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House of Representatives

The House was not in session today. Its next meeting will be held on Thursday, October 6, 2005, at 10 a.m.

Senate

WEDNESDAY, OCTOBER 5, 2005

The Senate met at 10:01 a.m. and was called to order by the Honorable DAVID VITTER, a Senator from the State of Louisiana.

PRAYER

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

Let us pray.

Eternal and ever blessed God, help us to walk in Your steps. Show us the path of humility so that we will seek to serve others. Show us the path of forgiveness so that we will give others the same kind of mercy we so frequently receive from You. Show us the path of courage so that we can choose the challenging and narrow way that leads to life. Show us the path of endurance so that we will not become discouraged in doing well. Show us the path of loyalty so that nothing can tempt us to disappoint You.

Bless the Members of this body as they strive to walk in a way that will honor You. As they seek Your wisdom, guide them by the power of Your loving providence.

We pray in Your sovereign Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable DAVID VITTER 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 assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, October 5, 2005.

To the Senate:

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

TED STEVENS,
President pro tempore.

Mr. VITTER thereupon assumed the chair as Acting President pro tempore.

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

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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 I ask unanimous consent that the order for the quorum call be rescinded.

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

RECOGNITION OF THE MAJORITY LEADER

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

SCHEDULE

Mr. FRIST. Mr. President, shortly we will resume debate on the Defense appropriations bill. We began consideration on that bill last Thursday. Since that time, Members have had Thursday night, Friday, and all day Monday. We were here all day Monday, all day yesterday, Tuesday, to offer amendments. We will continue with the amendment process through today.

As I have announced previously, we will stack votes beginning at sometime around 7:30 this evening to accommodate observance of the Jewish holiday. As I have said from the outset, our intentions are we will finish the Department of Defense appropriations bill this week prior to going out on our week-long recess. It is a critically important bill, something we will finish this week.

Last night, I did file cloture on the bill. I filed in order to ensure we finish the bill this week in an orderly way. Everyone has had the opportunity for the last 3 or 4 days to come forward and offer amendments. We will vote on those amendments tonight, and then we would have the cloture vote tomorrow morning.

Again, I encourage, as I have every day for the last several days, Members to come to the Senate and offer those amendments so we can vote on them. We have had more than 100 amendments filed. It is imperative that the Senators who are serious about their amendments and want them considered come forward and work with the managers over the course of this morning and not wait until tonight. We will finish the bill this week.

As a reminder, we will recess from 12:30 until 2:15 for the weekly party luncheons.

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

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Let me turn to the Democratic leader on anything on the schedule before I make a very brief statement.

RECOGNITION OF THE MINORITY LEADER

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

AMBASSADOR NEGROPONTE

Mr. REID. Mr. President, my staff received a telephone call this morning, less than an hour ago, indicating Ambassador Negroponte would not be coming today because the leader or his people indicated he shouldn't come.

We have these very important elections taking place in Iraq on October 15. This is an opportunity for Members to visit with Ambassador Negroponte, who is, if not the expert on what is going on in Iraq, certainly one of the two or three top people in the world to tell Members what is going on there. This briefing is open to all Senators, Democrats and Republicans. There certainly is no reason we should not be able to do that. It is an important oversight responsibility we have.

I hope the distinguished Republican leader has not been part of telling Negroponte and his people not to come up here for that briefing at 3 to 4 o'clock. I had a meeting this morning at 9 o'clock. I invited all Senators to come who were with me. We are going to have good attendance at that meeting. This is not a meeting in any way to do with anything other than find out what is going on. We have a responsibility to find out what is going on. I would like to have the Ambassador come often. I don't know why we can't go ahead with this briefing.

Mr. FRIST. Mr. President, with regard to a briefing which was initiated on a partisan basis by the other side of the aisle in spite of their knowledge that we do have an all-Senate briefing that is bipartisan in the tradition—we have had over 20 different briefings, including one very useful one last week, one the week prior to that. On a partisan basis, an all-Senate briefing was scheduled; a counteroffer was made. We already have a meeting scheduled with the Ambassador here in 2 to 3 weeks.

I will continue to work with the Democratic leader coming back and forth. These all-Senator briefings we have, which are on a classified basis, have proven to be a very useful vehicle for all Senators to participate, to be able to ask questions of various representatives, and is a very good model.

I will continue to work with the Democratic leader. As he knows, Ambassador Negroponte is coming in about 2½ or 3 weeks—I don't know exactly what that date is for that particular all-Senate briefing initiated on a bipartisan basis and not on a partisan basis, which this last meeting was.

Mr. REID. Mr. President, I know the distinguished Republican leader has a statement to make, but just on this subject, on a more personal basis, the Republican leader and I had a number of meetings the last several weeks, certainly the last few days, and this issue has never been raised.

I don't see how we can have too many briefings on what is going on in Iraq. Negroponte has simply not been here. I have the greatest respect for him, but in a briefing—in 2 or 3 weeks, the elections will have been over in Iraq. That is one of the reasons people are losing faith in what is going on in Iraq—because we do not have the information to convey to the people. The administration says just stay the course. We want information.

Negroponte, if he is told by the Republican leader not to come, he is not going to come. It is too bad. It is a perfect day for this. The Jewish holiday is still on. Most Members would have the opportunity to come here. Senator LIEBERMAN and a couple of others would not be able to, but we already have on my side about 20 Senators willing and wanting to come.

I am disappointed this will now have to become a political issue. It shouldn't. I like Negroponte. He is good. He is good for the country. I told the President personally that this was a great choice he made to lead this new intelligence agency.

There is no need to belabor the point other than to say I am terribly disappointed that my Senators—and anyone else on the other side of the aisle—want to come and listen to a presentation prior to the elections and now are going to be unable to have this briefing. That is too bad.

Mr. FRIST. Mr. President, I am a bit offended when the Democratic leader knows last week we had defense, we had Generals Myers, Abizaid, and Casey brief Members extensively in a bipartisan way in a tradition we have set up that is working very well. We have the Secretary of State, which he knows, coming on October 19 to have a very similar briefing, addressing issues in Iraq, in Afghanistan. And Negroponte is coming, as I said, the following week.

So we will work together. I do want to make it clear their invitation was initiated in a partisan way, with a letter I was not a part of, not asked to be a part of, in the letter itself, the initial letter. I think we need to continue to work together to continue these briefings, which are very important, as we go forward.

ROSH HASHANAH

Mr. FRIST. Mr. President, I would like to comment on the Jewish holiday at this juncture, if I might.

I would like to take a moment to recognize the Jewish holiday of Rosh Hashanah and to reflect on the importance of Israel to the Jewish people and the United States.

Rosh Hashanah, also called the Jewish New Year, began Monday evening. Jews all across the globe flocked to their synagogues, prepared ceremonial meals, and set aside special time with family to mark the occasion.

Rosh Hashanah celebrates the anniversary of the creation of the world. It is a time for contemplation and prayer, a day to look forward to the year ahead, to reflect on past deeds, and to ask for God's forgiveness.

Rosh Hashanah is followed by Yom Kippur, the most solemn occasion on the Jewish calendar. Beginning on the 10th day of Tishri—the evening of October 12—the Jewish people will observe a day of fasting, of prayer, and reflection. And as with every year, they will end the annual rite with the words: ''Next Year in Jerusalem.''

Israel, and the city of Jerusalem, a city that both major parties recognize as its capital, is the birthplace to three of the world's great religions. It is rich in tradition, history, and culture, all of which truly touches the soul.

From the mountains of the Golan to the port of Eilat, Israel's natural beauty is as diverse as the religions that share its golden city of Jerusalem.

A land of economic and scientific innovation, the mysticism of the past unites with technology of the future.

Perhaps most significantly, Israel is a symbol of the survival of the Jewish people. It shines as a beacon of hope to Jews all over the world, even as it stands surrounded by a sea of tyrannies.

And to the United States, this small and besieged country is a vital partner in the war on terror. The struggle it fights every day against terrorist forces, within and without its borders, is part of the same struggle our troops fight every day in Iraq and Afghanistan—the same struggle that rocked the island of Bali on Saturday.

Reasonable people can and should debate Israel's policies. Serious, thoughtful debate is crucial to devising effective and correct solutions. It is the cornerstone of democracy.

But we must always distinguish between those who raise legitimate questions about the specific policies of a democratic state and those who use criticism of Israel as a disguise for attacks on the Jewish people.

I urge all of my colleagues to reflect on the longstanding relationship, friendship, between the United States and Israel; to wish our ally peace and prosperity in the year ahead; and to work to strengthen, deepen, and improve our bond as defenders of freedom.

Mr. President, I yield the floor.

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

RETIREMENT OF TIMOTHY SCOTT WINEMAN

Mr. REID. Mr. President, Timothy Wineman has worked for the Senate for 35 years. On September 28, the Senate noted the outstanding service of Tim by adopting S. Res. 258.

He has spent his entire 35 years of Senate service working in the Disbursing Office. That in itself is a commendable feat.

In 1970, Tim began his career as a payroll clerk and was promoted to payroll supervisor 6 years later. He continued to receive promotions and in 1998 became the Senate's financial clerk. Tim's career in the Disbursing Office has been stellar. You could always count on Tim and his staff for topnotch service and to accommodate Members and staff.

Tim and his wife Pat met in high school, got married, and have two children, Matthew and Lory. Matt and Lory have provided Tim and Pat with four grandchildren—two boys and two girls.

Tim plans to spend the first 6 months trying to get his sea legs, enjoying some ''downtime'' with his family and playing a little golf. He and Pat then plan to do some traveling. They want to go to Alaska to see what is happening there.

I salute Tim on his service to the Senate and congratulate him on a job well done. He certainly was part of the Senate family and always will be. I hope he enjoys his retirement.

IRAQ AND THE DEPARTMENT OF DEFENSE AUTHORIZATION BILL

Mr. REID. Mr. President, let me say this. Ambassador Negroponte came to the Senate the last time this past May. Did he talk anything about what was going on with intelligence in Iraq or what was going on in Iraq, period? No. He talked about international terrorism. It is not as if we have been bothering the Ambassador having him come here all the time.

But I am disappointed to have to report to the American people this is what is going on with this administration: You never get to what the issue is. Put it off. Do not talk about it. Stay the course.

In Iraq we have some problems: almost 2,000 dead Americans; 15,000, 16,000 wounded, many of them very badly.

I in no way say this to disparage the managers of this bill, one of whom is a winner of the Congressional Medal of Honor, Senator DAN INOUYE; the other served valiantly in World War II as a pilot. But their job would be much easier if they had a Defense authorization bill prior to coming here to this floor with an appropriations bill. It makes their job, if not impossible, extremely difficult.

Let me explain what I am talking about. You authorize funding in the Congress, and then it goes to the all-important Appropriations Committee, and they determine what of the authorization bill deserves money. That is basically what it amounts to. There has to be some limit to spending, and that is what the Appropriation Committee's job is; to determine whether the money should be spent.

Well, here there is no authorization bill. There is legislation in the authorization bill that deals with retirement pay for the military, with pay raises for the military, with all kinds of programs for the veterans, the National Guard and Reserve. The Appropriations Committee does not have the benefit of that. They will be working, in effect, on last year's law.

I do not know how we could ever—I am sure it has happened sometime in the far distant past. I am sure it has happened. I hope it does not happen in the future that they try to do this jury-rigged system, where you take an appropriations bill without having done an authorization bill.

There are matters in that authorization bill dealing with prisoner abuse. A number of people want to offer amendments. They cannot offer an amendment on the appropriations bill dealing with prisoner abuse.

I see my friend, the Senator from South Carolina, in the Chamber, the mover of the legislation to have a look at what has gone on in Abu Ghraib and other prison facilities the military has. I think the author of the bill, Senator MCCAIN from Arizona, may have a little bit of expertise on prisoner of war abuse. I think he may have a little bit of authenticity when he comes before the Senate and says he wants to take a look at that.

JOHN MCCAIN spent years of his life in a prison camp in Vietnam, not days, weeks, months but years—try 5½ years—most of it in solitary confinement. So he wants to offer an amendment. He cannot do it unless he gets unanimous consent that he can have a vote on it. He can offer it, but it falls similar to everything else. But I will bet he is going to get unanimous consent because we want him to be able to debate this issue. Who has more standing than the Senator from Arizona to raise this as an issue?

Mr. President, we—I repeat—had a scheduled briefing at 3 o'clock today to find out what is going on in Iraq dealing with intelligence. We have never, ever had a briefing by Negroponte since he has assumed his duties as head of the so-called DNI on April 21 of this year. We have not been briefed by him on Iraq since he assumed his position. So I do not think we are being greedy taking an hour of his time.

Ducking debates about our national defense has become too topical and typical in this country because we are unable to bring matters before this floor. No amendments, no votes, no debates—that is not the way to do a bill in the Senate.

Why didn't we finish the Defense authorization bill the first time? Because we went to gun liability. So this process is unacceptable. We are a nation at war. We have troops in Iraq, in Afghanistan. We have an opportunity to have an open, honest debate about our national defense.

Our troops and the American people deserve better, and that is not what we are having here. And the distinguished majority leader said he was offended because I asked for a briefing by the Intelligence Director of this country. Offended? I am sorry he is offended.

RESERVATION OF LEADER TIME

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

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2006

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of H.R. 2863, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 2863) making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes.

Pending:

Bayh amendment No. 1933, to increase by $360,800,000 amounts appropriated by title IX for Other Procurement, Army, for the procurement of armored Tactical Wheeled Vehicles for units deployed in Iraq and Afghanistan, and to increase by $5,000,000 amounts appropriated by title IX for Research, Development, Test and Evaluation, Defense-Wide, for industrial preparedness for the implementation of a ballistics engineering research center.

McCain amendment No. 1978, to prohibit the use of funds to pay salaries and expenses and other costs associated with reimbursing the Government of Uzbekistan for services rendered to the United States at Karshi-Khanabad airbase in Uzbekistan.

