review, and an ongoing assessment by retired General Larry Welch.

(4) In a potential nuclear crisis it is important that the nuclear weapons systems of the United States be configured so as to discourage other nations from making a first strike, and downloading Minuteman III missiles further reduces the likelihood of any country preemptively attacking the intercontinental ballistic missile force of the United States.

(5) The intercontinental ballistic missile force is currently being considered as part of the deliberations of the Department of Defense for the Quadrennial Defense Review.

(b) STATEMENT OF UNITED STATES POLICY.—It is the policy of the United States to continue to transition to an intercontinental ballistic missile force with 500 missiles each equipped with a single nuclear warhead.

(c) MOSCOW TREATY DEFINED.—In this section, the term ''Moscow Treaty'' means the Treaty Between the United States of America and the Russian Federation on Strategic Offensive Reductions, done at Moscow on May 24, 2002.

SA 1554. Mr. CONRAD submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title XIII, add the following:

SEC. 1306. COMPREHENSIVE STRATEGY FOR SECURITY AND ACCOUNTABILITY OF WEAPONS-USABLE NUCLEAR MATERIAL IN THE FORMER SOVIET UNION.

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

(1) On September 30, 2004, President George W. Bush stated that ''the biggest threat facing this country is weapons of mass destruction in the hands of a terrorist network.''.

(2) In a joint statement with President of Russia Vladimir Putin on February 24, 2005, President George W. Bush further noted that ''[w]e bear a special responsibility for the security of nuclear weapons and fissile material, in order to ensure that there is no possibility such weapons or materials would fall into terrorist hands.''.

(3) When the Soviet Union disintegrated, it left behind an estimated 30,000 nuclear warheads, as well as sufficient plutonium and highly enriched uranium to produce more than 40,000 additional weapons. Most of this material is not secure and is therefore vulnerable to theft by potential terrorists.

(4) In 1991, Congress adopted the Soviet Nuclear Threat Reduction Act of 1991 (title II of Public Law 102–228; 22 U.S.C. 2551 note; commonly referred to as ''Nunn-Lugar'') to assist the Soviet Union and ''successor entities'' with efforts to promptly and safely destroy its nuclear weapons arsenal and secure its stockpiles of weapons-usable nuclear materials.

(5) It is the stated goal of the Department of Energy to complete comprehensive security and accountability upgrades through programs under the Soviet Nuclear Threat Reduction Act of 1991 for all of the former weapons-usable nuclear material in the Soviet Union by 2008. However, after 13 years of work, less than 50 percent of such nuclear materials and warheads have received basic cooperative security upgrades, and only 26 percent have received comprehensive upgrades.

(6) Acquiring fissile materials is the most difficult step for terrorists seeking to build a nuclear weapon, and also the easiest step for the United States and friendly nations to stop, making control over fissile material the first and best line of defense for preventing terrorist groups from using nuclear weapons.

(7) It has now been nearly 10 years since Congress first received testimony about the risk of theft of nuclear material in the former Soviet Union.

(8) Statements by Osama bin Laden and other terrorist leaders have made it clear that terrorists will stop at nothing to obtain nuclear weapons material and capability.

(9) In February 2005 Porter Goss, Director of the Central Intelligence Agency, testified that sufficient Russian nuclear material was unaccounted for to enable terrorists to build a nuclear weapon.

(10) The September 11, 2001, terrorist attacks on the United States highlighted the importance of preventing terrorists from obtaining nuclear weapons or materials, yet the pace of progress toward that goal has decreased when compared with the years immediately preceding those attacks.

(11) The National Commission on Terrorist Attacks on the United States (September 11th Commission) concluded that a ''maximum effort'' was required to keep nuclear weapons and fissile material out of terrorist hands.

(12) Securing only a portion of the loose nuclear material is insufficient because terrorists seeking nuclear weapons materials will likely seek out the worst defended site.

(13) A new report published by the Project on Managing the Atom of Harvard University, in conjunction with the Nuclear Threat Initiative, entitled ''Securing the Bomb 2005'', concluded that ''a dramatic acceleration will be needed to meet [the Department of Energy's] stated goal of finishing upgrades less than 4 years from now.''.

(14) In January 2001, a bipartisan task force chaired by Howard Baker, former Majority Leader of the Senate and Lloyd Butler, former White House counsel, concluded that ''the most urgent, unmet national security threat to the United States today is the danger that weapons of mass destruction or weapons-usable material in Russia could be stolen and sold to terrorists or hostile nation states and used against American troops abroad or citizens at home,'' and recommended investing $30,000,000,000 over 10 years on Department of Energy programs to secure nuclear material. The pace of spending since then on all nonproliferation and threat reduction programs in the former Soviet Union has been only about $1,000,000,000 per year.

(15) Many reports, including the report referred to in paragraph (14), have called for a single, strategic plan to secure nuclear material in the former Soviet Union, but none has yet been produced.

(16) The urgency for this work is demonstrated by the fact that customs officials in Russia reported 200 potential attempts to smuggle nuclear or radiological materials out of Russia in 2004.

(17) While an increasing number of nuclear sites in Russia have been secured, the remaining unsecured sites include several very sensitive locations that hold vast stocks of nuclear weapons and materials.

(18) Concentrated attention to these sensitive sites is required, including an effort to increase the seriousness with which the Government of Russia and the public in Russia view the problem, in order to help overcome remaining issues of access, liability, and allocation of Russian resources which have long slowed progress on the objectives of the Soviet Nuclear Threat Reduction Act of 1991.

(19) The horrific terrorist attack on schoolchildren in Beslan may help to increase attention in Russia to problems of terrorism, including nuclear terrorism, making United States support for these efforts all the more crucial at this time.

(20) Eliminating onerous certification requirements for cooperative threat reduction programs with Russia, or providing permanent authority to waive those requirements on an annual basis, could significantly accelerate the pace of efforts to secure loose nuclear material and warheads.

(21) Recent developments with the G–8 Global Partnership and the Global Threat Reduction Initiative, as well as funding increases included in the fiscal year 2006 budget request, offer the potential for accelerated progress on this crucial objective.

(22) Russia has become a valuable partner in the war on terrorism and a full partner in efforts to secure nuclear weapons and weapons-usable nuclear material and to destroy strategic delivery systems, chemical weapons, and excess nuclear warheads.

(b) STATEMENT OF UNITED STATES POLICY.—

(1) STATEMENT OF UNITED STATES POLICY.—It shall be the policy of the United States that the Department of Defense and the Department of Energy shall seek to work with the Government of Russia and governments of other states of the former Soviet Union to complete comprehensive security and accountability upgrades for all of the weapons-usable nuclear material in the former Soviet Union by not later than September 30, 2008, in accordance with the stated goal of the Department of Energy.

(2) SENSE OF CONGRESS.—It is the sense of Congress that the President should request, and Congress should appropriate, the funds necessary to ensure that the policy set forth in paragraph (1) is carried out.

(c) STRATEGY REQUIRED.—

(1) IN GENERAL.—Not later than the February 6, 2006, the Secretary of Defense, the Secretary of State, and the Secretary of Energy shall, in cooperation with the Director of the Office of Management and Budget, jointly submit to Congress a report setting forth a strategy for completing comprehensive security and accountability upgrades for all of the weapons-usable nuclear material in the former Soviet Union by not later than September 30, 2008.

(2) ELEMENTS.—The report shall include, in addition to the strategy—

(A) an assessment of the funding required to implement the strategy; and

(B) a description of any legislative or administrative actions required to facilitate implementation of the strategy.

SA 1555. Mr. MCCAIN submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle A of title VIII, add the following:

SEC. 807. MODIFICATION OF REQUIREMENTS APPLICABLE TO CONTRACTS AUTHORIZED BY LAW FOR CERTAIN MILITARY MATERIEL.

(a) INCLUSION OF COMBAT VEHICLES UNDER REQUIREMENTS.—Section 2401 of title 10, United States Code, is amended—

(1) by striking ''vessel or aircraft'' each place it appears and inserting ''vessel, aircraft, or combat vehicle'';

(2) in subsection (c), by striking ''aircraft or naval vessel'' each place it appears and inserting ''aircraft, naval vessel, or combat vehicle'';

(3) in subsection (e), by striking ''aircraft or naval vessels'' each place it appears and inserting ''aircraft, naval vessels, or combat vehicle''; and

(4) in subsection (f)—

(A) by striking ''aircraft and naval vessels'' and inserting ''aircraft, naval vessels, and combat vehicle''; and

(B) by striking ''such aircraft and vessels'' and inserting ''such aircraft, vessels, and combat vehicle''.