Reed/Hagel amendment No. 1943, to transfer certain amounts from the supplemental authorizations of appropriations for Iraq, Afghanistan, and the Global War on Terrorism to amounts for Operation and Maintenance, Army, Operation and Maintenance, Marine Corps, Operation and Maintenance, Defense-wide activities, and Military Personnel in order to provide for increased personnel strengths for the Army and the Marine Corps for fiscal year 2006.

Warner/Levin modified amendment No. 1955, 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.

The ACTING PRESIDENT pro tempore. The Senator from Arizona is recognized.

AMENDMENT NO. 1977

Mr. MCCAIN. Mr. President, from my conversations with the Senator from Alaska, the chairman, I believe he agrees we will move forward; therefore, I call up amendment No. 1977, which is filed at the desk.

The ACTING PRESIDENT pro tempore. Without objection, the pending amendments are set aside for the consideration of this amendment, which the clerk will now report.

The assistant legislative clerk read as follows:

The Senator from Arizona [Mr. MCCAIN], for himself, Mr. GRAHAM, Mr. HAGEL, Mr. SMITH, and Ms. COLLINS, proposes an amendment numbered 1977.

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

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

The amendment is as follows:

(Purpose: Relating to persons under the detention, custody, or control of the United States Government)

At the appropriate place, insert the following:

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

(a) 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.

(b) APPLICABILITY.—Subsection (a) 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.

(c) CONSTRUCTION.—Nothing in this section 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.

SEC. ___. 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.

Mr. MCCAIN. Mr. President, this amendment would do two things: one, establish the Army Field Manual as the uniform standard for the interrogation of Department of Defense detainees; and, two, prohibit cruel, inhumane, and degrading treatment of prisoners in the detention of the Government. It is pretty simple and straightforward.

Mr. President, I regret, of course, as all my colleagues do, that this amendment has to be brought up on an appropriations bill. We are only doing so because so far we have been unable to get sufficient agreement to bring up the Defense authorization bill. I have made it very clear, over a long period of time, my feeling about how important it is to take up and complete the authorization bill, but that is a subject for another day. I know good-faith efforts are being made on both sides to try to get the authorization bill up. But that has not happened so, therefore, we are addressing this issue.

By the way, I have had a preliminary ruling that this amendment is germane because there is reference made to it in the House version of the appropriations bill.

The Senate has an obligation to address the authorizing legislation, as it has an obligation to deal with the issue that apparently led to the bill being pulled from the floor, which is America's treatment of its detainees.

Several weeks ago, I received a letter from CPT Ian Fishback, a member of the 82nd Airborne Division at Fort Bragg, and a veteran of combat in Afghanistan and Iraq, and a West Point graduate. Over 17 months, he struggled to get answers from his chain of command to a basic question: What standards apply to the treatment of enemy detainees? But he found no answers.

In his remarkable letter, he pleads with Congress, asking us to take action to establish standards to clear up the confusion, not for the good of the terrorists but for the good of our soldiers and our country. Captain Fishback closes his letter by saying:

> I strongly urge you to do justice to your men and women in uniform. Give them clear standards of conduct that reflect the ideals they risk their lives for.

This comes from a young captain in the U.S. Army who has served his country both in Iraq and Afghanistan and who says it in a far more eloquent fashion than I have ever been able to. By the way, I thank God every day that we have men and women the caliber of Captain Fishback serving in our military. I believe the Congress has a responsibility to answer this call, a call that has come not just from this one brave soldier but from so many of our men and women in uniform. We owe it to them. We sent them to fight for us in Afghanistan and Iraq. We placed extraordinary pressure on them to extract intelligence from detainees, but then we threw out the rules that our soldiers had trained on and replaced them with a confusing and constantly changing array of standards. We demanded intelligence without ever clearly telling our troops what was permitted and what was forbidden. And when things went wrong, we blamed them, and we punished them. I believe we have to do better than that.

I can understand why some administration lawyers might have wanted ambiguity so that every hypothetical option is theoretically open, even those the President has said he does not want to exercise. But war doesn't occur in theory, and our troops are not served by ambiguity. They are crying out for clarity. The Congress cannot shrink from this duty. We cannot hide our heads, pulling bills from the floor and avoiding votes. We owe to it our soldiers during this time of war to take a stand. So while I would prefer to offer this amendment to the DOD authorization bill, I am left with no choice but to offer it to this appropriations measure. I would note that I am offering this amendment in accordance with the options afforded under rule XVI of the Standing Rules of the Senate.

The amendment I am offering combines the two amendments I previously filed to the authorizing measure. To fight terrorism, we need intelligence. That much is obvious. What should also be obvious is that the intelligence we collect must be reliable and acquired humanely, under clear standards understood by all our fighting men and women. To do differently would not only offend our values as Americans but undermine our war effort, because abuse of prisoners harms, not helps, in the war on terror.

First, subjecting prisoners to abuse leads to bad intelligence, because under torture, a detainee will tell his interrogator anything to make the pain stop. Second, mistreatment of our prisoners endangers U.S. troops who might be captured by the enemy—if not in this war, then in the next. And third, prisoner abuses exact on us a terrible toll in the war of ideas, because inevitably these abuses become public. When they do, the cruel actions of a few darken the reputation of our country in the eyes of millions. American values should win against all others in any war of ideas, and we can't let prisoner abuse tarnish our image. Yet reports of detainee abuse continue to emerge, in large part, I believe, because of confusion in the field as to what is permitted and what is not. This amendment will go a long way toward clearing up this confusion.

The first part of the amendment would establish the Army Field Manual as the uniform standard for the interrogation of Department of Defense detainees. The Army Field Manual and its various editions have served America well through wars against both regular and irregular foes. It 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. The Army Field Manual authorizes interrogation techniques that have proven effective in extracting life-saving information from the most hardened enemy prisoners. It is consistent with our laws and, most importantly, our values. Let's not forget that al-Qaida sought not only to destroy American lives on September 11, but American values, our way of life, and all we cherish.

We fight not just to preserve our lives and liberties, but also American

values. We will never allow the terrorists to take those away. In this war—that we must win, that we will win—we must never simply fight evil with evil.

This amendment would establish the Army Field Manual as the standard for interrogation of all detainees held in DOD custody. The manual has been developed by the executive branch for its own uses, and a new edition, written to take into account the needs of the war on terror and with a new classified annex, is due to be issued soon. This amendment would not set the field manual in stone. It could be changed at any time.

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. The Armed Services Committee has held hearings with a slew of high-level Defense Department officials, from regional commanders to judge advocate generals to the Department's deputy general counsel. A chief topic of discussion in these hearings was what specific interrogation techniques are permitted, in what environments, with which DOD detainees, by whom and when. The answers have included a whole lot of confusion. If the Pentagon's top minds can't sort these matters out, after exhaustive debate and preparation, how in the world do we expect our enlisted men and women to do so?

Confusion about the rules results in abuses in the field. We need a clear, simple, and consistent standard, and we have it in the Army Field Manual on interrogation. That is not just my opinion but that of many more distinguished military minds than mine. I refer to a letter expressing strong support for this amendment signed by 28 former high-ranking military officers, including GEN Joseph Hoar, who commanded CENTCOM; GEN John Shalikashvili, former Chairman of the Joint Chiefs of Staff; RADM John Hutson and RADM Don Guter, who each served as the Navy's top JAG; and LTG Claudia Kennedy, who served as Deputy Chief of Staff for Army Intelligence. These and other distinguished officers believe the abuses at Abu Ghraib, Guantanamo, and elsewhere 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.

Why wouldn't any of us do whatever we could to have prevented that?

By passing this amendment, our servicemembers can follow the manual consistently from now on. Our troops deserve no less.

I ask unanimous consent that the letter from 29 retired military officers be printed in the RECORD.

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

SEPTEMBER, 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.

Sincerely,

Joseph Hoar, USMC (Ret.), General John Shalikashvili, USA (Ret.), General Donn A. Starry, USA (Ret.), Lieutenant General Ron Adams, USA (Ret.), Lieutenant General Robert G. Gard, Jr., USA (Ret.), Lieutenant General Jay M. Garner, USA (Ret.), Vice Admiral Lee F. Gunn, USN (Ret.), Lieutenant General Claudia J. Kennedy, USA (Ret.), Lieutenant General Charles Otstott, USA (Ret.), Vice Admiral Jack Shanahan, USN (Ret.), Major General Eugene Fox, USA (Ret.), Major General John L. Fugh, USA (Ret.), Rear Admiral Donald J. Guter, USN (Ret.), Major General Fred E. Haynes, USMC (Ret.). Rear Admiral John D. Hutson, USN (Ret.), Major General Melvyn Montano, ANG (Ret.), Major General Robert H. Scales, USA (Ret.), Major General Michael J. Scotti, USA (Ret.), Brigadier General David M. Brahms, USMC (Ret.), Brigadier General James Cullen, USA (Ret.), Brigadier General Evelyn P. Foote, USA (Ret.), Brigadier General David R. Irvine, USA (Ret.), Brigadier General Richard O'Meara, USA (Ret.), Brigadier General John K. Schmitt, USA (Ret.), Brigadier General Stephen N. Xenakis, USA (Ret.), Ambassador/Former Vietnam POW Douglas ''Pete'' Peterson, USAF (Ret.), Former Vietnam POW Commander Frederick C. Baldock, USN (Ret.), Former Vietnam POW Commander Phillip N. Butler, USN (Ret.).

Mr. MCCAIN. The second part of this amendment should not be objectionable to anyone since I am actually not proposing anything new. The prohibition against cruel, inhumane, and degrading treatment has been a longstanding principle in both law and policy in the United States. Before I get into why the amendment is necessary, let me first review the history.

The Universal Declaration of Human Rights, adopted in 1948, states simply:

No one shall be subjected to torture or cruel, inhuman or degrading treatment or punishment.

The International Covenant on Civil and Political Rights, to which the United States is a signatory, states the same. The binding Convention Against Torture, negotiated by the Reagan administration and ratified by this body, 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 those terms. All of this seems to be common sense, in accordance with longstanding American values. But since last year's DOD bill, a strange legal determination was made that the prohibition in the Convention Against Torture against cruel, inhuman, or degrading treatment does not legally apply to foreigners held outside the United States. They can apparently be treated inhumanely. This is the administration's position, even though Judge Abe Soafer, who negotiated the Convention Against Torture for President Reagan, said in a recent letter that the Reagan administration never intended the prohibition against cruel, inhuman, or degrading treatment to apply only on U.S. soil.

What all this means is that America is the only country in the world that asserts a legal right to engage in cruel and inhuman treatment. But the crazy thing is, it is not even necessary because the administration has said it will not engage in cruel, inhuman, or degrading treatment as a matter of policy. What this also means is that confusion about the rules becomes rampant again. We have so many differing legal standards and loopholes that our lawyers and generals are confused. Just imagine our troops serving in prison in the field.

The amendment I am offering simply codifies what is current policy and reaffirms what was assumed to be existing law for years. In light of the administration's stated commitment, it should require no change in our current interrogation and detention practices. What it would do is restore clarity on a simple and fundamental question: Does America treat people inhumanely? My answer is no. And from all I have seen, America's answer has always been no.

I travel a lot around the world, usually at taxpayers' expense. Everywhere I go, I encounter this issue of the treatment of prisoners and the photos of Abu Ghraib and what is perceived in the world to be continued mistreatment of prisoners. It is harming our image in the world terribly. We have to clarify that that is not what the United States is all about. That is what makes us different. That is what makes us different from the enemy we are fighting. The most important thing about it is not our image abroad but our respect for ourselves at home.

Let me close by noting that I hold no brief for the prisoners. I do hold a brief for the reputation of the United States of America. We are Americans. We hold ourselves to humane standards of treatment of people, no matter how evil or terrible they may be. To do otherwise undermines our security, but it also undermines our greatness as a nation. We are not simply any other country. We stand for something more in the world, a moral mission, one of freedom and democracy and human rights at home and abroad. We are better than these terrorists, and we will win. The enemy we fight has no respect for human life or human rights. They don't deserve our sympathy. But this isn't about who they are; this is about who we are. These are the values that distinguish us from our enemies.

I urge my colleagues to support the amendment.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Alaska is recognized.

Mr. STEVENS. Mr. President, this is a difficult subject to discuss, and as the minority leader indicated, no one is more qualified to talk about this than the Senator from Arizona.

It is with some trepidation that I try to explain to him the position of the administration and with which I happen to agree. The problem is not the goal of the Senator from Arizona; the problem is the way it would be carried out under this amendment. This amendment would require that the field manual be changed. Currently the field manual has a general description of the techniques of interrogation, and it allows flexibility to determine what will be used in terms of interrogation techniques based upon the circumstances that exist. We know that terrorists train their people to deal with the techniques of our interrogation, so those techniques change under various circumstances.

One of the situations I would call to the attention of the Senator from Arizona is as we have visited with our people in the field, now we have a unique circumstance of having multinational and multiagency teams that are in the field. The question comes down to who has custody or effective control of a person. Particularly I remember one team we saw which had five different nationalities including the intelligence agencies and military agencies of those nations. If this becomes law, it is my opinion that those teams will be handled so that the United States does not have custody, does not have control, and the kind of treatment we seek will not be given to people who are made prisoners by multinational teams that are searching out terrorists throughout the world.

This is a different war now. I believe we are seeing the beginning of a crusade against freedom from the militant terrorist Islamic entities throughout the world. We see the suicide bombers. We see the people who are inflicting terrible damage from Indonesia, the Philippines, to all throughout the Central Command, and we have teams out trying to find these people.

Of course, one of their first jobs is to interrogate anyone they capture to try to see if we can find out where the rest of them are and how they are functioning. If this amendment passes, the United States will not have effective control of those people. It will be impossible to interrogate under the systems we have used in the past because we cannot list in a field manual all of the interrogation techniques that will be used. It takes thousands of pages anyway. But the techniques vary upon the circumstances and the physical location of the people involved.

I have some memory from World War II in China when I witnessed some of our people—I was just a pilot, but I was conveying some of these people from place to place who had been tortured, and I can tell you they were brutally treated by the Chinese when we were taking these people from place to place and they had prisoners. Some of them were not Chinese. They were prisoners obviously of Japan. We had freed some of them, and they were—I have memory that those who were freed were still the responsibility of the United States.

But as a practical matter, what do you do with regard to a law that says that all of the techniques must be listed in the field manual; regardless of nationality or physical location, if an individual is in the custody or physical control of the United States, they shall be subject to only the means of interrogation listed in the field manual.

I appreciate very much what the Senator is trying to do. I think most of us have gone down to Guantanamo to satisfy ourselves that what is happening down there is in accordance with our concepts. Those people are totally under the custody of the United States, and certainly from my point of view what we saw when we were down there, we were convinced they were receiving the kind of treatment and the interrogations were not such that they would be affected by this amendment.

It is the people in the field, not people really handling prisoner camps or handling interrogation of those persons who are seized by our forces and brought to a camp or brought to a place, a jail such as we all know has gone wrong in Iraq—but I am talking the people in the field now, multinational teams, and their job is to find out what these people who are captured know in order to prevent further acts of terrorism. It is a very touchy thing to deal with, I know, to really talk about it.

The administration has told us that they are complying with all the constitutional, statutory, treaty obligations that apply to U.S. interrogation practices. They are telling us that they know the Convention Against Torture requires the United States to ensure that torture is a crime whether committed anywhere by a U.S. national or to prevent any of the entities that are under the control of the United States from any acts of cruel, inhumane, or degrading treatment or punishment. We totally agree with the efforts of the Senator from Arizona in that regard, and the President has directed the Armed Forces to treat any detainee humanely and comply with the appropriate and consistent military procedures that are consistent with the Geneva Conventions.

That is a given. But this amendment goes further. This amendment will cover those entities with multiple nationalities, multiple agencies, and because of the circumstances our people in the past have taken control of these, and some of the activities of the other nationalities involved would not be consistent with this amendment. I say what will happen in the future is we will just not take control of them. This will be a deterrent to our people from taking the leadership, and as they do, they will do everything they can to comply with the Geneva Conventions. It is those circumstances, the new type of entities we use to combat terrorism that worries the administration. So I can say—and I know the Senator from Arizona understands—it is the position of the administration that this amendment goes too far.

We will not make a point of order. There is no point of order that I know will apply to it anyway. But I do believe it is a matter that ought to be approached with caution. What does a multinational team do if they pick up a prisoner who they believe can give them information as to the location of terrorists who have committed severe acts of terrorism? The decision will be made, I am sure, that we not take custody. The custody will go to other nationalities involved in the team. We will have no control. I believe the amendment of the Senator from Arizona is going to carry, but I believe we

have to give serious consideration to the implications I have just mentioned, and I hope the Senate will keep that in mind.

I yield the floor.

The PRESIDING OFFICER (Mr. MCCAIN). The Senator from South Carolina.

Mr. GRAHAM. Mr. President, No. 1, I would like to recognize that Senator STEVENS, who has so honorably served our country, is genuinely concerned about the extent of this amendment. For those of you who are listening, Senator STEVENS was a World War II pilot. He has gone in harm's way in defending his country. We have in the Chamber his counterpart on the Appropriations Committee, Senator INOUYE, a Medal of Honor winner, and the Senator occupying the chair is a former POW. The food chain is going down when I am speaking. But what I want to try to discuss today is from a lawyer's point of view and really from a citizen's point of view.

I have had the honor for the last 20-some years to be a member of the Judge Advocate General's Corps of the Air Force, a prosecutor, a defense counsel, and I am now a Reserve military judge. That experience has been a wonderful experience. I have received more out of it than given. Wearing the uniform in any capacity is quite an honor, and to be a military lawyer has been one of the highlights of my life. I have never been shot at. I had some clients who probably wanted to kill me. But other than that, I do understand this debate pretty well. To me, it is not much of a debate. We have as a nation adopted the position that Senator MCCAIN described when it comes to how you handle people in your care and custody.

One thing I would respond to Senator STEVENS is that the Army Field Manual has sort of been the bible for interrogation for decades. If you are worried, and I think it is a fair question, is there anything in the Army Field Manual that would unfairly restrict the ability of the United States to gain good information and defend ourselves from a bunch of rogue thug murderers, the answer is no. You don't have to trust me there. Go to Gitmo and ask the question of the people who are doing the interrogation of these terrorists: Is there anything in the Army Field Manual as written or being drafted that would impede your ability to gather good information? And the answer they told me was no.

So what is the value of having it? The value of having standardization when it comes to interrogation, detention, and prosecution is of immeasurable benefit to the force because, as Senator MCCAIN indicated, a lot of the people implementing these policies when it comes to interrogation, detention, and prosecution are in harm's way themselves. One of the things we have learned in this whole war on terror is that this Nation needs to have effective interrogation techniques, effective detention policies, and effective prosecution tools to hold the terrorists responsible because you have two audiences.

No. 1, you have the terrorist community. I want every terrorist to know, if you are not killed on the battlefield and you are captured, things are going to happen to you. You are going to be interrogated aggressively, but we are going to treat you humanely, not because we worry about your sensitivities but because we don't want to become who we are interrogating. So we are going to keep that in place.

The President has said whether the Geneva Convention applies or not we are going to treat everybody in our charge humanely, not because of them but because of us. And the debate here is what happens when somebody in your charge is not covered by the Geneva Conventions. It is easy when someone is a legal combatant. We know what the rules are. We have the Geneva Conventions. We have been a signatory for 60 years. The Army Field Manual covers that situation. The war on terror is different. Vietnam was different. We had people who were lawful, whom we were able to interrogate, detain, and prosecute without changing who we were.

The Army Field Manual as a one-stop shop to guide the way we handle lawful combatants and enemy combatants is absolutely necessary if for no other reason than to protect our own troops. That is why we are doing this. That is one of the main reasons—to make sure that your own troops don't get in trouble because they are confused.

I have been a military lawyer for 20 years. We have confused people about as much as you can possibly confuse them. And this all started with the Bybee memo. I think we need to know the history of where we have been, to find where we are before we take corrective action.

Right after 9/11, this Nation was shocked and shaken. We tried to make sure we could secure our freedom and security and do a balancing act, and we have done a pretty good job of it. How can you be secure and still free? How can you fight the worst enemy and still not become the worst of yourself? I think you can.

The Bybee memo was an effort by people at the Justice Department to take international torture statutes that we had ratified and been party of and have the most bizarre interpretation basically where anything goes. It was an effort on the part of the Department of Justice lawyers to stretch the law to the point the law meant nothing. And early on in this process, those in uniform who happened to be military lawyers stood up and spoke.

I am going to read from General Sandkuhler, Brigadier General of the U.S. Marines, who was one of the judge advocates to review this change in policy, this very liberal interpretation of what torture might be. He said:

> The common thread among our recommendation is concern for servicemembers. OLC [Office of Legal Counsel] 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.

The general is telling the civilians that we live in a different world. This is a complex process, and if we interpret a torture statute in the way you are suggesting, we are going to get our own people in trouble.

He says:

> We nonetheless recommend that the Working Group product accurately portray the services' concerns that the authorization of aggressive counter-resistant techniques by servicemembers will adversely impact the following:
>
> a. Treatment of U.S. servicemembers by Captors and Compliance with International Law.

We have been the gold standard. We take this moral high ground to make sure if our people fall into enemy hands that we will have the moral force to say, You better treat them right. If you don't practice what you preach, nobody listens. Sometimes that does not happen, but you don't want to erode the principle because it puts people at risk.

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

All the reasons all the JAGs wanted to push back is that you are going too far if you interpret the statutes as being proposed by the Department of Justice. Some of the techniques violate the Uniform Code of Military Justice.

Senator STEVENS is concerned about joint operations. Here is the rule: If you are wearing America's uniform, you are going to be judged by American standards. You will never be prosecuted unless you do something inconsistent with our law. If you are part of an international group and wondering what to do with a prisoner in front of you, I suggest we let our troops know there are rules they must follow, and if they see anything they think is out of bounds, report it.

The best thing we can do for anybody operating in the war on terror is give them clarity about what to do in very stressful situations. There is the combat role. What do you do with somebody who is captured? You do what the President says: You treat them humanely, you interrogate them by standards we can live by that will not erode our moral authority.

Where have those standards been in the last 50 or 60 years? The Army Field Manual. You can change the Army Field Manual to adapt techniques to the war on terror. There is a classified section of the Army Field Manual. There is nothing about its adoption that limits the ability to aggressively interrogate people to get good intelligence. But if you want to torture people, the Army Field Manual says no and the President says no. It is now time for Congress to say no, and that is what this amendment is about.

Congress has been AWOL when it comes to the war on terror in terms of

interrogation, detention, and prosecution, and we have done it in a way that weakens our Nation. We are the strongest when all three branches are on the same sheet of music. It is important, if we are going to win this war on terror, not to give the moral high ground to your enemy and to have laws that every branch of Government understands and the people implementing these laws are not confused and they will not get in trouble by following what we have said. Congress has been AWOL. It is now time for Congress to step up to the plate and offer assistance in the war on terror to the administration. That is exactly what we are doing.

I asked Judge Roberts, during the confirmation process, about this whole line of questioning. I said:

> Do you believe that the Geneva Convention, as a body of law, that it has been good for America to be part of that convention?
>
> ROBERTS: I do, yes.
>
> GRAHAM: Why?
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> ROBERTS: Well, my understanding in general is it's an effort to bring civilized standards to conduct of war—a generally uncivilized enterprise throughout history; an effort to bring some protection and regularity to prisoners of war in particular. And I think that's a very important international effort.

It is an important international effort, and al-Qaida should not be considered a lawful combatant under Geneva Conventions. But it is about us, as Senator MCCAIN said. When we catch someone who is not under the Geneva Conventions, it is important that our people not only follow the dictates of the President—treat them humanely—but they know what to do. We are giving confusing policies in this new war on terror, this hybrid between a lawful combatant, enemy combatant, and regular combatant. We need to standardize our techniques.

How do we do that to make America the strongest? How can we effectively do that? We get the Congress involved, we get the administration involved, and we get the courts involved. Right now we have two court cases that are all over the board. Judges are telling us—Justice Scalia in one of the court cases is screaming out that Congress has been absent here. Congress needs to speak because the courts are not equipped to run Guantanamo Bay. The courts are not well equipped to interpret military policy, and they need guidance from Congress.

I asked Justice Roberts about that. One of his favorite Justices is Justice Jackson. Justice Jackson in the Youngstown steel case basically said that the executive branch is at its strongest when it has the expressed or implied consent of Congress.

When I met with Judge Roberts on this whole issue about detention, interrogation, and prosecution of enemy combatants, he said this is an area where the courts would welcome congressional involvement.

As a result of us being AWOL in Congress, there is a Supreme Court decision, 5 to 4, giving enemy combatants at Guantanamo Bay habeas corpus rights. They are noncitizens, and they are able to go to Federal court because there is no clear direction from Congress about how to treat these people. Mr. President, 185 of them have lawyers, and they are absolutely overrunning the place. To me, it is absurd that an enemy combatant, noncitizen terrorist has habeas corpus rights, and the reason they do is because we are giving no guidance to the courts about how we want these people treated.

I believe it is now time to give guidance to the courts, to the country, to the international community, to those in uniform serving us, and to the terrorists about what we are going to do, and Senator MCCAIN's amendment has got it. It is the authority that has been missing in this great effort to win the war on terror. It is now bringing standardization into an area which had been previously chaotic. Every military lawyer who has been looking at the policies proposed has come away confused.

Let me tell you unequivocally that the military legal community understands what Senator MCCAIN is doing and wholeheartedly adopts his efforts, that not only would it be good for the Congress to speak with the same authority as the President, but it would help the courts, and it would be good for our troops if they had the protection of standardization.

If you want to help our troops who are trying to win this war on terror, give them the cover they need and the guidance they need. Do not throw them to the wolves. We have had people prosecuted because they have been given an impossible task. They have been given the task of interpreting laws that make no sense. And if you really do want to stand by the troops, give them guidance. Give them the guidance and the tools they can use to get good information, not bad information, and get information in a way that does not embarrass our Nation and put us at risk.

Abu Ghraib has been a giant step back, a huge step back, and one of the reasons we had Abu Ghraib is because nobody there knew what they were doing. They were not trained. They were overwhelmed. They did not have consistency when it came to interpreting the interrogation policies because the policies made no sense. Some people are in jail now. Most of them are in jail because of their own misconduct. Some people have had their careers ruined because they are trying to interpret policies nobody can understand.

That is a huge deviation from the way we conducted war for 50 to 60 years, and we paid the price. We are allowing courts to come in and do things they are not equipped to do because we have been AWOL as Congress. The best thing we can do to win this war is have policies that allow us to effectively interrogate, detain, and prosecute terrorists without ceding the high ground. And this amendment is a start.

I am going to introduce every JAG memo written about the original policies. Their concern is we are putting our own people at risk.

This is General Rives, my current boss:

> Should any information concerning the exceptional techniques—

And they were exceptional—

> 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.

This was written 6 February 2003. He was foretelling what was going to happen. These are not ACLU lawyers. This is a Marine Corps general and a two-star general in the Air Force who dedicated their lives to defending their country and holding us up to be the great Nation we are.

I urge my colleagues to please adopt this amendment overwhelmingly. It will do a great service to future Presidents. It will be a great turning point in the war on terror. It is needed. It is a simple amendment. It uses the Army Field Manual as the bible for interrogation for lawful combatants and enemy combatants. You can write it the way you need to. It does not lock us into a position that would be undermining our efforts to get good intelligence. It simply will be a document that covers how we behave in every known situation from Guantanamo Bay to the battlefield in Afghanistan. It will be something that will help our troops understand what they can and cannot do. It will make us stronger as a nation.