(b) ADDITIONAL INFORMATION FOR CONGRESS.—Subsection (b) of such section is amended—

(1) in paragraph (1)—

(A) in subparagraph (B), by striking ''and'' at the end;

(B) in subparagraph (C), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following new subparagraph:

''(D) the Secretary has certified to those committees—

''(i) that entering into the proposed contract as a means of obtaining the vessel, aircraft, or combat vehicle is the most cost-effective means of obtaining such vessel, aircraft, or combat vehicle; and

''(ii) that the Secretary has determined that the lease complies with all applicable laws, Office of Management and Budget circulars, and Department of Defense regulations.''; and

(2) by adding at the end the following new paragraphs:

''(3) Upon receipt of a notice under paragraph (1)(C), a committee identified in paragraph (1)(B) may request the Inspector General of the Department of Defense or the Comptroller General of the United States to conduct a review of the proposed contract to determine whether or not such contract meets the requirements of this section.

''(4) If a review is requested under paragraph (3), the Inspector General of the Department of Defense or the Comptroller General of the United States, as the case may be, shall submit to the Secretary and the congressional defense committees a report on such review before the expiration of the period specified in paragraph (1)(C).''.

(c) APPLICABILITY OF ACQUISITION REGULATIONS.—Such section is further amended—

(1) by redesignating subsection (f) as subsection (g); and

(2) by inserting after subsection (e) the following new subsection (f):

''(f)(1) If a lease or charter covered by this section is a capital lease or a lease-purchase—

''(A) the lease or charter shall be treated as an acquisition and shall be subject to all applicable statutory and regulatory requirements for the acquisition of aircraft, naval vessels, or combat vehicles; and

''(B) funds appropriated to the Department of Defense for operation and maintenance may not be obligated or expended for the lease or charter.

''(2) In this subsection, the terms 'capital lease' and 'lease-purchase' have the meanings given those terms in Appendix B to Office of Management and Budget Circular A–11, as in effect on the date of the enactment of the National Defense Authorization Act for Fiscal Year 2006.''.

(d) CONFORMING AND CLERICAL AMENDMENTS.—

(1) The heading of such section is amended to read as follows:

''§ 2401. Requirement for authorization by law of certain contracts relating to vessels, aircraft, and combat vehicles''.

(2) The table of sections at the beginning of chapter 141 of such title is amended by striking the item relating to section 2401 and inserting the following new item:

''Sec. 2401. Requirement for authorization by law of certain contracts relating to vessels, aircraft, and combat vehicles.''.

SEC. 808. REQUIREMENT FOR ANALYSIS OF ALTERNATIVES FOR MAJOR DEFENSE ACQUISITION PROGRAMS.

(a) REQUIREMENT.—

(1) IN GENERAL.—Chapter 144 of title 10, United States Code, is amended by inserting after section 2431 the following new section:

''§ 2431a. Major defense acquisition programs: requirement for analysis of alternatives

''(a) No major defense acquisition program may be commenced before the completion of an analysis of alternatives with respect to such program.

''(b) For the purposes of this section, a major defense acquisition program is commenced when the milestone decision authority approves entry of the program into the first phase of the acquisition process applicable to the program.''.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 144 of such title is amended by inserting after the item relating to section 2431 the following new item:

''2431a. Major defense acquisition programs: requirement for analysis of alternatives.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act, and shall apply with respect to major defense acquisition programs commenced on or after that date.

SEC. 809. MANAGEMENT CONTRACTS FOR MAJOR SYSTEMS ACQUISITIONS.

(a) REGULATIONS REGARDING MANAGEMENT CONTRACTS.—

(1) REGULATIONS REQUIRED.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall prescribe regulations on management contracts for the acquisition by the Department of Defense of major systems.

(2) CONTENT.—The regulations prescribed under paragraph (1) shall—

(A) define the respective rights of the Department of Defense, management contractors, and other contractors that participate in the development or production of any individual element of the major weapon system (including subcontractors under management contracts) in intellectual property that is developed by the other participating contractors in a manner that ensures that—

(i) the Department of Defense obtains appropriate rights in technical data developed by the other participating contractors in accordance with the requirements of section 2320 of title 10, United States Code; and

(ii) management contractors obtain access to technical data developed by the other participating contractors only to the extent necessary for the management contractors to execute their obligations under such management contracts;

(B) include specific measures to prevent—

(i) organizational conflicts of interest on the part of management contractors; and

(ii) the performance of inherently governmental functions by management contractors;

(C) require that a management contractor in a management contract with system responsibility use competitive procedures for each subcontract in excess of the simplified acquisition threshold, unless one of the circumstances described in paragraphs (1) through (3) of section 2304c(b) of title 10, United States Code, applies to the award of such subcontract; and

(D) prohibit a management contractor in a management contract without system responsibility from having any financial interest in the development or production of any individual element of the major weapon system, unless the Secretary of Defense determines in writing that it is necessary in the interest of the national defense for the management contractor to participate in the development or production of a particular element of the major weapon system.

(b) REGULATIONS PROHIBITING PASS-THROUGH CHARGES.—

(1) REGULATIONS REQUIRED.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall prescribe regulations prohibiting pass-through charges on contracts or subcontracts (or task or delivery orders) that are entered into for or on behalf of the Department of Defense that are in excess of the simplified acquisition threshold.

(2) SCOPE OF REGULATIONS.—The regulations prescribed under this paragraph shall not apply to any firm, fixed-price contract or subcontract (or task or delivery order) that is awarded on the basis of adequate price competition.

(c) DEFINITIONS.—In this section:

(1) The term ''management contract'' includes management contracts with system responsibility and management contracts without system responsibility.

(2) The term ''management contract with system responsibility'' means a Federal agency contract (or task or delivery order) for the development or production of a major system under which the prime contractor is not expected at the time of award to perform work constituting at least 20 percent of the cost of manufacturing the major system.

(3) The term ''management contract without system responsibility'' means a Federal agency contract (or task or delivery order) for the procurement of services, the primary purpose of which is to perform acquisition functions closely associated with inherently governmental functions with regard to the development or production of a major system.

(4) The term ''management contractor'' means the prime contractor under a management contract.

(5) The term ''major system'' has the meaning given such term in section 2302d of title 10, United States Code.

(6) The term ''pass-through charge'' means a charge by a covered contractor or subcontractor for overhead or profit on work performed by a covered lower-tier contractor (other than charges for the direct costs of managing lower-tier contracts and overhead and profit based on such direct costs).

(7) The term ''covered contractor'' means the following:

(A) A contractor that assigns work accounting for more than 90 percent of the cost of contract performance (not including overhead or profit) to subcontractors.

(B) In the case of a contract providing for the development or production of more than one weapon system, a contractor that assigns work accounting for more than 90 percent of the cost of contract performance (not including overhead or profit) for any particular weapon system under such contract to subcontractors.

(8) The term ''covered lower-tier contractor'' means the following:

(A) With respect to a covered contractor described by paragraph (7)(A) in a contract, any lower-tier subcontractor under such contract.

(B) With respect to a covered contractor described by paragraph (7)(B) in a contract, any lower-tier subcontractor on a weapon system under such contract for which such covered contractor has assigned work accounting for more than 90 percent of the cost of contract performance (not including overhead or profit).

(9) The term ''functions closely associated with inherently governmental functions'' has the meaning given such term in section 2383(b)(3) of title 10, United States Code.

(d) EFFECTIVE DATE.—The regulations prescribed under this section shall apply to contracts awarded for or on behalf of the Department of Defense on or after the date that is 90 days after the date of the enactment of this Act.

SA 1556. Mr. McCAIN (for himself, Mr. WARNER, Mr. GRAHAM, and Ms. COLLINS) proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of subtitle G of title X, add the following:

SEC. 1073. PROHIBITION ON CRUEL, INHUMAN, OR DEGRADING TREATMENT OR PUNISHMENT OF PERSONS UNDER CUSTODY OR CONTROL OF THE UNITED STATES GOVERNMENT.

(a) IN GENERAL.—No individual in the custody or under the physical control of the United States Government, regardless of nationality or physical location, shall be subject to cruel, inhuman, or degrading treatment or punishment.

(b) CONSTRUCTION.—Nothing in this section shall be construed to impose any geographical limitation on the applicability of the prohibition against cruel, inhuman, or degrading treatment or punishment under this section.

(c) LIMITATION ON SUPERSEDURE.—The provisions of this section shall not be superseded, except by a provision of law enacted after the date of the enactment of this Act which specifically repeals, modifies, or supersedes the provisions of this section.