The second part of the amendment is the most important. It says that we as a nation will do what the President said: We will treat everybody in our charge humanely whether they deserve it or not because, as Senator MCCAIN said, it is about us, it is not about them. And it is now time for Congress to speak. It will help us in court. When the courts understand that the Congress has come up with a plan in support of the administration to interrogate detainees, they will give great deference to that situation. When Congress is absent, they are going to be confused, and they are going to do some things they really do not want to do.

This is a very important moment in the war on terror. This brings us back into the light out of the darkness. It allows us to interrogate enemy combatants, unlawful combatants in a way to get good intelligence without undermining who we are as a people. It is necessary, it is legally necessary. It will strengthen our hand in court. It is very necessary to create certainty out of confusion for our troops.

One thing I can say with absolute certainty is that we have let the troops down when it comes to trying to give them guidance about what to do in very stressful situations. We are trying

to give them the armor they need to protect themselves from a terrible enemy. We are trying to give them the intelligence they need to get ahead of the enemy. The best thing we can do is give them the guidance they need to make sure we can win this war on terror and never lose the moral high ground.

I urge every person to think long and hard about this amendment. To vote no on this amendment, in my opinion, dramatically weakens us as a nation. To vote yes reinforces our values, provides good guidance to make sure we get good intelligence, and protects our own people from being prosecuted.

I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. ALEXANDER. Mr. President, it is an honor to serve in the same body with the Senator from Hawaii, a Congressional Medal of Honor winner, and with the Senator from Arizona because of his distinguished service in Vietnam. Whenever the Senator from Alaska, a pilot in World War II, who devoted most of his career here to understanding our defense policies, urges caution, I try to listen and pay attention. But I rise today in support of the amendment by the Senator from Arizona to the Defense appropriations bill, and I ask unanimous consent to be added as a cosponsor.

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

Mr. ALEXANDER. Mr. President, I have listened carefully to the debate about whether it is appropriate for Congress to set the rules on the treatment of detainees. I have listened carefully, but for me the question isn't even close.

The people, through their elected representatives, should set the rules for how detainees and prisoners under U.S. control are treated and interrogated. In the short term, the President can set the rules, but the war on terror is now 4 years old. We do not want judges making up the rules. We Republicans often say we don't like to see judges legislating from the bench. So for the longer term, the people should set the rules. That is why we have an independent Congress. That is our job. In fact, the Constitution says quite clearly that is what Congress should do. Article I, section 8, of the Constitution says that Congress and Congress alone shall have the power to make ''Rules concerning Captures on Land and Water.'' So Congress, as the Senator from South Carolina said, has a responsibility to set clear rules here.

But the spirit of this amendment is really one that I still hope the White House will decide to embrace. In essence, as has been pointed out, the amendment codifies military procedures and policies—procedures in the Army Field Manual and procedures regarding compliance with the Convention Against Torture signed by President Reagan. These amendments uphold or codify policies and procedures the administration says we are following today and intend to follow moving forward.

As the Senator from Arizona pointed out, his amendment would do two things: One, prohibit cruel, inhumane, or degrading treatment or punishment of detainees. It is in specific compliance with the Convention Against Torture that was signed by President Reagan. The administration says we are already upholding that standard when it comes to treatment of detainees, so this should not be a problem.

Secondly, the McCain amendment states simply that the interrogation techniques used by the military on detainees shall be those specified by the Army Field Manual on Intelligence Interrogation. The military, not Congress, writes that manual. We are told that the technique specified in the manual will do the job. Further, it is under revision, as has been pointed out, to include techniques related to unlawful combatants, including classified portions that will continue to give the President and the military a great deal of flexibility.

If the President of the United States thinks these are the wrong rules, I would hope he would submit new rules to Congress so that we can debate them and pass them. I made this same suggestion in July, but no alternative rule has been suggested so far. I am one Senator who would give great weight to the President's views on this matter.

This has been a gray area for the courts over time. In this gray area, the question is, Who should set the rules? In the short term, surely the President can. In the longer term, the people should, through their elected representatives. We are their elected representatives. It is time for us to act. It is time for us to set the rules. We do not want courts legislating from the bench and writing the rules. That leaves us to do our job.

In summary, it is time for Congress, which represents the people, to clarify and set the rules for detention and interrogation of our enemies. If the White House would prefer different rules, I hope the President will tell us what rules and procedures he needs to succeed in the war on terror.

If the argument is whether it is appropriate for Congress to set clear standards, I believe Congress should set standards and will vote to support the amendment of the Senator from Arizona.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. SUNUNU. Mr. President, I rise in support of the McCain amendment. There has been a lot of discussion about the new challenges we face in dealing with organized terrorist cells around the world. The complexity and the nature of those terrorist threats requires us to engage in ever more combat activity that is nonconventional. We want to make sure we do what we can to secure transportation and infrastructure, that we do what we can to deploy technology, that we improve our preparedness. But it does not change the fact that in dealing with terrorism our greatest asset or our greatest tool will be intelligence gathering. Intelligence gathering will require direct engagement with and interrogation of suspects, trying to gather information that can help us disrupt these networks.

We are trying to gather information that can help us prevent future attacks. That process of interrogation, needless to say, is complex and challenging. We have seen many of the problems and some of the abuses that have been documented by some of the previous speakers.

I think this calls out for a process that is more clear and better defined; interrogation tools, techniques, and procedures that we can be sure are applied consistently in the field. That is why I think this amendment is so important. That is why I think we have a fundamental obligation to support this amendment or at least some approach to clarify these processes, standards, and procedures used for interrogation.

I can think of two basic reasons that this is important and that it will benefit our troops and our country. First, by establishing clear lines, procedures, and process for interrogation, we help our own troops, whether working in the uniformed services or working in covert operations or other intelligence-gathering activities. We can be sure that they know what the allowances are, that they know what the process is, that they know what the procedure is, and, in effect, we provide them with appropriate protection and safeguards in doing their job.

In a similar way, we provide those individuals with protection in the field of combat should they be taken as a prisoner of war. We want to make sure our enemies do not have justification for using any interrogation techniques that we would consider to be improper, cruel, or inhumane.

First, we are providing protection and establishing this clarity. Second, I think we are sending an important message to our allies and our adversaries—a message that while the legal standards that are enshrined in the Constitution do not apply to everyone in the world, our commitment to these basic principles of life, liberty, and the pursuit of happiness, our commitment to basic principles of human dignity and human rights do apply and we must find ways to define these standards, to clarify this commitment, even in the area of interrogating enemy combatants and interrogating potential terrorists, suspected terrorists, in the field.

So we send a clear message to our allies and adversaries that our commitment to these principles is real, that our desire to establish uniform standards is real.

I do not know, not having the experience of some of my colleagues, whether this is the perfect standard, whether the requirements and the precise language in this amendment are ideal, but I think this is a fair-minded approach that allows the military itself, through its code of conduct, to establish these definitions that allows for the establishment of a classified annex to deal with covert operations, deal with the most sensitive of captives and the most sensitive of interrogations so that we are not undermining the intelligence gathering that we are attempting to facilitate.

In fact, the approach that is taken has been endorsed, as was indicated by the Senator from Arizona, by many who have had very close and intimate experience with this type of interrogation. In the letter that Senator MCCAIN entered into the RECORD there were two particular points that were made that I want to underscore, and that is, first, ''the abuse of prisoners hurts America's cause.'' I think that is just a fundamental and important underlying point in this debate, that prisoner abuse hurts our cause. It hurts the moral arguments we are trying to make, the political arguments we are trying to make, and it does put our own men and women serving in uniform or in intelligence-gathering operations at risk.

Second, the United States should have one standard for interrogating enemy prisoners that is effective, lawful, and humane. That point brings me back to the concern that we send a clear message to our allies and adversaries that our commitment to human dignity and human rights is universal.

So I am pleased to support the amendment. I think it is a very important first step. I think it gives the military the flexibility that it deserves, and I hope the military will use that flexibility well to add clarity, standards, process, and procedure that will enable us to continue to interrogate prisoners and continue to gather intelligence in dealing with these terrorist networks around the world, but do it in a way that is consistent with the intent, the principle, and the philosophy of our Constitution.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, I rise today in support of amendment No. 1977, which has been offered by Senator MCCAIN, the Presiding Officer, Senator GRAHAM, Senator HAGEL, Senator SMITH, and Senator COLLINS. First, let me commend Senator MCCAIN for the courage that he has shown, again, in offering this amendment. There is not a single person in Congress who can speak with more authority than Senator JOHN MCCAIN on the treatment of prisoners of war.

I have come to this floor many times to address this issue, but my voice is weak compared to his. He has lived this experience in a way that none of us ever have or ever will. I believe his voice should be listened to more than some because he has given so many years of his life to this country and suffered as a prisoner of war personally.

This should be a noncontroversial amendment. It really requires two very simple and straightforward things: First, that the treatment of detainees comply with the Army's Field Manual on Interrogation; and, second, that the United States may not subject anyone in our custody to torture or cruel, inhumane, or degrading treatment. It is that straightforward.

This amendment would affirm our Nation's very important, longstanding obligation not to engage in torture or other cruel treatment. This standard is enshrined in our U.S. Constitution and in several treaties which our Nation has adopted as the law of the land.

Just as important, this amendment would make the rules clear for our soldiers so they know what the standards are that they should follow in the treatment of detainees. We owe this to our troops. If they are going to risk their lives every day in defense of our country, we should give them standards of conduct that are clear and unequivocal.

The prohibition on torture and other cruel treatment is deeply rooted in the history of America. Our Founding Fathers made it clear in the Bill of Rights that torture and other forms of cruel treatment are prohibited.

These principles have even guided us during the times of great national testing. During the Civil War, President Abraham Lincoln asked Francis Lieber, a military law expert, to create a set of rules to govern the conduct of U.S. soldiers in the Civil War. The result was the Lieber Code. It prohibited torture and other cruel treatment of captured enemy forces. It really was the foundation for the Geneva Conventions.

After World War II, the United States took the lead in establishing a number of treaties that banned the use of torture and other cruel treatment against all persons at all times. There are no exceptions to this prohibition.

The United States has ratified these treaties, including the Geneva Conventions and the torture convention. They are the law of the land.

Twice in the last year and a half, I have authored amendments to affirm our Nation's longstanding position that torture and other cruel treatment are illegal. Twice the Senate unanimously approved my amendments. Both times the amendments were killed behind closed doors of conference committees. Both times these amendments, which I offered and which were accepted by the Senate, were stricken from the bill at the insistence of the administration.

As I understand it, the administration does not support Senator MCCAIN's amendment. I sincerely hope that after this debate, they will.

Why would the administration oppose an amendment that affirms our longstanding obligation not to engage in torture or cruel, inhumane, and degrading treatment? Sadly, it is because the actions that they have taken on this critical question have been unclear and inconsistent.

In early 2002, Alberto Gonzales, who was then-White House Counsel, recommended to President Bush that the Geneva Conventions should not apply to the war on terrorism. Colin Powell, former Chairman of the Joint Chiefs of Staff, who was then-Secretary of State, objected strenuously to Attorney General Gonzales' conclusion. He argued that we could effectively fight the war on terrorism and we could live by the Geneva Conventions, which have been the law of the land in America for over half a century.

Unfortunately, the President rejected Secretary Powell's wise counsel and instead accepted Attorney General Gonzales' recommendations. In February of 2002, he issued a memo determining that the Geneva Conventions would not apply to the war on terrorism.

Then the administration unilaterally created new policies on the use of torture. I am referring to, among other things, the well-known Bybee memo of August 1, 2002, which has been publicly disclosed. They have claimed that the President has the right to set aside the law that makes torture a crime. They have narrowly defined torture as limited only to abuse that causes pain equivalent to organ failure or death.

They claim that it is legal to subject detainees to cruel, inhuman, and degrading treatment even though Congress has ratified the torture convention, which explicitly prohibits cruel, inhuman, and degrading treatment. This fact was verified by Attorney General nominee Gonzales during confirmation hearings before the Senate Judiciary Committee, in response to a question which I asked him directly.

Despite all of this, the administration continues to insist that their policy is not to treat detainees inhumanely.

What does this mean? Recently, I asked Timothy Flanigan this question. He was the Deputy to White House Counsel Alberto Gonzales. Mr. Flanigan has been nominated to be the Deputy Attorney General, the second highest law enforcement official in the Nation. Mr. Flanigan said inhumane treatment is ''not susceptible to a succinct definition.''

I asked him whether the White House had provided any guidance to our troops on the meaning of inhumane treatment. He acknowledged that they had not.

I asked Mr. Flanigan about specific abuses. I asked him: would it be inhumane to beat prisoners or subject them to mock executions? He said, ''It depends on the facts and circumstances.''

I cannot imagine facts and circumstances in which it would be humane to subject a detainee to a mock

execution. Last week an editorial in the Washington Post called Mr. Flanigan's answers to my questions, ''evasive legalisms in response to simple questions about uncivilized conduct.''

How are our service men and women supposed to know how to treat detainees when high-ranking administration officials do not seem to know or refuse to respond to these direct questions?

The administration acknowledges that some people held by our Government have been mistreated. Some have been tortured. They say these abuses were committed by a few bad apples, rogue soldiers on a night shift.

But is it any wonder that people have been abused when the administration and Congress do not make it clear that American policy prohibits subjecting detainees to cruel and degrading treatment? Is it any wonder that people have been abused when we refuse to repudiate un-American practices such as beating detainees? The administration should not point the finger of blame at our troops for the logical consequences of muddled and often contradictory policies.

I have been to Iraq. I have spent time with our troops. I have been humbled by their courage and sacrifice. I have visited Walter Reed Hospital many times. I have spoken with young soldiers who have suffered horrible injuries in the war, and I have attended funerals for soldiers who lost their lives in this war, many from my own home State.

Our troops around the world and their families at home deserve our respect, admiration, and support.

Just a few weeks ago, a brave U.S. serviceman stepped forward to say that he and other American soldiers need clear rules and guidance on how to deal with detainees. CPT Ian Fishback is a graduate of West Point. He served in combat both in Afghanistan and Iraq. He was so disturbed by what he had experienced that he wrote to our colleague, Senator MCCAIN. The letter is now public. It was published in the Washington Post last week.

Senator MCCAIN entered part of the letter into the record earlier today. Let me read a little more of the letter, which speaks so powerfully and eloquently to our soldiers' need for guidance and leadership. Listen to what Captain Fishback wrote:

> For 17 months I tried to determine what specific standards governed the treatment of detainees. . . . Despite my efforts, I have been unable to get clear, consistent answers from my leadership about what constitutes lawful and humane treatment of detainees. I am certain that this confusion contributed to a wide range of abuses including death threats, beatings, broken bones, murder, exposure to elements, extreme forced physical exertion, hostage-taking, stripping, sleep deprivation and degrading treatment. I and troops under my command witnessed some of these abuses in both Afghanistan and Iraq.

This administration should stand by the time-honored Geneva Conventions and the torture convention, rules that have served us well in the past, rules that our soldiers are trained in and understand. To replace them with vague directives to treat detainees humanely fails to provide basic guidance that our troops desperately need.

Listen to what Captain Fishback also wrote:

> I can remember as a cadet at West Point, resolving to ensure that my men would never commit a dishonorable act, that I would protect them from that type of burden. It absolutely breaks my heart that I failed some of them in this regard.

It breaks my heart to think that this soldier, risking his life for America in Afghanistan and Iraq, is now reaching out to us because we have failed to provide him with guidance. I am thankful that Senator MCCAIN has stepped forward, along with you, Mr. President, and many others in this Chamber, to give him that guidance.

Captain Fishback is an honorable man. Like the overwhelming majority of the fine men and women who serve our country, he has not failed. We have failed—to give him clear direction in his conduct as a soldier.

The administration has failed to set clear rules for the treatment of detainees. We need to step in and clarify these with the amendment offered by Senator MCCAIN. Cruel, inhuman, and degrading treatment are prohibited. The Army Field Manual governs the treatment of detainees. Senator MCCAIN's amendment will make that clear.

In the past, the administration has opposed amendments that affirm that cruel, inhuman, or degrading treatment is illegal because they ''would have provided legal protections to foreign prisoners to which they are not now entitled.''

But the administration is not correct in this assertion. Cruel, inhuman, or degrading treatment is already prohibited by the torture convention.

Their reasoning is revealing, however. They do not seem to understand the real issue at stake in this debate. This is not about legal protections for foreign prisoners. It is about who we are as a people. Torture is not American; abusing detainees is not the American way. Our brave men and women in uniform understand this, and the plaintive plea of Captain Fishback makes that clear.

I correspond with another soldier who served in Iraq and started sending me e-mails late at night about what was really happening on the ground. He keeps in touch with me now from time to time. He recently wrote to me and said:

> We need to go back toward a strict application of the Geneva conventions. That is where our honor lies and that is what I was taught since the day I joined the service.

Retired RADM John Hutson served our country for 28 years, and for the last 3 years of his career he was the Judge Advocate General, the top lawyer of the Navy. He worked with me on the amendments I authored. He supports Senator MCCAIN's amendment. In a letter to me he wrote:

> Clarion opposition to torture and other abuse by the U.S. will help protect U.S. troops who are in harm's way.

Former Congressman Pete Peterson, a good friend of mine and many in this body, was also a prisoner of war in Vietnam, like Senator MCCAIN. He was in prison for 6.5 years.

In a letter to me in support of our efforts he wrote:

> Congress must affirm that America stands by its moral and legal obligation to treat all prisoners, regardless of status, as we would want the enemy to treat our own. Our courageous men and women deserve nothing less.

Let me close finally by a quote from Captain Fishback's letter.

> Some argue that since our actions are not as horrifying as Al-Qaeda's, we should not be concerned. When did Al Qaeda become any type of standard by which we measure the morality of the United States? We are America, and our actions should be held to a higher standard, the ideals expressed in documents such as the Declaration of Independence and the Constitution. . . .If we abandon our ideals in the face of adversity and aggression, then those ideals were never really in our possession. I would rather die fighting than give up even the smallest part of the idea that is ''America.''

We are so fortunate to have men of his dedication and character serving our country in uniform. We owe it to him, we owe it to the hundreds of thousands of men and women who serve us every single day and risk their lives, to set clear rules so they know how to treat detainees in custody.

I urge my colleagues to support the amendment of Senator MCCAIN. I yield the floor.

Mr. OBAMA. Mr. President, I support the amendment offered by the senior Senator from Arizona. I commend Senator MCCAIN for his leadership on this important issue. This amendment prohibits the cruel, inhuman, or degrading treatment or punishment of persons under custody or control of the U.S. Government. In other words, it outlaws the torture of prisoners by agents of the United States, regardless of their geographic location.

I am, and always have been, opposed to the use of torture. I believe that our brave men and women serving in the Armed Forces share this view. Now more than ever, we must make it absolutely clear to our allies and our enemies that the United States does not and will not condone this practice. This amendment does that in no uncertain terms. It acknowledges and confirms existing obligations under our own Constitution and the United Nations Convention Against Torture.

Let me be clear on another point. I am committed to fighting terrorism and protecting our citizens and troops at home and abroad. I have the utmost respect, gratitude and admiration for our troops who are fighting on the frontlines of the War on Terror, and I have no intention of undermining the important job that they do.

But the use of torture does not enhance our national security. In fact, senior U.S. military officers have argued that practicing torture can place

U.S. troops in grave danger—especially if they are taken prisoner. In working to keep our Nation and troops safe, we must not lose sight of this critical truth.

The United States should set an example for the international community. Senator MCCAIN's amendment reaffirms a fundamental value of the American people—that torture is morally reprehensible and has no place in this world. I am proud to support this affirmation, and I urge my colleagues to do the same.

Mr. LEAHY. Mr. President, I strongly support Senator MCCAIN's amendment to provide clear guidance for the treatment of detainees in U.S. custody. This administration has steadfastly refused to address the black mark on our Nation caused by its interrogation policies and the resulting abuse of detainees. Congress needs to take action.

Our credibility and reputation as a world leader in human rights suffers from our unwillingness to openly address the flaws in our system. More importantly, the failure to provide clear guidance on the treatment of detainees puts our own troops at risk and undermines their efforts in Afghanistan and Iraq. I commend my colleagues across the aisle who are attempting to address this problem, despite resistance from members of their own party and the strong opposition of the White House. The President has threatened to veto any legislation that would regulate the treatment of detainees, claiming that it would impinge on his Commander-in-Chief authority. I fail to see how a bill requiring the humane treatment of detainees—the same treatment the President claims they now receive—would impinge on his authority in any way.

It is Congress's right under the Constitution to issue regulations governing the armed forces. This was something I asked Chief Justice Roberts at his confirmation hearings, and he agreed ''that Congress can make rules that may impinge upon the President's command functions.'' He answered, ''Certainly . . . the Constitution vests pertinent authority in [this] area in both branches. The President is the Commander-in-Chief . . . On the other hand; Congress has the authority to issue regulations governing the armed forces, another express provision in the Constitution.''

Senator GRAHAM said on the floor this morning that, ''Congress has been AWOL when it comes to the war on terror in terms of interrogation, detention and prosecution, and we've done it in a way to weaken our Nation.'' I agree with my friend, the Senator from South Carolina. Without congressional action, the problem of prisoner abuse will continue to fester.

We continue to learn of abuses from press reports and the court-ordered release of government documents in response to Freedom of Information Act, FOIA, litigation. Documents that were recently made public by the FOIA case demonstrate why Senator MCCAIN's amendment is necessary.

These documents reveal a troubling pattern of abuses that occurred because soldiers did not know what was acceptable under this administration's vague detention and interrogation policies. Several of the documents are transcriptions of interviews of military personnel in Iraq that show a systematic failure of the Pentagon to properly train soldiers on how to treat detainees. One report describes soldiers who, because of a lack of guidance and training from their command, engaged in ''interrogations using techniques they literally remembered from movies.'' Another document describes the shooting of an Iraqi detainee in U.S. custody. The report concludes that ''this incident could have been prevented if [the soldier] had better training.''

Another report, released last week by Human Rights Watch and based on firsthand accounts of soldiers in the 82nd Airborne Division, details the widespread abuse of Iraqi detainees by soldiers at Camp Mercury, a forward operating base near Falluja, Iraq. The report states that detainees were severely beaten and mistreated from 2003 through 2004, even after the photos from Abu Ghraib became public. The witnesses claim that detainees were abused at the request of military intelligence personnel as part of the interrogation process, but also claim that the abuse occurred simply as a way for troops to ''relieve stress.'' One soldier allegedly broke a detainee's leg with a baseball bat. In another incident, detainees were stacked into human pyramids and denied food and water. It is time for this administration to finally acknowledge that such incidents were not the isolated acts of a few bad apples. These horrific acts were not isolated incidents on the night shift at Abu Ghraib. Unfortunately, similar acts occurred at locations throughout Iraq and Afghanistan.

A group of 28 senior military officers, including General John Shalikashvili, recently wrote to Senator MCCAIN in support of his amendments addressing detainee treatment. That letter stated, ''The abuse of prisoners hurts America's cause in the war on terror, endangers U.S. servicemembers who might be captured by the enemy, and is anathema to the values Americans have held dear for generations. Our servicemembers were denied clear guidance, and left to take the blame when things went wrong. They deserve better than that.'' I hope the President will consider these words before he vetoes a bill that contains Senator MCCAIN's amendment.

Mr. HAGEL. Mr. President, I rise in support of Senator MCCAIN's amendment No. 1977 regarding the treatment of individuals who are in the custody or control of the United States.

I cosponsored this amendment because the men and women making sacrifices to defend our country deserve clear standards for the treatment of detainees under U.S. control. It is the responsibility of both the Executive and Congress to provide clear guidance and leadership that will direct the actions of our troops.

We have failed to meet this obligation. Soldiers continue to report that the lack of clear guidance has created an atmosphere of confusion and uncertainty around the world. Our failure to confront this issue puts our troops at greater risk of abuse and mistreatment and undermines our credibility.

This amendment will strengthen our ability to fight those who threaten the United States. This amendment codifies into law that the Army Field Manual must be used as the standard for interrogations. In addition, the amendment codifies that the U.S. will not subject detainees to cruel, inhumane and degrading treatment.

This is a commonsense amendment that protects our troops and upholds the standards that this country has held to since the beginning of our Republic.

I urge my colleagues to vote in support of this amendment.

Mrs. FEINSTEIN. Mr. President, I rise in support of amendment No. 1977, offered by my colleague, Senator MCCAIN.

This amendment would bring much-needed clarity to the rules governing how Americans treat captured prisoners and detainees.

It will make clear that the Geneva Conventions apply to all people held in the custody of the Department of Defense.

It provides a workable definition of ''cruel and inhumane,'' based on the rules which govern how we treat criminals in the United States, and based firmly in the constitutional prohibitions of cruel and unusual punishment.

Most importantly, it sets rules that are clear, simple and in accord with basic American values.

First, let me make clear my view that in this modern world of asymmetric warfare, non-state actors, and unconventional threat, there is an absolute necessity to have a program to securely hold prisoners and effectively interrogate them to provide timely intelligence.

But in my judgment, the current system is not working.

Over the course of the past 4 years, there has been a great deal of confusion over the policies and practices of the United States towards individuals the Government has taken into custody.

This confusion has been evident at the highest levels of decisionmaking at the Pentagon, with memoranda authorizing this technique or that technique being issued and rescinded within weeks of one another.

The confusion has been noted here in the Senate. I sit on two committees with jurisdiction, and have sat through hours and hours of hearings and briefings—our Nation's policy with respect to detainees and prisoners of war is still unclear to me.

Frankly, the administration's repeated statements about ''wherever

possible adhering to law'' are confusing and unhelpful.

And the confusion has filtered down to the front lines.

Seventeen months ago, enlisted members of the 82nd Airborne Infantry Division—honorable men risking their lives in Iraq—asked their commanding officer what the rules were for the treatment of prisoners.

For 17 months, their commander, CPT Ian Fishback, diligently searched for the answer up and down his chain of command. Here is what he has found, and I quote:

> We've got people with different views of what ''humane'' means and there's no Army statement that says ''this is the standard for humane treatment for prisoners to Army officers.'' Army officers are left to come up with their own definition of humane treatment.

Captain Fishback and his men have a right to clear guidance. Their sacrifices entitle them to be allowed to do their job. An infantryman should not need to be a graduate of a law school to know what to do with a prisoner.

What this amendment does is to provide clarity.

It is incumbent on Congress to provide this clarity. In fact, we have a constitutional mandate to do it.

Article VII, section 8 of the Constitution states that Congress shall have the power to ''make Rules concerning Captures on Land and Water,'' and also ''To make Rules for the Government and Regulation of the land and naval Forces.''

Our men and women in combat badly need this legislation. But there is more at stake here than immediate military necessity.

Our soldiers and our Nation have a long and honorable tradition of ethical behavior. For more than 200 years we have prided ourselves on being different than our adversaries in war. Simply put, there are some things that Americans do not do, not because it is illegal, or some lawyer says we cannot, but because it is wrong.

The laws of war, codified in the Geneva Conventions, represent a bare minimum of acceptable behavior toward captives. The United States has consistently championed the Geneva Conventions for over a century, knowing that our behavior is a beacon to the world, and that our adherence to principle—as well as projecting American values—saves American lives.

I am not naïve. I do not expect our current enemy to respect the Geneva Conventions. Our captured troops cannot expect humane treatment at the hands of al-Qaida. But make no mistake—the eyes of the world are still on us, and our policies have real consequences.

Even now, millions of young Muslims around the world are evaluating the United States. They are deciding whether to take up arms against us, or whether to work with us towards a peaceful resolution with liberty and justice for all. We must show them, clearly, emphatically, that the rhetoric of democracy and freedom is not empty. We must show them that we are a government of laws, clearly written, openly promulgated and fairly enforced.

Captures and interrogations are part of war and, no less than other tools of war, must be wielded intelligently, humanely, and within a set of rules for warfare that govern all who serve in uniform—whether privates or generals, seamen or admirals.