(d) CRUEL, INHUMAN, OR DEGRADING TREATMENT OR PUNISHMENT DEFINED.—In this section, the term ''cruel, inhuman, or degrading treatment or punishment'' means the cruel, unusual, and inhumane treatment or punishment prohibited by the Fifth, Eighth, and Fourteenth Amendments to the Constitution of the United States, as defined in the United States Reservations, Declarations and Understandings to the United Nations Convention Against Torture and Other Forms of Cruel, Inhuman or Degrading Treatment or Punishment done at New York, December 10, 1984.

SA 1557. Mr. McCAIN (for himself, Mr. WARNER, Mr. GRAHAM, Ms. COLLINS, and Mr. LEVIN) proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of subtitle G of title X, add the following:

SEC. 1073. UNIFORM STANDARDS FOR THE INTERROGATION OF PERSONS UNDER THE DETENTION OF THE DEPARTMENT OF DEFENSE.

(a) LIMITATION ON INTERROGATION TECHNIQUES.—

(1) IN GENERAL.—No person in the custody or under the effective control of the Department of Defense or under detention in a Department of Defense facility shall be subject to any treatment or technique of interrogation not authorized by and listed in the United States Army Field Manual on Intelligence Interrogation.

(2) APPLICABILITY.—Paragraph (1) shall not apply to with respect to any person in the custody or under the effective control of the Department of Defense pursuant to a criminal law or immigration law of the United States.

(3) CONSTRUCTION.—Nothing in this subsection shall be construed to affect the rights under the United States Constitution of any person in the custody or under the physical jurisdiction of the United States.

(b) PROHIBITION ON INCLUSION OF CERTAIN INTERROGATION TECHNIQUES IN ARMY FIELD MANUAL.—No interrogation technique may be included as an authorized interrogation technique within the United States Army Field Manual on Intelligence Interrogation if such technique constitutes torture or cruel, inhumane, or degrading treatment or punishment that is prohibited by the Constitution, laws, or treaties of the United States.

(c) NOTICE TO CONGRESS OF REVISION OF ARMY FIELD MANUAL.—Not later than 30 days before issuing any revision to the United States Army Field Manual on Intelligence Interrogation, including an authorization of additional interrogation techniques, the Secretary of Defense shall submit to the congressional defense committees a report on such revision.

(d) REGISTRATION WITH INTERNATIONAL RED CROSS.—Each individual described in subsection (a) who is a national of a foreign country shall be registered with the International Committee of the Red Cross.

SA 1558. Mr. WARNER submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 269, after line 21, add the following:

SEC. 1009. REIMBURSEMENT FOR COSTS INCURRED IN PROVIDING GOODS AND SERVICES TO AGENCIES.

The Department of Defense shall be reimbursed on an annual basis by any executive agency for the total amount of the unreimbursed direct and indirect costs incurred during each fiscal year by the Department of Defense for providing goods and services to such agency.

SA 1559. Mr. WARNER submitted an amendment intended to be proposed by

him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 28, between lines 10 and 11, insert the following:

SEC. 203. FUNDING FOR DEVELOPMENT OF DISTRIBUTED GENERATION TECHNOLOGIES.

(a) INCREASE IN FUNDS AVAILABLE TO ARMY FOR RESEARCH, DEVELOPMENT, TEST, AND EVALUATION.—The amount authorized to be appropriated by section 201(1) for research, development, test, and evaluation for the Army is hereby increased by $1,000,000, with the amount of such increase to be available for research on and facilitation of technology for converting obsolete chemical munitions to fertilizer.

(b) REDUCTION IN FUNDS AVAILABLE TO NAVY FOR RESEARCH, DEVELOPMENT, TEST, AND EVALUATION.—The amount authorized to be appropriated by section 201(2) for the Navy for research, development, test, and evaluation is hereby reduced by $1,000,000.

SA 1560. Mr. WARNER submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 28, between lines 10 and 11, insert the following:

SEC. 203. FUNDING FOR RESEARCH AND TECHNOLOGY TRANSITION FOR HIGH-BRIGHTNESS ELECTRON SOURCE PROGRAM.

(a) INCREASE IN FUNDS AVAILABLE TO NAVY FOR RESEARCH, DEVELOPMENT, TEST, AND EVALUATION.—The amount authorized to be appropriated by section 201(2) for research, development, test, and evaluation for the Navy is hereby increased by $1,500,000.

(b) REDUCTION IN FUNDS AVAILABLE TO ARMY FOR PROCUREMENT, AMMUNITION.—The amount authorized to be appropriated by section 101(4) for the Army for procurement of ammunition is hereby reduced by $1,500,000.

SA 1561. Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 28, between lines 10 and 11, insert the following:

SEC. 203. FUNDING FOR DEVELOPMENT OF DISTRIBUTED GENERATION TECHNOLOGIES.

(a) INCREASE IN FUNDS AVAILABLE TO AIR FORCE FOR RESEARCH, DEVELOPMENT, TEST, AND EVALUATION.—The amount authorized to be appropriated by section 201(3) for research, development, test, and evaluation for the Air Force is hereby increased by $5,000,000, with the amount of such increase to be available for research and development of hybrid, fuel cell, hydrogen generation, wind, and solar power systems for distributed generation technologies at the dual use military/commercial airport in Albuquerque, New Mexico.

(b) REDUCTION IN FUNDS AVAILABLE TO AIR FORCE FOR OPERATION AND MAINTENANCE.—The amount authorized to be appropriated by section 301(4) for operation and maintenance for the Air Force is hereby reduced by $5,000,000.

SA 1562. Mr. WARNER (for himself and Mr. LEAHY) submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 371, between lines 8 and 9, insert the following:

SEC. 2887. DESIGNATION OF WILLIAM B. BRYANT ANNEX.

(a) DESIGNATION.—The annex to the E. Barrett Prettyman Federal Building and United States Courthouse located at 333 Constitution Avenue Northwest in the District of Columbia shall be known and designated as the ''William B. Bryant Annex''.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the annex referred to in subsection (a) shall be deemed to be a reference to the ''William B. Bryant Annex''.

SA 1563. Mr. WARNER submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 357, strike line 20 and insert the following:

PART II—NAVY CONVEYANCES

SEC. 2851. LEASE OF UNITED STATES NAVY MUSEUM FACILITIES AT WASHINGTON NAVAL YARD, DISTRICT OF COLUMBIA.

(a) LEASE AUTHORIZED.—

(1) IN GENERAL.—The Secretary of the Navy may lease to the Naval Historical Foundation (in this section referred to as the ''Foundation'') facilities located at Washington Naval Yard, Washington, District of Columbia, that house the United States Navy Museum (in this section referred to as the ''Museum'') for the purpose of carrying out the following activities:

(A) Generation of revenue for the Museum through the rental of facilities to the public, commercial and non-profit entities, State and local governments, and other Federal agencies.

(B) Administrative activities in support of the Museum.

(2) LIMITATION.—Any activities carried out at the leased facilities under paragraph (1) must be consistent with the operations of the Museum.

(b) CONSIDERATION.—The amount of consideration paid in a year by the Foundation to the United States for the lease of facilities under subsection (a) may not exceed the actual cost, as determined by the Secretary, of the annual operation and maintenance of the facilities.

(c) USE OF PROCEEDS.—The Secretary shall use amounts received under subsection (b) for the lease of facilities under subsection (a) to cover the costs of operating and maintaining the Museum.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the lease under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

PART III—AIR FORCE CONVEYANCES

SA 1564. Mr. WARNER submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title XII, add the following:

SEC. 1205. EXCEPTION TO BILATERAL AGREEMENT REQUIREMENTS FOR TRANSFERS OF DEFENSE ITEMS.

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

(1) Close defense cooperation between the United States and each of the United Kingdom and Australia requires interoperability among the armed forces of those countries.

(2) The need for interoperability must be balanced with the need for appropriate and effective regulation of trade in defense items.

(3) The Arms Export Control Act (22 U.S.C. 2751 et seq.) authorizes the executive branch to administer arms export policies enacted by Congress in the exercise of its constitutional power to regulate commerce with foreign nations.

(4) The executive branch has exercised its authority under the Arms Export Control Act, in part, through the International Traffic in Arms Regulations.

(5) Agreements to gain exemption from the International Traffic in Arms Regulations must be submitted to Congress for review.

(b) DEFINITIONS.—In this section:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ''appropriate congressional committees'' means—

(A) the Committee on Foreign Relations and the Committee on Armed Services of the Senate; and

(B) the Committee on International Relations and the Committee on Armed Services of the House of Representatives.

(2) DEFENSE ITEMS.—The term ''defense items'' has the meaning given the term in section 38 of the Arms Export Control Act (22 U.S.C. 2778).

(3) INTERNATIONAL TRAFFIC IN ARMS REGULATIONS.—The term ''International Traffic in Arms Regulations'' means the regulations maintained under parts 120 through 130 of title 22, Code of Federal Regulations, and any successor regulations.

(c) EXCEPTIONS FROM BILATERAL AGREEMENT REQUIREMENTS.—

(1) IN GENERAL.—Subsection (j) of section 38 of the Arms Export Control Act (22 U.S.C. 2778) is amended—

(A) by redesignating paragraph (4) as paragraph (5); and

(B) by inserting after paragraph (3) the following new paragraph (4):

''(4) EXCEPTIONS FROM BILATERAL AGREEMENT REQUIREMENTS.—

''(A) AUSTRALIA.—Subject to section 1205 of the National Defense Authorization Act for Fiscal Year 2006, the requirements for a bilateral agreement described in paragraph (2)(A) shall not apply to a bilateral agreement between the United States Government and the Government of Australia with respect to transfers or changes in end use of defense items within Australia that will remain subject to the licensing requirements of this Act after such agreement enters into force.

''(B) UNITED KINGDOM.—Subject to section 1205 of the National Defense Authorization Act for Fiscal Year 2006, the requirements for a bilateral agreement described in paragraphs (1)(A)(ii), (2)(A)(i), and (2)(A)(ii) shall not apply to a bilateral agreement between the United States Government and the Government of the United Kingdom for an exemption from the licensing requirements of this Act.''.

(2) CONFORMING AMENDMENT.—Paragraph (2) of such subsection is amended in the matter preceding subparagraph (A) by striking ''A bilateral agreement'' and inserting ''Except as provided in paragraph (4), a bilateral agreement''.

(d) CERTIFICATIONS.—Not later than 30 days before authorizing an exemption from the licensing requirements of the International Traffic in Arms Regulations in accordance with any bilateral agreement entered into with the United Kingdom or Australia under section 38(j) of the Arms Export Control Act (22 U.S.C. 2778(j)), as amended by subsection (c), the President shall certify to the appropriate congressional committees that such agreement—

(1) is in the national interest of the United States and will not in any way affect the goals and policy of the United States under section 1 of the Arms Export Control Act (22 U.S.C. 2751);

(2) will be void if such country quantitatively or qualitatively increases the export of defense items to the People's Republic of China.

(3) does not adversely affect the efficacy of the International Traffic in Arms Regulations to provide consistent and adequate controls for licensed exports of United States defense items; and

(4) will not adversely affect the duties or requirements of the Secretary of State under the Arms Export Control Act.

(e) NOTIFICATION OF BILATERAL LICENSING EXEMPTIONS.—Not later than 30 days before authorizing an exemption from the licensing requirements of the International Traffic in Arms Regulations in accordance with any bilateral agreement entered into with the United Kingdom or Australia under section 38(j) of the Arms Export Control Act (22 U.S.C. 2778(j)), as amended by subsection (c), the President shall submit to the appropriate congressional committees the text of the regulations that authorize such a licensing exemption.

(f) REPORT ON CONSULTATION ISSUES.—Not later than one year after the date of the enactment of this Act and annually thereafter for each of the following 5 years, the President shall submit to the appropriate congressional committees a report on issues raised during the previous year in consultations conducted under the terms of any bilateral agreement entered into with Australia under section 38(j) of the Arms Export Control Act, or under the terms of any bilateral agreement entered into with the United Kingdom under such section, for exemption from the licensing requirements of the Arms Export Control Act (22 U.S.C. 2751 et seq.). Each report shall contain—

(1) information on any notifications or consultations between the United States and the United Kingdom under the terms of any agreement with the United Kingdom, or between the United States and Australia under the terms of any agreement with Australia, concerning the modification, deletion, or addition of defense items on the United States Munitions List, the United Kingdom Military List, or the Australian Defense and Strategic Goods List;

(2) a list of all United Kingdom or Australia persons and entities that have been designated as qualified persons eligible to receive United States origin defense items exempt from the licensing requirements of the Arms Export Control Act under the terms of such agreements, and listing any modification, deletion, or addition to such lists, pursuant to the requirements of any agreement with the United Kingdom or any agreement with Australia;

(3) information on consultations or steps taken pursuant to any agreement with the United Kingdom or any agreement with Australia concerning cooperation and consultation with either government on the effectiveness of the defense trade control systems of such government;

(4) information on provisions and procedures undertaken pursuant to—

(A) any agreement with the United Kingdom with respect to the handling of United States origin defense items exempt from the licensing requirements of the Arms Export Control Act by persons and entities qualified to receive such items in the United Kingdom; and

(B) any agreement with Australia with respect to the handling of United States origin defense items exempt from the licensing requirements of the Arms Export Control Act by persons and entities qualified to receive such items in Australia;

(5) information on any new understandings, including the text of such understandings, between the United States and the United Kingdom concerning retransfer of United States origin defense items made pursuant to any agreement with the United Kingdom to gain exemption from the licensing requirements of the Arms Export Control Act;

(6) information on consultations with the Government of the United Kingdom or the Government of Australia concerning the legal enforcement of any such agreements;

(7) information on United States origin defense items with respect to which the United States has provided an exception under the Memorandum of Understanding between the United States and the United Kingdom and any agreement between the United States and Australia from the requirement for United States Government re-export consent that was not provided for under United States laws and regulations in effect on the date of the enactment of this Act; and

(8) information on any significant concerns that have arisen between the Government of Australia or the Government of the United Kingdom and the United States Government concerning any aspect of any bilateral agreement between such country and the United States to gain exemption from the licensing requirements of the Arms Export Control Act.

(g) SPECIAL NOTIFICATIONS.—

(1) REQUIRED NOTIFICATIONS.—The Secretary of State shall notify the appropriate congressional committees not later than 90 days after receiving any credible information regarding an unauthorized end-use or diversion of United States exports of goods or services made pursuant to any agreement with a country to gain exemption from the licensing requirements of the Arms Export Control Act. The notification shall be made in a manner that is consistent with any ongoing efforts to investigate and commence civil actions or criminal investigations or prosecutions regarding such matters and may be made in classified or unclassified form.

(2) CONTENT.—The notification regarding an unauthorized end-use or diversion of goods or services under paragraph (1) shall include—

(A) a description of the goods or services;

(B) the United States origin of the good or service;

(C) the authorized recipient of the good or service;

(D) a detailed description of the unauthorized end-use or diversion, including any knowledge by the United States exporter of such unauthorized end-use or diversion;

(E) any enforcement action taken by the Government of the United States; and

(F) any enforcement action taken by the government of the recipient nation.

SA 1565. Mr. WARNER submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle B of title X, add the following:

SEC. 1023. TRANSFER OF NAVAL VESSELS TO CERTAIN FOREIGN RECIPIENTS.

(a) TRANSFERS BY GRANT.—The President is authorized to transfer vessels to foreign recipients on a grant basis under section 516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j), as follows:

(1) GREECE.—To the Government of Greece, the OSPREY class minehunter coastal ship PELICAN (MHC–53).

(2) EGYPT.—To the Government of Egypt, the OSPREY class minehunter coastal ships CARDINAL (MHC–60) and RAVEN (MHC–61).

(3) PAKISTAN.—To the Government of Pakistan, the SPRUANCE class destroyer ship FLETCHER (DD–992).

(4) TURKEY.—To the Government of Turkey, the SPRUANCE class destroyer ship CUSHING (DD–985).

(b) TRANSFERS BY SALE.—The President is authorized to transfer vessels to foreign recipients on a sale basis under section 21 of the Arms Export Control Act (22 U.S.C. 2761), as follows:

(1) INDIA.—To the Government of India, the AUSTIN class amphibious transport dock ship TRENTON (LPD–14).

(2) GREECE.—To the Government of Greece, the OSPREY class minehunter coastal ship HERON (MHC–52).

(3) TURKEY.—To the Government of Turkey, the SPRUANCE class destroyer ship O'BANNON (DD–987).

(c) GRANTS NOT COUNTED IN ANNUAL TOTAL OF TRANSFERRED EXCESS DEFENSE ARTICLES.—The value of a vessel transferred to another country on a grant basis pursuant to authority provided by subsection (a) shall not be counted against the aggregate value of excess defense articles transferred to countries in any fiscal year under section 516 of the Foreign Assistance Act of 1961.