Our men and women in uniform, serving in Afghanistan, Iraq and at Guantanamo Bay, have the right to clear, direct and lawful leadership.

This amendment is good policy, is just, and is long overdue.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I ask unanimous consent that the Senator from Illinois, Mr. DURBIN, be added as a cosponsor.

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

Mr. MCCAIN. Mr. President, first I thank my friend and colleague from South Carolina for his comments in support of this amendment. He does occupy a unique position in this body, having served 20 years—6½ years on active duty as an Air Force lawyer and member of the JAG Corps, and remains in the Reserves to this day. He obviously brings a perspective to this issue which is very important.

I think the Senator from South Carolina described the confusion that existed over a period of time about this whole issue of treatment of prisoners. There was a set of instructions issued which were in effect for a couple of months, which were strongly objected to by the uniformed legal corps in the Pentagon. Yet their concerns were overridden.

The Senator from South Carolina quoted one of them. Another one was by RADM Michael Lohr, the Navy's Judge Advocate General. He said the situation at the American prison in Guantanamo, Cuba, might be so legalistically unique that the Geneva Conventions and even the Constitution did not necessarily apply. But, he asked,

> 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?

General Rives said if the White House permitted abusive interrogations at Guantanamo Bay, it would not be able to restrict them to that single prison. He argued that soldiers elsewhere would conclude that their commanders were condoning illegal behavior. And that is precisely what happened at Abu Ghraib after the general who organized the abuse of prisoners at Guantanamo went to Iraq to toughen up the interrogation of prisoners there.

I think it is clear that the White House ignored those military lawyers' advice a couple of years ago. We now have, thanks to the yearlong effort of the Senator from South Carolina, those communications of deep concern to every uniformed JAG in the Department of Defense, about the issuance of instructions which basically violated our commitment to the Geneva Conventions.

In order to have the record complete, a couple of months later those were rescinded and different orders were issued at that time. But what if you are at the end of the chain and you get these kinds of mixed messages?

So I thank the Senator from South Carolina for pointing out from his unique perspective how important this is, since it is the men and women who are in the JAG Corps who are responsible for prosecuting those who violate Geneva Conventions, and they need clear guidance; or defending someone who is accused of violating them, as our men and women of the military are entitled to defense just as they are subject to prosecution.

Again, I thank the Senator from South Carolina. I appreciate the defense of the Senator from Alaska of the administration's position on this issue. I do not think he has been well informed by the administration, particularly concerning the Army Field Manual.

The Army Field Manual has a classified section which would not be available to anyone except for those who have a need to know. The Army Field Manual has been used for decades. The Army Field Manual is being revised as we speak to try to meet the new challenges we face. But the Army Field Manual, I am confident, will be in keeping with the fundamental commitments we have made.

All my career I have supported the rights and prerogatives of the Commander in Chief. We need a strong President, and in wartime this is more important than ever. I understand the administration would want to preserve the President's flexibility and wartime powers, and I do not believe that we can afford to have 535 Secretaries of State, Secretaries of Defense, or even Presidents of the United States.

I would like to point out the Congress not only has the right but the obligation to act. Article I, section 8 of the Constitution of the United States, clause 11:

> To declare War, grant Letters of Marque and Reprisal, and make Rules concerning Captures on Land and Water[.]

I repeat:

> . . . make Rules concerning Captures on Land and Water[.]

Someone is going to come down to the floor and say that applied back in the time of the Framers of the Constitution; it didn't apply to today. At least from my point of view, unless there is an overriding need to change the Constitution of the United States—if that clause of the Constitution no longer applies, then lets amend the Constitution and remove it; otherwise, lets live by it.

The Congress has the responsibility:

To declare War, grant Letters of Marque and Reprisal, and make Rules concerning Captures on Land and Water[.]

I do not see how anyone could view this as an unwarranted intervention in an issue such as this. The courts, as the Senator from South Carolina pointed out so well, are asking us—that well-known liberal judge, Justice Scalia, has said we need the Congress of the United States involved in this issue. We, the courts, cannot do it ourselves.

As the Senator from South Carolina pointed out, if we do not fulfill our constitutional role, we are negligent. We owe it to our troops and our country to speak on this issue.

I very much respect my friend, the Vice President of the United States, Vice President CHENEY. He and I have been friends for many years. I respect the way that he carefully guards the prerogatives of the President. But on this issue, I hope he and others would understand that we are dutybound to take action.

I would like, again, to refer back to Captain Fishback. He is what I view as the tip of the iceberg that exists in the military today. They know how important this war on terror is. They are the ones who are fighting it. Captain Fishback served in Afghanistan and in Iraq, and the ones I hear from are men and women in the military who have a very strong commitment to winning the war on terror. They have laid their lives on the line to win it. But they want clear, unequivocal guidelines as to how to treat prisoners of war.

I would like to believe that this is the last war in which the United States will ever be involved. I would like to believe that from now on, after we win this war on terror, we will have peace and the United States will never send its men and women in harm's way again.

History shows me otherwise. What happens in the next conflict when American military personnel are held captive by the enemy and they make the argument, with some validity, that we have violated the rules of war? What happens to our men and women in the military then?

There are some who will say they wouldn't respect the rules of war, anyway. If they are not sure they are going to win, as the Germans weren't in World War II, they might treat our prisoners according to certain standards if we insist upon those standards.

I think there is a lot at stake. I respect the position of the administration, that these should be under the authority and responsibility and would erode the flexibility of the President of the United States. I don't believe so.

This amendment basically restates what we have been practicing for certainly all of the 21st and the 20th centuries.

I think we owe it to the people, these brave young Americans such as Captain Fishback, who want and deserve a clarification in the way they can carry out their responsibilities and duties as they travel into harm's way.

I thank the Senator from New Hampshire, the Senator from Tennessee, the Senator from Illinois, and my friend from South Carolina for their eloquent statements on this issue.

I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. MCCAIN. Mr. President, I yield the floor.

Mr. STEVENS. Mr. President, this Senator doesn't agree with anything that has been said about the applicability of this provision to anyone in the military uniform. Most of the speakers have talked about men and women in the armed services. The amendment goes much further than that.

But first, the problem is it requires the field manual to list every type and means of interrogation. Thousands of pages will be required. People will be prosecuted in military courts if they don't know every single one of them, if they even cross the line by accident. This idea of listing all of the possible ways to interrogate a person is impossible. I say that should be changed. Maybe they should issue from time to time additional items to go in the field manual. But to require that no one can use a means of interrogation not listed in advance when we are involved in a war on terror and we are dealing with terrorists is wrong.

Beyond that, this deals with any person—not any military person. The Geneva Conventions were originally intended to deal with military prisoners. This is dealing with anyone who is intercepted now anywhere in the world who, regardless of nationality or physical location, is in custody or physical control of the United States because a person who is American happens to be there.

Again, I mention these teams I have met with, and I respect multinational teams. This, in effect, says that an American is responsible for anything done by any member of that team. That, to me, is wrong.

What is more, I think it is wrong to presume there is no place in this country or in the operation of this country where we should not have the ability to deal with terrorists on their own ground.

These are vicious people, suicidal people. I do not think they should be accorded the rank and treatment of men and women in uniform from other nations. That is what this amendment does. I shall oppose it. I may be all alone, but I shall oppose it because I think there is a place in our operations against individuals involved in the war on terrorism where we deal with them as they deal with us.

These are not military people. They may not even be American nationals who are working for us in an undercover way, but this says we are responsible for treating all these people according to the Geneva Conventions and according to processes listed in the U.S. Army Field Manual. That is wrong. That is all simply wrong, and I shall oppose the amendment.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Ms. MURKOWSKI). The clerk will call the roll.

The Journal clerk proceeded to call the roll.

Mr. GRAHAM. Madam President, I ask unanimous consent that the order for the quorum call be dispensed with.

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

Mr. GRAHAM. Madam President, I ask unanimous consent to set aside the pending amendment.

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

AMENDMENT NO. 2004

Mr. GRAHAM. Madam President, I call up my amendment which is at the desk.

The PRESIDING OFFICER. 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 2004.

Mr. GRAHAM. Madam 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 authorize the President to utilize the Combatant Status Review Tribunals and Administrative Review Board to determine the status of detainees held at Guantanamo Bay, Cuba)

At the appropriate place, insert the following:

SEC. ____.(a) AUTHORITY TO UTILIZE COMBATANT STATUS REVIEW TRIBUNALS AND ADMINISTRATIVE REVIEW BOARD TO DETERMINE STATUS OF DETAINEES AT GUANTANAMO BAY, CUBA.—The President is authorized to utilize the Combatant Status Review Tribunals and a noticed Administrative 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 the procedures that were in effect in the Department of Defense for the conduct of the Combatant Status Review Tribunal and the Administrative 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, regardless of location.

Mr. GRAHAM. Madam President, I thank Senator STEVENS for allowing me to do this. I appreciate that we have a busy day.

I totally understand where he is coming from about the interrogation amendment. I come out on a different side. This amendment deals with the combat status review procedure at Guantanamo Bay. I think it is very necessary. I think it strengthens what the administration is trying to do when it comes to enemy combatants. I think it helps the administration in court and is good policy for the country.

No. 1, I totally agree with the President that a member of al-Qaida should not be given Geneva Conventions status. I say to my friend from Alaska that Senator MCCAIN's amendment doesn't confer Geneva Conventions status on enemy combatants. It standardizes the interrogation techniques. The Army Field Manual has a section for lawful combatants, those covered under the Geneva Conventions, and it will have a provision for unlawful combatants. Al-Qaida should not be given Geneva Conventions status. The Geneva Conventions and the signatories to the convention set the rules for the conduct of war. An unlawful enemy combatant is someone who goes around the battlefield without a uniform, doesn't represent a nation—a terrorist, for lack of a better word. They do not deserve the protection of the Geneva Conventions because they are cheating. But they do, in my opinion, deserve what the President said—not so much because they deserve it but because it is about who we are.

The President said even enemy combatants—members of al-Qaida—will be treated humanely. When we capture somebody on the battlefield—throughout the world because the whole world is the battlefield in the war on terror—most of the people we are dealing with are not part of the uniformed force, not like the Iraqi Army.

The President said early on these people will be humanely treated but they will not be given Geneva Convention status. He is absolutely right. When we catch someone, say, in Afghanistan, who is a member of al-Qaida or some other terrorist network, certain people, once screened, go to Guantanamo Bay. The people at Guantanamo Bay have been participating in the allegations, or they have been participating in terrorist activities, supporting terrorist organizations as an unlawful enemy combatant. They are not uniformed soldiers.

We are reviewing everyone that comes to Guantanamo Bay to see if they deserve the status ''enemy combatant.'' The term ''enemy combatant'' came out of World War II when we had a Supreme Court case recognizing that term for German saboteurs who landed, I think, in Florida and were trying to do sabotage throughout the United States. These six or seven Germans were not in uniform. They were tried by a military commission.

We have a military commission at Guantanamo Bay that I totally support. And I think enemy combatant status was a result of that Supreme Court case. They were given that determination.

What we are trying to do is streamline interrogation techniques to deal with both lawful and unlawful combatants. That helps our troops, gives them guidance.

The second thing we are doing with my amendment is legitimizing, through congressional action, what the administration has done at Guantanamo Bay. The administration, in my opinion, has put together a very good, thorough process to look at each person that comes to Guantanamo Bay to determine whether or not they should be classified as enemy combatants because if they are classified as enemy combatants, they can be detained indefinitely and taken off the battlefield.

The due process rights afforded an enemy combatant have been up to the Supreme Court, and the Supreme Court, for the most part, has blessed the procedure. There have been some concerns expressed by the Court.

My amendment tries to, one, legitimize what the administration has created at Guantanamo Bay in terms of a review process to determine who is an enemy combatant and who is not. We made two small changes. We have learned in the past that sometimes people have been because of a single statement made, while in the hands of a foreign agency, a foreign country, that was given under duress. The amendment says that if a civilian is to determine enemy combatant status in a statement from a foreign interrogation, you have to prove that the statement was not unnecessarily coerced. Most Americans, I think, agree with that, and the people at Guantanamo Bay agree with that.

Second, the civilian who will determine from the appeal process whether or not the enemy combatant status, which is reviewed annually, should be held, would be appointed by the Senate as a Presidential appointment. Gordon England is doing it now, and he is a Presidential appointee. That continues the trend. I think it would be good to have the Senate involved.

What does this mean, very briefly? It means we can go to the world and say we have a procedure in place at Guantanamo Bay that will determine who an enemy combatant is and that these procedures are blessed by the courts, they are blessed by the Congress, and they are blessed by the administration. It would be good to be able to say, as a nation, that all three branches of Government—the executive branch, the judicial branch and the legislative branch—have all agreed on procedures to take enemy combatants off the battlefield and give those people who are suspected of being enemy combatants due process rights consistent with whom we are as a people and give enough flexibility to the military to make sure these people do not go back to the fight.

The truth is, several hundred have been captured and released. The process is working very well at Guantanamo Bay. I compliment the administration for setting up a combat status review process that has been changed a couple of times. It is eminently fair. This amendment blessed that process. It has two small changes. It would strengthen the process, and it would end this never-ending court debate about what to do.

The courts have been telling us, Congress, if you got involved, it would help us figure out what we should be doing. Justice Scalia, as Senator MCCAIN indicated, screamed out, in a dissenting opinion granting habeas corpus rights to enemy combatants, that the courts are ill-equipped to run this war. Now, with this amendment, the Congress will bless what the administration has put in place, making small changes which will strengthen the administration's hands in the court. The courts will feel more comfortable ratifying this process, and we will be a united nation, a united front in all three branches of Government when it comes to dealing with enemy combatants.

It is very important that anyone who engages in unlawful enemy combatant activities against this Nation be taken off the battlefield and kept off the battlefield as long as necessary to make us safe. They deserve a certain amount of process because whom we are as a people and the process we are blessing gives them very adequate due process rights.