(d) COSTS OF CERTAIN TRANSFERS.—Notwithstanding section 516(e)(1) of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j(e)(1)),

any expense incurred by the United States in connection with a transfer authorized under subsection (a) shall be charged to the recipient.

(e) REPAIR AND REFURBISHMENT IN UNITED STATES SHIPYARDS.—To the maximum extent practicable, the President shall require, as a condition of the transfer of a vessel under this section, that the country to which the vessel is transferred have such repair or refurbishment of the vessel as is needed before the vessel joins the naval forces of that country be performed at a shipyard located in the United States, including a United States Navy shipyard.

(f) EXPIRATION OF AUTHORITY.—The authority to transfer a vessel under this section shall expire at the end of the 2-year period beginning on the date of the enactment of this Act.

SA 1566. Mr. WARNER proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of subtitle G of title X, add the following:

SEC. 1073. UNIFORM STANDARDS AND PROCEDURES FOR TREATMENT OF PERSONS UNDER DETENTION BY THE DEPARTMENT OF DEFENSE.

(a) UNIFORM STANDARDS AND PROCEDURES REQUIRED.—The Secretary of Defense shall establish uniform standards and procedures for the detention and interrogation of persons in the custody or under the control of the Department of Defense.

(b) CONSISTENCY WITH LAW AND TREATY OBLIGATIONS.—The standards and procedures established under subsection (a) shall be consistent with United States law and international treaty obligations.

(c) APPLICABILITY.—

(1) IN GENERAL.—The standards and procedures established under subsection (a) shall apply to all detention and interrogation activities involving persons in the custody or under the control of the Department of Defense, and to such activities conducted within facilities controlled by the Department of Defense, regardless of whether such activities are conducted by Department of Defense personnel, Department of Defense contractor personnel, or personnel or contractor personnel of any other department, agency, or element of the United States Government.

(2) EXCEPTION.—The standards and procedures established under subsection (a) shall not apply with respect to any person in the custody or under the control of the Department of Defense pursuant to a criminal law or immigration law of the United States.

(d) CONSTRUCTION.—Nothing in this section shall affect such rights, if any, under the Constitution of the United States of any person in the custody or under the control of the Department of Defense.

(e) NOTICE TO CONGRESS OF REVISION.—Not later than 60 days before issuing any revision to the standards and procedures established under subsection (a), the Secretary of Defense shall notify, in writing, the congressional defense committees of such revision.

(f) DEADLINE.—The standards and procedures required by subsection (a) shall be established not later than 60 days after the date of the enactment of this Act.

SA 1567. Mr. WARNER submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle A of title V, add the following:

SEC. 509. APPLICABILITY OF OFFICER DISTRIBUTION AND STRENGTH LIMITATIONS TO OFFICERS SERVING IN INTELLIGENCE COMMUNITY POSITIONS.

(a) IN GENERAL.—Section 528 of title 10, United States Code, is amended to read as follows:

"§ 528. Exclusion: officers serving in certain intelligence positions

''(a) EXCLUSION OF OFFICER SERVING IN CERTAIN CIA POSITIONS.—When either of the individuals serving in a position specified in subsection (b) is an officer of the armed forces, one of those officers, while serving in such position, shall not be counted against the numbers and percentages of officers of the grade of the officer authorized for that officer's armed force.

''(b) COVERED POSITIONS.—The positions referred to in this subsection are the following:

''(1) Director of the Central Intelligence Agency.

''(2) Deputy Director of the Central Intelligence Agency.

''(c) ASSOCIATE DIRECTOR OF CIA FOR MILITARY SUPPORT.—An officer of the armed forces serving in the position of Associate Director of the Central Intelligence Agency for Military Support, while serving in that position, shall not be counted against the numbers and percentages of officers of the grade of that officer authorized for that officer's armed force.

''(d) OFFICERS SERVING IN OFFICE OF DNI.—Up to 5 general and flag officers of the armed forces assigned to positions in the Office of the Director of National Intelligence designated by agreement between the Secretary of Defense and the Director of National Intelligence shall be excluded from the limitations in sections 525 and 526 of this title while serving in such positions.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 32 of such title is amended by striking the item relating to section 528 and inserting the following new item:

''528. Exclusion: officers serving in certain intelligence positions.''.

SA 1568. Mr. BYRD submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

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

SEC. 824. REPORTS ON CERTAIN DEFENSE CONTRACTS IN IRAQ AND AFGHANISTAN.

(a) QUARTERLY REPORTS.—

(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, and every 90 days thereafter, the Secretary of Defense shall submit to the appropriate committees of Congress a report that lists and describes each task or delivery order contract or other contract related to security and reconstruction activities in Iraq and Afghanistan in which an audit conducted by an investigative or audit component of the Department of Defense during the 90-day period ending on the date of such report resulted in a finding described in subsection (b).

(2) COVERAGE OF SUBCONTRACTS.—For purposes of this section, any reference to a contract shall be treated as a reference to such contract and to any subcontracts under such contract.

(b) COVERED FINDING.—A finding described in this subsection with respect to a task or delivery order contract or other contract described in subsection (a) is a finding by an investigative or audit component of the Department of Defense that the contract includes costs that are unsupported, questioned, or both.

(c) REPORT INFORMATION.—Each report under subsection (a) shall include, with respect to each task or delivery order contract or other contract covered by such report—

(1) a description of the costs determined to be unsupported, questioned, or both; and

(2) a statement of the amount of such unsupported or questioned costs and the percentage of the total value of such task or delivery order that such costs represent.

(d) WITHHOLDING OF PAYMENTS.—In the event that any costs under a task or delivery order contract or other contract described in subsection (a) are determined by an investigative or audit component of the Department of Defense to be unsupported, questioned, or both, the appropriate Federal procurement personnel may withhold from amounts otherwise payable to the contractor under such contract a sum of up to 100 percent of the total amount of such costs.

(e) RELEASE OF WITHHELD PAYMENTS.—Upon a subsequent determination by the appropriate Federal procurement personnel, or investigative or audit component of the Department of Defense, that any unsupported or questioned costs for which an amount payable was withheld under subsection (d) has been determined to be allowable, or upon a settlement negotiated by the appropriate Federal procurement personnel, the appropriate Federal procurement personnel may release such amount for payment to the contractor concerned.

(f) INCLUSION OF INFORMATION ON WITHHOLDING AND RELEASE IN QUARTERLY REPORTS.—Each report under subsection (a) after the initial report under that subsection shall include the following:

(1) A description of each action taken under subsection (d) or (e) during the period covered by such report.

(2) A justification of each determination or negotiated settlement under subsection (d) or (e) that appropriately explains the determination of the applicable Federal procurement personnel in terms of reasonableness, allocability, or other factors affecting the acceptability of the costs concerned.

(g) DEFINITIONS.—In this section:

(1) The term ''appropriate committees of Congress'' means—

(A) the Committees on Appropriations, Armed Services, and Homeland Security and Governmental Affairs of the Senate; and

(B) the Committees on Appropriations, Armed Services, and Government Reform of the House of Representatives.

(2) The term ''investigative or audit component of the Department of Defense'' means any of the following:

(A) The Office of the Inspector General of the Department of Defense.

(B) The Defense Contract Audit Agency.

(C) The Defense Contract Management Agency.

(D) The Army Audit Agency.

(E) The Naval Audit Service.

(F) The Air Force Audit Agency.

(3) The term ''questioned'', with respect to a cost, means an unreasonable, unallocable, or unallowable cost.

SA 1569. Mr. NELSON of Nebraska (for himself and Mr. WYDEN) submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 296, after line 19, insert the following:

SEC. 1205. APPLICATION OF THE GENEVA CONVENTION TO ENEMY COMBATANTS.

(a) FINDING.—Congress finds that the executive branch has the authority to detain enemy combatants.

(b) ENEMY COMBATANT DEFINED.—In this section, the term ''enemy combatant'' means an individual who—

(1) is held by personnel of the Department of Defense at a facility under the control of the Secretary of Defense, including the naval base at Guantanamo Bay;

(2) is accused of knowingly—

(A) planning, authorizing, committing, aiding, or abetting one or more terrorist acts against the United States; or

(B) being part of or supporting forces engaged in armed conflict against the United States;

(3) is not a United States person or lawful permanent resident; and

(4) is not a prisoner of war within the meaning of the Convention Relative to the Treatment of Prisoners of War, dated at Geneva August 12, 1949 (6 UST 3316).

(c) APPLICATION OF GENEVA CONVENTION.—The President shall treat each enemy combatant in accordance with all the terms of the Convention Relative to the Treatment of Prisoners of War, dated at Geneva August 12, 1949 (6 UST 3316).