This amendment strengthens those rights. They deserve to be taken off the battlefield, and people engaging in unlawful enemy combatant activities should be taken off the battlefield as long as necessary to protect our country.

Second, they deserve to be prosecuted in some instances. There are three things we are trying to accomplish. We are trying to standardize interrogation techniques to protect our own troops and have a one-stop shopping for what the rules are. That is through Senator MCCAIN's amendment. We are trying to keep the moral high ground, as expressed by the President,

to say we are not torturing people, we are not going to treat people inhumanely because that weakens us. The bottom line, it is not the right way to get good information and weakens us. The more standardization the better.

When it comes time to keep people off the battlefield, with this amendment we are stronger as a nation because Congress will have blessed what the administration has done.

In that regard, I offer this amendment as a way to bring clarity to a situation that is very important in the war on terror. We need to keep enemy combatants, once they have been lawfully determined to be an enemy combatant, off the battlefield as long as it takes to secure this Nation. This amendment helps to do that.

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. STEVENS. Madam President, I am informed there are objections from Members of the Committee on Armed Services to this amendment. I urge them to come over and defend their position.

This Senator was prepared to accept the amendment. It may be subject to a point of order. I am not sure. I do believe there are detainee items in the House-passed bills that would be germane under the circumstances, but it is another example, I might say, of the problems we get into when items that pertain to legislation end up on appropriations bills.

We are not really prepared to debate the amendment. I urge Members of the Committee on Armed Services who wish to do so to debate this amendment.

My only question is—I know the Senator is an extremely good attorney—has the phrase ''unlawful enemy combatant'' been used in any other portion of our laws of the Geneva Conventions?

Mr. GRAHAM. Yes. It is in the Geneva Conventions. There is a section about unlawful enemy combatant, illegal enemy combatant.

The conventions are set up to confer status on signatories and to make sure that people who engage in unlawful activity are not covered. The people who wear civilian clothes that go in the population and engage in terrorist activity have never been covered under the convention. Under the convention, that is the definition they are giving.

The administration has used the term that has been legitimized by the courts for quite a while now in international law. In the review process at Guantanamo Bay, they will take the person off the battlefield. They have to make a case whether they fit the definition of enemy combatant. Each year they can challenge the designation. What we are doing in this amendment is basically blessing that procedure, requiring two more things.

One, the idea that the Senate will confirm the person who will ultimately have the release authority or the appeal authority to enemy combatant status; and two, prohibit the use of a single statement to hold somebody as an enemy combatant who was in a foreign government's hands, unless we can show the statement was not a result of torture.

We have learned from our experience at Guantanamo Bay that would be a good change.

Mr. McCAIN. Will the Senator yield?

Mr. GRAHAM. Yes.

Mr. McCAIN. Does the Senator know how many detainees have been brought to trial in Guantanamo Bay?

Mr. GRAHAM. Of all the people we have detained—over 500—no one has been brought to trial yet. Two will be brought to trial in November.

One of the reasons that we cannot bring people to trial is because the Federal courts have issued a stay on prosecutions that has now been lifted. We are moving forward.

There is another Supreme Court case dealing with the due process rights of determining whether a person is an enemy combatant. The procedure is in place at Guantanamo Bay and has been generally blessed by the Court because they have been stayed on those proceedings, too.

Mr. McCAIN. If the Senator will yield, aren't there two different Court decisions now that are in direct contravention of each other as to the disposition of these cases?

Mr. GRAHAM. Yes there is.

Mr. McCAIN. Could the Senator describe those.

Mr. GRAHAM. There was a stay by Federal district judge, staying military commission trials. The DC Circuit Court of Appeals overrode the lower court. That has gone up to the Supreme Court right now. I am confident the Supreme Court will legitimize military commissions, maybe with some changes.

This amendment deals with detaining somebody who is not being prosecuted yet, who may be prosecuted, but keeping them off the battlefield because we have determined they are an unlawful enemy combatant. The review process to make that determination I feel very comfortable with. And there are some small changes in the amendment. The courts have told us this is an area where Congress needs to act. The courts have many cases, not just one, challenging the Guantanamo Bay procedures and determining unlawful enemy combatant. Justice Scalia said in the dissenting opinion, if this were an area where Congress spoke, the courts would welcome their involvement.

Mr. McCAIN. If the Senator will yield further for a question, I guess my fundamental question is, aren't things in one heck of a mess?

Mr. GRAHAM. The legal status of military commissions and the combat status review process are in legal limbo unnecessarily.

If you read these opinions, they are a hodgepodge of different dissenting and concurring opinions. The one common theme is the courts are suggesting to Congress we get involved.

When it comes to combat status review, I am totally convinced, after talking with now Chief Justice Roberts, this would be an area where the courts would welcome congressional involvement. He said to me in the hearings that the President or the executive branch is at its strongest when they have the implied or express support of the Congress.

So the purpose of this amendment, if I may say very briefly, is for Congress to legitimize what is going on at Guantanamo Bay about determining enemy combatant status, legitimizing that review process by making some changes. If we would do that, I am convinced the courts would welcome that involvement and a lot of this litigation would end overnight.

Mr. STEVENS. If the Senator will yield, has this matter been discussed in the Committee on Armed Services?

Mr. GRAHAM. I have discussed it with one of the cosponsors of the amendment, Senator WARNER, yes. I have been to Guantanamo Bay with Senator WARNER and others, where we have talked about this. Yes, sir, I am very sure that the chairman knows about this because he is a cosponsor of the amendment.

Mr. STEVENS. I say to the Senator, that is another question. We were prepared to accept the amendment because—I don't claim expertise in this area; it is not within our jurisdiction. It is legislation on an appropriations bill, but I don't intend to raise an objection to it.

Has this been discussed, on a bipartisan basis, in the committee?

Mr. GRAHAM. I was under the assumption the amendment was going to be accepted, as you were, and now I have been told there are some concerns from the minority on the committee. I have talked extensively about these series of amendments. They all work in conjunction with each other. Senator McCAIN's amendment standardized interrogation techniques and what we as a people want to live by—we do not want to torture people. We are not going to torture people.

My amendment standardizes and makes small changes to the determination of who is an enemy combatant and who is not, because you keep people at Guantanamo Bay indefinitely under this procedure. It needs to be blessed by Congress. The third thing we do, later on, is deal with military commissions, actually how you try these people.

So I was under the understanding, I say to the Senator, that not only was Senator WARNER a cosponsor of these two amendments, but that everybody was on board. The point here is to give the courts some guidance to bring about legal certainty where there is a legal mass, as Senator McCAIN indicated. So I don't know why anybody is objecting.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Madam President, I believe the Senator's amendment has real merit. I find no objection to it. It has been conveyed to me by the administration. We still have a very small difference—it sounds like a big difference—on the McCain amendment. But we have no difference on this amendment. We are prepared to accept it, unless someone comes over here and finds a way to articulate an objection.

Mr. MCCAIN. Madam President, who has the floor?

The PRESIDING OFFICER. The Senator from Alaska has the floor.

Mr. STEVENS. Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Madam President, first, I thank the Senator from Alaska for his cooperation. I thank the Senator from South Carolina for his unique and very important perspective on this issue. But I also point out it is very unfortunate—very unfortunate—the Senator from South Carolina has to put this on an appropriations bill. I do not want to get off the subject too much, but there is something wrong with our process here that I have to, for my amendment, find some narrow germaneness in order to get around my commitment to not authorize on an appropriations bill. Technically, I am not authorizing on an appropriations bill.

It is very unfortunate the Senator from South Carolina has to authorize on an appropriations bill. There may be some objection from someone in the minority. There may be some question. That is because we are not going through an orderly process. This should have been as an amendment on the authorization bill, and that should have been taken up. If someone did not like it, they could have voted to take it out. Now we are in a process where the Senator from South Carolina has to put it in.

Our system here is broken, and we need to properly authorize. I certainly am not blaming the Senator from Alaska. He has his responsibility to get the appropriations bill done. But there is something wrong when we are in a war—in a war; Americans' lives are on the line as we speak—and somehow we do not have room in our agenda to authorize the training, the equipping, the benefits, the pay, all of the things that go with an authorization bill, including the amendment of the Senator from Carolina.

A lot of us have repeatedly decried that this process of legislating is so badly broken today that we cannot even take care of the men and women in the military in an orderly fashion. It cries out for fixing. I would hope at some point we, as a body, would fix this system so we authorize before we appropriate funds. Again, this is meant as no criticism of the Senator from Alaska. He is playing the hand he is dealt. But there is something very badly wrong when we are in a war and somehow we cannot find time in our agenda and ought to authorize the much-needed pay raises, equipment, training, and all of the other things that go along with the authorization of our Nation's defenses.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Madam President, first, I thank the Senator from Arizona and the Senator from South Carolina for bringing focus to this issue. They are approaching this issue in different ways, but it is a matter of enormous importance and consequence. Both Senators, as members of the Armed Services Committee, remember the good deal of thought, work, and consideration given this subject matter by the Armed Services Committee under the guidance of Senator WARNER and Senator LEVIN.

AMENDMENT NO. 1977

Madam President, now is time for action. That is why I rise to speak in strong support of the McCain amendment and urge our colleagues to understand it and to give it strong support as well.

As we know, nearly 2 years ago, American soldiers at Abu Ghraib were struggling to figure out how to handle the hundreds of detainees who were pouring into that facility. They had no guidance. They had no directions to regulate that treatment. In the absence of that guidance, their treatment of detainees deteriorated into cruel and inhumane and degrading treatment.

They documented their cruelty, and the images are still horrifying—an Iraqi prisoner in a dark hood and cape, standing on a cardboard box with electrodes attached to his body; naked men forced to simulate sex acts on each other; the corpse of a man who had been beaten to death, lying in ice, next to soldiers smiling and giving a ''thumbs up'' sign; a pool of blood from the wounds of a naked, defenseless prisoner attacked by a military dog.

The reports of widespread abuse by U.S. personnel was initially met with disbelief and then incomprehension. But the reports are too numerous to ignore. We had reports of detainees in Afghanistan shackled to the floor, left out in the elements to freeze to death. We have had reports of detainees in Guantanamo who were subjected to sexual humiliation.

Human Rights Watch recently released a report based on the statements of three soldiers, one officer and two noncommissioned officers, in the 82nd Airborne who described how their battalions routinely used physical and mental torture as means of intelligence gathering and stress relief—torture as a sport.

They stand in sharp contrast to the values America has always stood for: our belief in the dignity and worth of all people, our unequivocal stance against torture and abuse, our commitment to the rule of law. The images horrified us and severely damaged our reputation in the Middle East and around the world.

Instead of taking responsibility for what happened, the generals and senior administration officials tried to minimize the abuse as the work of ''a few bad apples''—all conveniently lower rank soldiers—in a desperate effort to emphasize the role of senior military officials in exposing the scandal and insulate the civilian leadership from responsibility for changing the rules.

It is clear what the results of those changes were. CPT Ian Fishback, a West Point graduate and officer in the 82nd Airborne, wrote: Despite my efforts, I have been unable to get clear, consistent answers from my leadership about what constitutes lawful and humane treatment of detainees. I am certain that this confusion contributed to a wide range of abuses including death threats, beatings, broken bones, murder, exposure to elements, extreme forced physical exertion, hostage taking, stripping, sleep deprivation and degrading treatment.

For nearly 2½ years—from August 2002 until December 2004—the executive branch of our Government operated under the assumption that it was not bound by the law that prohibits torture. The Office of Legal Counsel promulgated an official opinion stating that the President and everyone acting under his Commander-in-Chief authority was free to ignore this law. It states:

> Any effort to apply [the anti-torture statute] in a manner that interferes with the . . . detention and interrogation of enemy combatants . . . would be unconstitutional.

This opinion was adopted and implemented by the CIA and the Department of Defense. Effectively, what it was saying was that for anybody who was operating under the DOD, if the purpose of their torture was to get information, then it was basically all right. If the purpose of the torture was to bring harm, then it would be illegal. But that decision by the Office of Legal Counsel in the Department of Justice effectively said: The school is out. People can do anything they want to with any detainee. And that was the rule for 2½ years. It is called the Bybee memorandum. We have had extensive hearings on that in both the Armed Services Committee and the Judiciary Committee.

This opinion was adopted and implemented by the CIA and the Department of Defense. Harold Koh, a leading scholar of international law and dean of Yale Law School, who served in both the Reagan and Clinton administrations, called it ''the most clearly legally erroneous opinion'' he has ever read. That is in reference to the Bybee memorandum that was requested by the CIA and the Department of Defense, through the Attorney General, from the Office of Legal Counsel, to give them a memorandum to effectively permit wholesale torture. They received that memo, and they used it

to gut our long-standing laws. That Bybee memo was the law of the land, effectively, in the CIA and the Department of Defense for 2½ years. We saw what the results were. The McCain amendment would make sure that will not happen again.

Our political leaders made deliberate decisions to throw out the well-established legal framework that has long made America the gold standard for human rights throughout the world. The administration left our soldiers, case officers, and intelligence agents in a fog of ambiguity. They were told to ''take the gloves off'' without knowing what the limits were, and the consequences were foreseeable.

In rewriting our human rights laws, the administration consistently overruled the objections of experienced military personnel and diplomats. The Secretary of State, Colin Powell, warned the White House:

> It will reverse over a century of U.S. policy and practice in supporting the Geneva Conventions and undermine the protections of the law of war for our [own] troops.

Senior Defense officials were warned that changing the rules could lead to so-called ''force drift'', in which, without clearer guidance, the level of force applied to an uncooperative detainee might well result in torture.

William Taft, the State Department Legal Advisor in President Bush's first term, recently called it a source of amazement and disappointment that the Justice Department severely limited the applicability of the Geneva Conventions to the detainees. In an address at American University, he said the decision to do so:

> unhinged those responsible for the treatment of the detainees . . . from the legal guidelines for interrogation . . . embodied in the Army Field Manual for decades. Set adrift in uncharted waters and under pressure from their leaders to develop information on the plans and practices of al Qaeda, it was predictable that those managing the interrogation would eventually go too far.

And they did.