(d) ANNUAL REPORT.—

(1) REQUIREMENT.—The Secretary of Defense shall submit to Congress an annual report on enemy combatants, including—

(A) for each enemy combatant detained by the United States on the date that is 30 days prior to the submission of such report—

(i) the name and nationality of the enemy combatant;

(ii) the period during which the enemy combatant has been so detained; and

(iii) a description of the specific process afforded to the enemy combatant and the outcome of those processes; and

(B) for each individual who was detained as an enemy combatant and released prior to the date referred to in subparagraph (A)—

(i) the name and nationality of the individual;

(ii) the terms of the conditional release agreement with respect to the individual;

(iii) a statement of the basis for the determination of the United States Government that individual's release was warranted; and

(iv) the period during which the person was so detained, including the release date of the individual.

(2) FORM OF REPORT.—Each report required by this subsection shall be submitted in unclassified form, but may include a classified annex.

SA 1570. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 286, between lines 7 and 8, insert the following:

SEC. 1073. PROHIBITION ON TORTURE AND CRUEL, INHUMAN, OR DEGRADING TREATMENT OR PUNISHMENT.

(a) IN GENERAL.—No person in the custody or under the physical control of the United States shall be subjected to torture or cruel, inhuman, or degrading treatment or punishment.

(b) DEFINITIONS.—As used in this section—

(1) the term ''torture'' has the meaning given that term in section 2340(1) of title 18, United States Code ; and

(2) the term ''cruel, inhuman, or degrading treatment or punishment'' means conduct that would constitute cruel, unusual, and inhumane treatment or punishment prohibited by the fifth amendment, eighth amendment, or fourteenth amendment to the Constitution of the United States if the conduct took place in the United States.

SA 1571. Mr. DURBIN (for himself, Ms. MIKULSKI, Mr. ALLEN, Mr. GRAHAM, Ms. LANDRIEU, Mr. LEAHY, Mr. SARBANES, Mr. LAUTENBERG, Mr. BINGAMAN, Mr. KERRY, Mr. SALAZAR, Mr. CORZINE, Mr. CHAFEE, Mrs. LINCOLN, Mr. BIDEN, Mr. KENNEDY, Mrs. MURRAY, and Mr. NELSON of Florida) submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title XI, add the following:

SEC. 1106. NONREDUCTION IN PAY WHILE FEDERAL EMPLOYEE IS PERFORMING ACTIVE SERVICE IN THE UNIFORMED SERVICES OR NATIONAL GUARD.

(a) SHORT TITLE.—This section may be cited as the ''Reservists Pay Security Act of 2005''.

(b) IN GENERAL.—Subchapter IV of chapter 55 of title 5, United States Code, is amended by adding at the end the following:

''§ 5538. Nonreduction in pay while serving in the uniformed services or National Guard

''(a) An employee who is absent from a position of employment with the Federal Government in order to perform active duty in the uniformed services pursuant to a call or order to active duty under a provision of law referred to in section 101(a)(13)(B) of title 10 shall be entitled, while serving on active duty, to receive, for each pay period described in subsection (b), an amount equal to the amount by which—

''(1) the amount of basic pay which would otherwise have been payable to such employee for such pay period if such employee's civilian employment with the Government had not been interrupted by that service, exceeds (if at all)

''(2) the amount of pay and allowances which (as determined under subsection (d))—

''(A) is payable to such employee for that service; and

''(B) is allocable to such pay period.

''(b)(1) Amounts under this section shall be payable with respect to each pay period (which would otherwise apply if the employee's civilian employment had not been interrupted)—

''(A) during which such employee is entitled to reemployment rights under chapter 43 of title 38 with respect to the position from which such employee is absent (as referred to in subsection (a)); and

''(B) for which such employee does not otherwise receive basic pay (including by taking any annual, military, or other paid leave) to which such employee is entitled by virtue of such employee's civilian employment with the Government.

''(2) For purposes of this section, the period during which an employee is entitled to reemployment rights under chapter 43 of title 38—

''(A) shall be determined disregarding the provisions of section 4312(d) of title 38; and

''(B) shall include any period of time specified in section 4312(e) of title 38 within which an employee may report or apply for employment or reemployment following completion of service on active duty to which called or ordered as described in subsection (a).

''(c) Any amount payable under this section to an employee shall be paid—

''(1) by such employee's employing agency;

''(2) from the appropriation or fund which would be used to pay the employee if such employee were in a pay status; and

''(3) to the extent practicable, at the same time and in the same manner as would basic pay if such employee's civilian employment had not been interrupted.

''(d) The Office of Personnel Management shall, in consultation with Secretary of Defense, prescribe any regulations necessary to carry out the preceding provisions of this section.

''(e)(1) The head of each agency referred to in section 2302(a)(2)(C)(ii) shall, in consultation with the Office, prescribe procedures to ensure that the rights under this section apply to the employees of such agency.

''(2) The Administrator of the Federal Aviation Administration shall, in consultation with the Office, prescribe procedures to ensure that the rights under this section apply to the employees of that agency.

''(f) For purposes of this section—

''(1) the terms 'employee', 'Federal Government', and 'uniformed services' have the same respective meanings as given them in section 4303 of title 38;

''(2) the term 'employing agency', as used with respect to an employee entitled to any payments under this section, means the agency or other entity of the Government (including an agency referred to in section 2302(a)(2)(C)(ii)) with respect to which such employee has reemployment rights under chapter 43 of title 38; and

''(3) the term 'basic pay' includes any amount payable under section 5304.''.

(c) CLERICAL AMENDMENT.—The table of sections for chapter 55 of title 5, United States Code, is amended by inserting after the item relating to section 5537 the following:

''5538. Nonreduction in pay while serving in the uniformed services or National Guard.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to pay periods (as described in section 5538(b) of title 5, United States Code, as amended by this section) beginning on or after the date of enactment of this Act.

SA 1572. Mr. KOHL submitted an amendment intended to be proposed by

him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle G of title X, insert the following:

SEC. 1073. HEALTH SERVICE PROGRAMS.

Section 7901 of title 5, United States Code, is amended—

(1) in subsection (a), by inserting ''or members of the components of the Armed Forces'' after ''employees''; and

(2) in subsection (b)(2), by inserting ''or members of the components of the Armed Forces'' after ''employees''.

SA 1573. Ms. SNOWE (for herself and Ms. COLLINS) submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

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

SEC. 330. NAVY HUMAN RESOURCES BENEFIT CALL CENTER.

(a) ADDITIONAL AMOUNT FOR OPERATION AND MAINTENANCE, NAVY.—The amount authorized to be appropriated by section 301(2) for operation and maintenance for the Navy is hereby increased by $1,500,000.

(b) AVAILABILITY OF AMOUNT.—Of the amount authorized to be appropriated by section 301(2) for operation and maintenance for the Navy, as increased by subsection (a), $1,500,000 may be available for Civilian Manpower and Personnel for a Human Resources Benefit Call Center in Machias, Maine.

SA 1574. Mr. VOINOVICH (for himself and Mr. DEWINE) submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle B of title I, add the following:

SEC. 114. SECOND DOMESTIC SOURCE FOR PRODUCTION AND SUPPLY OF TIRES FOR THE STRYKER COMBAT VEHICLE.

(a) REQUIREMENT.—The Secretary of the Army shall develop a second domestic source for the production and supply of tires for the Stryker combat vehicle. The source shall be any source determined by the Secretary to best respond to the logistics and maintenance requirements of the Army.

(b) FUNDS.—Amounts authorized to be appropriated by section 101(3) for weapons and tracked combat vehicles for the Army may be available for activities under subsection (a).

(c) REPORT.—The Secretary shall submit to the congressional defense committees a report setting forth a plan to meet the requirement in subsection (a). The report shall include—

(1) an analysis of the capacity of the industrial base in the United States to meet requirements for a second domestic source for the production and supply of tires for the Stryker combat vehicle; and

(2) to the extent that the capacity of the industrial base in the United States is not adequate to meet such requirements, recommendations on means, over the short-term and the long-term, to address that inadequacy.

SA 1575. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle B of title II, add the following:

SEC. 213. HYFIRE REUSABLE LOX/LNG PROPULSION TECHNOLOGY.

(a) ADDITIONAL AMOUNT FOR RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE.—The amount authorized to be appropriated by section 201(3) for research, development, test, and evaluation for the Air Force is hereby increased by $2,000,000.

(b) AVAILABILITY OF AMOUNT.—Of the amount authorized to be appropriated by section 201(3) for research, development, test, and evaluation for the Air Force, as increased by subsection (a), $2,000,000 may be available for Aerospace Propulsion Power Technology (PE #603216F) for HyFire Reusable LOX/LNG Propulsion Technology.

(c) OFFSET.—The amount authorized to be appropriated by section 102(a)(4) for other procurement for the Navy is hereby reduced by $2,00,000, with the amount of the reduction to be allocated to amounts available for Ordnance Support Equipment, Ship Missile Systems Equipment for the Phalanx SeaRAM.

SA 1576. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle B of title II, add the following:

SEC. 213. NEXT GENERATION INTERCEPTOR MATERIALS.

(a) ADDITIONAL AMOUNT FOR RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY.—The amount authorized to be appropriated by section 201(1) for research, development, test, and evaluation for the Army is hereby increased by $3,000,000.

(b) AVAILABILITY OF AMOUNT.—Of the amount authorized to be appropriated by section 201(1) for research, development, test, and evaluation for the Army, as increased by subsection (a), $3,000,000 may be available for Army Missile Defense Systems Integration (Non-Space) (PE #6033055A) for Next Generation Interceptor Materials.

(c) OFFSET.—The amount authorized to be appropriated by section 102(a)(4) for other procurement for the Navy is hereby reduced by $3,00,000, with the amount of the reduction to be allocated to amounts available for Ordnance Support Equipment, Ship Missile Systems Equipment for the Phalanx SeaRAM.

SA 1577. Mr. NELSON of Nebraska submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle F of title V, add the following:

SEC. 573. ADDITIONAL LEAVE FOR MEMBERS OF THE ARMED FORCES IN CONNECTION WITH CERTAIN PRE-ADOPTION ACTIVITIES.

(a) AUTHORITY TO GRANT ADDITIONAL LEAVE.—Section 701 of title 10, United States Code, is amended by adding at the end the following new subsection:

''(i)(1) The Secretary concerned may, under uniform regulations prescribed by the Secretary of Defense, grant a member of the armed forces adopting a child up to 21 days of leave to be used in connection with the legal placement of the child in the home of the member in anticipation of the finalization of the adoption.

''(2) In the event that two members of the armed forces who are spouses of each other adopt a child for which leave may be granted under this subsection, only one such member shall be granted leave in connection with such adoption under this subsection.

''(3) Leave under this subsection is in addition to leave provided under any other provision of this section.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on January 1, 2006.

SA 1578. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle A of title VIII, add the following:

SEC. 807. REPORTS ON SIGNIFICANT INCREASES IN PROGRAM ACQUISITION UNIT COSTS OR PROCUREMENT UNIT COSTS OF MAJOR DEFENSE ACQUISITION PROGRAMS.

(a) INITIAL REPORT REQUIRED.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report on the acquisition status of each major defense acquisition program whose program acquisition unit cost or procurement unit cost, as of the date of the enactment of this Act, has exceeded by more than 50 percent the original baseline projection for such unit cost. The report shall include the information specified in subsection (c).

(b) ADDITIONAL REPORTS.—Not later than 90 days after the date on which the Secretary

determines that the program acquisition unit cost or procurement unit cost of a major defense acquisition program has exceeded by more than 50 percent the original baseline projection for such unit cost, the Secretary shall submit to the congressional defense committees a report on such determination. Each report shall include the information specified in subsection (c).

(c) INFORMATION.—The information specified in this subsection with respect to a major defense acquisition program is the following:

(1) An assessment of the costs to be incurred to complete the program if the program is not modified.

(2) An explanation of why the costs of the program have increased.

(3) A justification for the continuation of the program notwithstanding the increase in costs.

(d) MAJOR DEFENSE ACQUISITION PROGRAM DEFINED.—In this section, the term ''major defense acquisition program'' has the meaning given that term in section 2430 of title 10, United States Code.

SA 1579. Mr. CORZINE (for himself, Mr. KENNEDY, Mr. LAUTENBERG, Mr. DODD, Mr. JEFFORDS, and Mr. FEINGOLD) submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle H of title V, add the following:

SEC. 596. OPT OUT OF COLLECTION AND UTILIZATION OF PERSONAL INFORMATION BY THE DEPARTMENT OF DEFENSE FOR MILITARY RECRUITMENT PURPOSES.

(a) ESTABLISHMENT OF REGISTRY.—The Secretary of Defense shall establish and maintain a centralized registry of individuals who opt to prohibit the Department of Defense from obtaining, collecting, purchasing, storing, maintaining, analyzing, holding, or otherwise utilizing for military recruitment purposes the personal information with respect to such individuals, including (but not limited to) information specified in subsection (i). The registry shall be known as the ''Student Privacy Protection Registry'' (in this section referred to as the ''Registry'').

(b) SINGLE REGISTRY.—

(1) IN GENERAL.—The Registry shall be the sole source of information on individuals described in subsection (a). The Secretary shall not maintain separate or local registries or databases of information on such individuals in addition to the Registry.

(2) ACCESS.—In order to facilitate compliance with the requirement in paragraph (1), the Secretary shall ensure access to the Registry by all individuals engaged in military recruitment activities.

(c) INDIVIDUALS ELIGIBLE TO ENROLL IN REGISTRY.—

(1) IN GENERAL.—The following individuals may enroll in the Registry:

(A) Any individual who is older than 15 years of age but younger than 18 years of age.

(B) Any individual who is older than 17 years of age but younger than 26 years of age.

(2) ENROLLMENT OF CERTAIN INDIVIDUALS BY PARENTS.—An individual described by paragraph (1)(A) may enroll in the Registry or be enrolled in the Registry by a parent of such individual.

(d) ENROLLMENT IN REGISTRY.—

(1) IN GENERAL.—An individual shall be enrolled in the Registry through the submittal to the Secretary of a notice of enrollment in the Registry.

(2) CONTENTS OF NOTICE.—A notice under paragraph (1) shall include only the full name (first, middle, and last name), date of birth, address, and telephone number of the individual covered by the notice.

(3) MECHANISMS FOR SUBMITTAL OF NOTICE.—The Secretary shall establish a variety of mechanisms for the submittal of notices under paragraph (1). Such mechanisms shall include—

(A) a toll-free telephone number (commonly referred to as an ''800 number'') established by the Secretary for purposes of this section;

(B) a prominently displayed Internet link from the Internet homepage of the Department of Defense to an Internet webpage for the submittal and receipt of notices;

(C) a physical address to which notices may be sent and will be received; and

(D) such other mechanisms as the Secretary considers appropriate.

(4) UTILIZATION OF NOTICE INFORMATION.—Any information received by the Secretary in a notice under paragraph (1) shall be utilized solely for purposes of the Registry, and may not be utilized for any other purposes.

(e) NOTICE OF REGISTRY.—The Secretary of Defense shall take appropriate actions to ensure that any individual eligible to enroll in the Registry, and any parent of such individual (in the case of an individual described by subsection (c)(1)(A)), who is given materials or who is contacted in any way for military recruitment purposes, receives immediate and prominent notice of the Registry, the consequences of enrollment in the Registry, and the procedures for submitting notice of enrollment in the Registry.

(f) DEPARTMENT OF DEFENSE RESPONSIBILITY FOR MAINTENANCE AND COLLECTION.—The Department of Defense shall be solely responsible for maintaining the Registry and for enrolling individuals in the Registry. The Department may not maintain the Registry or enroll individuals in the Registry by contract or through contractor personnel.

(g) PROHIBITION ON DISSEMINATION OF INFORMATION OBTAINED IN RECRUITMENT.—The Secretary may not disseminate or disclose to any individual not engaged in military recruitment activities any information obtained by the Department of Defense, or obtained by any contractor of the Department, for the purposes of military recruitment activities, including any such information maintained in the military recruitment databases of the Department and the Registry.

(h) COORDINATION OF LAWS RELATING TO INFORMATION FOR RECRUITMENT.—

(1) ENROLLMENT CAUSES OPT OUT OF ACCESS TO STUDENT RECRUITING INFORMATION.—The enrollment in the Registry of an individual described by subsection (c)(1)(A) shall be deemed to constitute the request of such individual's parents that information described by paragraph (1) of section 9582(a) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7908(a)) not be released without prior written parental consent in accordance with paragraph (2) of such section.

(2) OPT OUT OF ACCESS TO STUDENT RECRUITING INFORMATION CAUSES ENROLLMENT.—A request pursuant to paragraph (2) of 9582(a) of the Elementary and Secondary Education Act of 1965 by an individual described by subparagraph (A) or (B) of subsection (c)(1), or a parent of such individual, that information described by paragraph (1) of such section 9582(a) not be released without prior written parental consent shall be treated as an enrollment of such individual in the Registry.

(3) COORDINATION.—The Secretary of Defense and the Secretary of Education shall jointly take appropriate actions to ensure the implementation of and compliance with the requirements of this subsection.

(i) PERSONAL INFORMATION.—For purposes of this section, the personal information of an individual specified in this subsection is the following:

(1) The full name.

(2) The date of birth.

(3) The sex.

(4) The physical address, including city, State, and zip code.

(5) The social security number.

(6) The email address (if any).

(7) The ethnicity.

(8) The telephone number.

(9) In the case of an individual who has not graduated from secondary school—

(A) the name of the secondary school; and

(B) the anticipated graduation date.

(10) The grade point average at the most recently-completed level of education.

(11) The current education level.

(12) Plans (if documented) for post-secondary education.

(13) Plans (if documented) for service in the Armed Forces.

(14) In the case of an individual attending an institution of higher education—

(A) the number of the institution;

(B) the field of study (if determined); and

(C) the anticipated graduation date.

(15) In the case of an individual who intends to take the Armed Services Vocational Aptitude Battery (ASVAB), the scheduled date of the battery.

(16) In the case of an individual who has taken the Armed Services Vocational Aptitude Battery, the Armed Forces Qualifying Test Category Score.

PRIVILEGE OF THE FLOOR

Mr. HARKIN. Mr. President, I ask unanimous consent that Chris Erikson and Dree Collopy of my staff be granted the privilege of the floor for the duration of today's session.

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

Mr. JEFFORDS. Mr. President, I ask unanimous consent that Dr. Jonathan Epstein, a legislative fellow in Senator BINGAMAN's office, be granted the privilege of the floor during the pendency of S. 1042 and any votes thereupon.

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

Mr. REED. I ask unanimous consent that two fellows in my office, Tanya Weinberg and Elizabeth Winkelman, be granted the privilege of the floor for the remainder of today's session.

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

Mr. HARKIN. Mr. President, I ask unanimous consent that privilege of the floor be granted to Monica Severson during the duration of today's session.

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

EXPRESSING SYMPATHY FOR THE PEOPLE OF EGYPT

Mr. WARNER. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of S. Res. 210, which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 210) expressing sympathy for the people of Egypt in the aftermath of the deadly terrorist attacks on Sharm el-Sheik, Egypt, on July 23, 2005.

There being no objection, the Senate proceeded to consider the resolution.

Mr. REID. Mr. President, this evening the Senate will agree to a resolution expressing our condolences to the people of Egypt for the deadly terrorist attacks that swept the resort of Sharm el-Sheik this past weekend.

Hundreds were injured, and probably when it is all over, more than 100 will have died after terrorists detonated four large bombs in a crowded hotel in this seaside resort.

Among the dead was an American, Kristina Miller, of Las Vegas, NV. Kristina was a daughter of Nevada and a citizen of the world. A 1996 graduate of Durango High School, Kristina was remembered by her friends as goodhearted, popular, and always adventurous.

She was in London on July 7 when the terrorists struck the mass transit system of London. She survived those attacks unscathed and decided to go to Egypt on vacation when these tragic attacks occurred at the resort she chose to go to.

Acts of terror, such as that which took her life, are a tragedy no matter where they occur, but the loss of one of our own spreads personal sadness across Nevada and the entire country. They also generate a sense of resolve and solidarity to hunt down and to bring to justice the thugs responsible for these heinous acts.

I am glad the Senate will speak with one voice in condemning these barbaric acts, and I personally extend my deepest sympathy to the victims, especially the family and friends of Kristina Miller.

Mr. WARNER. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

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

The resolution (S. Res. 210) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 210

Whereas on July 23, 2005, terrorists struck the Red Sea resort city of Sharm el-Sheik, Egypt, detonating explosives in a crowded hotel that killed dozens of the people of Egypt and foreign tourists from around the world, including a citizen of the United States, and injured approximately 200 others;

Whereas the terrorist attacks on Sharm el-Sheik, Egypt were senseless, barbaric, and cowardly acts carried out against innocent civilians;

Whereas Egypt is a friend and ally of the United States and in the past has endured terrorism against its innocent civilians;

Whereas the people of the United States stand in solidarity with the people of Egypt in fighting terrorism;

Whereas President George W. Bush immediately condemned the terrorist attacks on Sharm el-Sheik, Egypt and extended to the people of Egypt his personal condolences and the support of the United States; and

Whereas Secretary of State Condoleezza Rice denounced the terrorist attacks on Sharm el-Sheik, Egypt and stated, ''we continue, all of us in the civilized world, to face great challenges in terrorism, and we continue to be united in the view that terrorism must be confronted and that they will not succeed in destroying our way of life'': Now, therefore, be it

Resolved, That the Senate—

(1) expresses deep sympathies and condolences to the people of Egypt and the victims and the families of the victims for the heinous terrorist attacks that occurred in Sharm el-Sheik, Egypt on July 23, 2005;

(2) condemns the barbaric and unwarranted terrorist attacks that killed and injured innocent people in Sharm el-Sheik, Egypt;

(3) expresses strong and continued solidarity with the people of Egypt and pledges to remain shoulder-to-shoulder with the people of Egypt to bring the terrorists responsible for the brutal attacks on Sharm el-Sheik, Egypt to justice; and

(4) calls upon the international community to renew and strengthen efforts to—

(A) defeat terrorists by dismantling terrorist networks and exposing the violent and nihilistic ideology of terrorism;

(B) increase international cooperation to advance personal and religious freedom, ethnic and racial tolerance, political liberty and pluralism, and economic prosperity; and

(C) combat the social injustice, oppression, poverty, and extremism that breeds sympathy for terrorism.

APPOINTMENT

The PRESIDING OFFICER. The Chair, on behalf of the President pro tempore, upon the recommendation of the Majority Leader, pursuant to Public Law 105–292, as amended by Public Law 106–55, and as further amended by Public Law 107–228, appoints the following individual to the United States Commission on International Religious Freedom: Dr. Richard D. Land of Tennessee, for a term of two years (July 25, 2005—July 24, 2007).

ORDERS FOR TUESDAY, JULY 25, 2005

Mr. WARNER. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:45 a.m. on Tuesday, July 26. I further ask that following the prayer and the pledge, the morning hour be deemed to have expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and the Senate then resume consideration of S. 1042, as under the previous order. I ask unanimous consent that there be 2 minutes of debate equally divided between the stacked votes, and that following the first vote all votes be 10 minutes, and that the filing deadline for second-degree amendments be at 11 a.m. tomorrow.

I further ask unanimous consent that the Senate stand in recess from 12:30, or at the conclusion of the last vote, whichever is latest, until 2:15 to accommodate the weekly party luncheons.

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

PROGRAM

Mr. WARNER. Mr. President, tomorrow, the Senate will resume consideration of the Defense authorization bill. Under the previous order, there will be 20 minutes of debate equally divided on the Collins and Lautenberg amendments, followed by a series of stacked votes.

We will have up to five votes beginning at approximately 10:15 a.m., and Senators should make sure they adjust their schedules accordingly.

ADJOURNMENT UNTIL 9:45 A.M. TOMORROW

Mr. WARNER. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 8:25 p.m., adjourned until Tuesday, July 26, 2005, at 9:45 a.m.

NOMINATIONS

Executive nominations received by the Senate July 25, 2005:

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

DARLENE F. WILLIAMS, OF TEXAS, TO BE AN ASSISTANT SECRETARY OF HOUSING AND URBAN DEVELOPMENT, VICE DENNIS C. SHEA, RESIGNED.

INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT

JENNIFER L. DORN, OF NEBRASKA, TO BE UNITED STATES ALTERNATE EXECUTIVE DIRECTOR OF THE INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT FOR A TERM OF TWO YEARS, VICE ROBERT B. HOLLAND, TERM EXPIRED.

DEPARTMENT OF STATE

C. BOYDEN GRAY, OF THE DISTRICT OF COLUMBIA, TO BE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE EUROPEAN UNION, WITH THE RANK AND STATUS OF AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY.

RICHARD HENRY JONES, OF NEBRASKA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF CAREER MINISTER, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO ISRAEL.

FRANCIS JOSEPH RICCIARDONE, JR., OF NEW HAMPSHIRE, 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 ARAB REPUBLIC OF EGYPT.

FEDERAL DEPOSIT INSURANCE CORPORATION

MARTIN J. GRUENBERG, OF MARYLAND, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE FEDERAL DEPOSIT INSURANCE CORPORATION FOR A TERM EXPIRING DECEMBER 27, 2012. (REAPPOINTMENT)