The Judge Advocates General echoed Mr. Taft's concerns. On July 14, 2005, the JAGs appeared before the Senate Armed Services Committee's Subcommittee on Personnel. In response to questioning by my friend Senator GRAHAM, the witnesses acknowledged that the Justice Department's policy embodied in the Bybee torture memorandum's definition of torture was a violation of international and domestic law and alarmed the Judge Advocates General who reviewed it.

Their alarm was well founded because their concerns were overruled by General Counsel William Haynes, who issued the Defense Department's April 2003 Working Group Report. The report twisted and diluted the definition of ''torture,'' claimed that military personnel who commit torture may invoke the defenses of ''necessity'' and ''superior orders,'' and advised military personnel that they are not obligated to comply with the Federal prohibition on torture.

Senator GRAHAM himself accurately assessed the impact of the civilian authorities when he told the JAG officers at the hearing: I think it is fair to say that the Department of Defense was secondary to the Department of Justice in a political sense, and that was our problem. If they had listened from the outset, we wouldn't have had a lot of the problems that we have had to deal with in the past.

The President is not an emperor or a king. His administration is not above the law or accountability, and he is certainly not infallible.

The single greatest criticism of this administration's detention and interrogation policies is that it failed to respect history, the collective wisdom of our career military and State Department officials, and that it holds far too expansive a view of executive authority. In short, the White House suffers from the arrogance of thinking they knew best and abandoning the long-standing rules.

As Captain Fishback wrote:

> We owe our soldiers better than this. Give them a clear standard that is in accordance with the bedrock principles of our nation.
>
> We are America, and our actions should be held to a higher standard, the ideals expressed in documents such as the Declaration of Independence and the Constitution.

The McCain amendment takes a strong step forward to giving our troops that standard. I hope it is supported. Madam President, I ask unanimous consent that Captain Fishback's letter, which was published in the Washington Post, be printed in the RECORD.

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

DEAR SENATOR MCCAIN: I am a graduate of West Point currently serving as a Captain in the U.S. Army Infantry. I have served two combat tours with the 82nd Airborne Division, one each in Afghanistan and Iraq. While I served in the Global War on Terror, the actions and statements of my leadership led me to believe that United States policy did not require application of the Geneva Conventions in Afghanistan or Iraq. On 7 May 2004, Secretary of Defense Rumsfeld's testimony that the United States followed the Geneva Conventions in Iraq and the ''spirit'' of the Geneva Conventions in Afghanistan prompted me to begin an approach for clarification. For 17 months, I tried to determine what specific standards governed the treatment of detainees by consulting my chain of command through battalion commander, multiple JAG lawyers, multiple Democrat and Republican Congressmen and their aides, the Ft. Bragg Inspector General's office, multiple government reports, the Secretary of the Army and multiple general officers, a professional interrogator at Guantanamo Bay, the deputy head of the department at West Point responsible for teaching Just War Theory and Law of Land Warfare, and numerous peers who I regard as honorable and intelligent men.

Instead of resolving my concerns, the approach for clarification process leaves me deeply troubled. Despite my efforts, I have been unable to get clear, consistent answers from my leadership about what constitutes lawful and humane treatment of detainees. I certain that this confusion contributed to a wide range of abuses including death threats, beatings, broken bones, murder, exposure to elements, extreme forced physical exertion, hostage-taking, stripping, sleep deprivation and degrading treatment. I and troops under my command witnessed some of these abuses in both Afghanistan and Iraq.

This is a tragedy. I can remember, as a cadet at West Point, resolving to ensure that my men would never commit a dishonorable act; that I would protect them from that type of burden. It absolutely breaks my heart that I have failed some of them in this regard.

That is in the past and there is nothing we can do about it now. But, we can learn from our mistakes and ensure that this does not happen again. Take a major step in that direction; eliminate the confusion. My approach for clarification provides clear evidence that confusion over standards was a major contributor to the prisoner abuse. We owe our soldiers better than this. Give them a clear standard that is in accordance with the bedrock principles of our nation.

Some do not see the need for this work. Some argue that since our actions are not as horrifying as Al Qaeda's, we should not be concerned. When did Al Qaeda become any type of standard by which we measure the morality of the United States? We are America, and our actions should be held to a higher standard, the ideals expressed in documents such as the Declaration of Independence and the Constitution.

Others argue that clear standards will limit the President's ability to wage the War on Terror. Since clear standards only limit interrogation techniques, it is reasonable for me to assume that supporters of this argument desire to use coercion to acquire information from detainees. This is morally inconsistent with the Constitution and justice in war. It is unacceptable.

Both of these arguments stem from the larger question, the most important question that this generation will answer. Do we sacrifice our ideals in order to preserve security? Terrorism inspires fear and suppresses ideals like freedom and individual rights. Overcoming the fear posed by terrorist threats is a tremendous test of our courage. Will we confront danger and adversity in order to preserve our ideals, or will our courage and commitment to individual rights wither at the prospect of sacrifice? My response is simple. If we abandon our ideals in the face of adversity and aggression, then those ideals were never really in our possession. I would rather die fighting than give up even the smallest part of the idea that is ''America.''

Once again, I strongly urge you to do justice to your men and women in uniform. Give them clear standards of conduct that reflect the ideals they risk their lives for.

With the Utmost Respect,

CAPT. IAN FISHBACK,
82nd Airborne Division,
Fort Bragg, North Carolina.

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

The PRESIDING OFFICER. Will the Senator withhold?

Mr. KENNEDY. I withhold my suggestion.

RECESS

The PRESIDING OFFICER. Under the previous order, the hour of 12:30 p.m. having arrived, the Senate will now stand in recess until 2:15 p.m.

Thereupon, the Senate, at 12:29 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. SUNUNU).

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2006—Continued

Mr. STEVENS. Mr. President, I have a package we have approved as managers of the bill. I ask unanimous consent that the Chair lay before the Senate amendments 1996, 1887, 1895, 2017, 1925, and 1889. It sounds as though I am reading birthdays.

When the Chair is ready, I will propound a unanimous consent request when those amendments are before us.

The PRESIDING OFFICER. Is there objection to considering the amendments en bloc?

Mr. STEVENS. We do not want to offer them en bloc. We want to offer them one by one.

The PRESIDING OFFICER. The clerk will report.

AMENDMENT NO. 1996

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for Ms. MIKULSKI, proposes an amendment numbered 1996.

The amendment is as follows:

(Purpose: To provide that, of the amount made available under title III for the Navy for other procurement, up to $3,000,000 may be made available for the Joint Aviation Technical Data Integration Program)

On page 220, after line 25, add the following:

SEC. 8116. Of the amount appropriated by title III under the heading ''OTHER PROCUREMENT, NAVY'', up to $3,000,000 may be made available for the Joint Aviation Technical Data Integration Program.

Mr. STEVENS. I send a modification to the desk.

The PRESIDING OFFICER. Is there objection to the modification?

Without objection, the amendment is so modified.

The amendment (No. 1996), as modified, is as follows:

On page 220, after line 25, add the following:

SEC. 8116. Of the amount appropriated by title III under the heading ''OTHER PROCUREMENT, NAVY'', up to $3,000,000 may be made available for the Joint Aviation Technical Data Integration Program.

Mr. STEVENS. Mr. President, this is an amendment offered by Senator MIKULSKI for the Joint Aviation Technical Data Integration Program.

Mr. INOUYE. No objections.

Mr. STEVENS. There is no objection.

The PRESIDING OFFICER. Is there further debate on the amendment? The question is on agreeing to amendment No. 1996, as modified.

The amendment (No. 1996), as modified, was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 1887

Mr. STEVENS. I call up amendment No. 1887.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for Mr. SALAZAR, proposes an amendment numbered 1887.

The amendment is as follows:

(Purpose: To rename the death gratuity payable for deaths of members of the Armed Forces as fallen hero compensation)

At the appropriate place, insert the following:

SEC. ____. (a) RENAMING OF DEATH GRATUITY PAYABLE FOR DEATHS OF MEMBERS OF THE ARMED FORCES.—Subchapter II of chapter 75 of title 10, United States Code, is amended as follows:

(1) In section 1475(a), by striking ''have a death gratuity paid'' and inserting ''have fallen hero compensation paid''.

(2) In section 1476(a)—

(A) in paragraph (1), by striking ''a death gratuity'' and inserting ''fallen hero compensation''; and

(B) in paragraph (2), by striking ''A death gratuity'' and inserting ''Fallen hero compensation''.

(3) In section 1477(a), by striking ''A death gratuity'' and inserting ''Fallen hero compensation''.

(4) In section 1478(a), by striking ''The death gratuity'' and inserting ''The amount of fallen hero compensation''.

(5) In section 1479(1), by striking ''the death gratuity'' and inserting ''fallen hero compensation''.

(6) In section 1489—

(A) in subsection (a), by striking ''a gratuity'' in the matter preceding paragraph (1) and inserting ''fallen hero compensation''; and

(B) in subsection (b)(2), by inserting ''or other assistance'' after ''lesser death gratuity''.

(b) CLERICAL AMENDMENTS.—

(1) Such subchapter is further amended by striking ''**Death Gratuity:**'' each place it appears in the heading of sections 1475 through 1480 and 1489 and inserting ''**Fallen Hero Compensation:**''.

(2) The table of sections at the beginning of such subchapter is amended by striking ''Death gratuity:'' in the items relating to sections 1474 through 1480 and 1489 and inserting ''Fallen hero compensation:''.

(c) GENERAL REFERENCES.—Any reference to a death gratuity payable under subchapter II of chapter 75 of title 10, United States Code, in any law, regulation, document, paper, or other record of the United States shall be deemed to be a reference to fallen hero compensation payable under such subchapter, as amended by this section.

Mr. STEVENS. This is Senator SALAZAR's fallen hero compensation amendment, which we have agreed to.

Mr. INOUYE. We support it.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to amendment No. 1887.

The amendment (No. 1887) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 1895

Mr. STEVENS. I call up amendment No. 1895.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for Mr. BINGAMAN, for himself and Mr. DOMENICI, proposes an amendment numbered 1895.

The amendment is as follows:

(Purpose: To make available $3,000,000 from Research, Development, Test, and Evaluation, Air Force, for assurance for the Field Programmable Gate Array)

At the appropriate place, insert the following:

SEC. ____. Of the amount appropriated by title IV under the heading ''RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, AIR FORCE'', up to $3,000,000 may be used for research and development on the reliability of field programmable gate arrays for space applications.

Mr. STEVENS. This is Senator BINGAMAN's amendment for field programmable gate array. I have a modification which I send to the desk.

The PRESIDING OFFICER. Is there objection to the modification? If not, the amendment is so modified.

The amendment (No. 1895), as modified, is as follows:

At the appropriate place, insert the following:

SEC. ____. Of the amount appropriated by title IV under the heading ''RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, AIR FORCE'', up to $3,000,000 may be used for research and development on the reliability of field programmable gate arrays for space applications.

Mr. STEVENS. I ask for approval of the amendment.

Mr. INOUYE. No objection.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to amendment No. 1895, as modified.

The amendment (No. 1895), as modified, was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 2017

Mr. STEVENS. I call up amendment No. 2017 and send a modification to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for Mr. BENNETT, proposes an amendment numbered 2017.

The PRESIDING OFFICER. Is there objection to the modification? If not, the amendment is so modified.

The amendment (No. 2017), as modified, is as follows:

(Purpose: To make available, from amounts appropriated for the Research, Development, Test, and Evaluation, Army account up to $1,000,000 for the Chemical Biological Defense Material Test and Evaluation Initiative (PE 0605602A)

In the appropriate place, insert the following:

SEC. . Of the amount appropriated by title IV under the heading ''Research, Development, Test, And Evaluation, Army'', up to $1,000,000 may be used for Chemical Biological Defense Material Test and Evaluation Initiative.

Mr. STEVENS. This is Senator BENNETT's amendment for chemical biological defense. We have accepted it as modified.

Mr. INOUYE. No objection.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to amendment No. 2017, as modified.

The amendment (No. 2017), as modified, was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 1925

Mr. STEVENS. Mr. President, I call up amendment No. 1925.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for Mr. ISAKSON, proposes an amendment numbered 1925.

The amendment is as follows:

(Purpose: To provide that, of the amount made available under title IV for the Army for research, development, test, and evaluation, up to $1,000,000 may be made available for an environmental management and compliance information system)

On page 220, after line 25, add the following:

SEC. 8116. Of the amount appropriated by title IV under the heading ''RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY'', up to $1,000,000 may be made available for an environmental management and compliance information system.

Mr. STEVENS. Mr. President, this is Senator ISAKSON's amendment for funds for environmental management. I ask for its consideration.

Mr. INOUYE. No objection.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to amendment No. 1925.

The amendment (No. 1925) was agreed to.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 1889

Mr. STEVENS. Mr. President, I call up amendment No. 1889.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for Mr. SANTORUM, proposes an amendment numbered 1889.

The amendment is as follows:

(Purpose: To provide that, of the amount made available for research, development, test and evaluation for the Army, $2,000,000 may be made available for medical advanced technology for applied emergency hypothermia for advanced combat casualty life support)

On page 220, after line 25, insert the following:

SEC. 8116. Of the amount appropriated by title IV under the heading ''RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY'', $2,000,000 may be made available for medical advanced technology for applied emergency hypothermia for advanced combat casualty life support.

Mr. STEVENS. This is Senator SANTORUM's amendment for hypothermia life support. I send a modification to the desk.

The PRESIDING OFFICER. Is there objection to the modification?

Mr. INOUYE. No objection.

The PRESIDING OFFICER. Without objection, the amendment is so modified.

The amendment (No. 1889), as modified, is as follows:

(Purpose: To provide that, of the amount made available for research, development, test and evaluation for the Army, up to $2,000,000 may be made available for medical advanced technology for applied emergency hypothermia for advanced combat casualty life support)

On page 220, after line 25, insert the following:

SEC. 8116. Of the amount appropriated by title IV under the heading ''RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY'', up to $2,000,000 may be made available for medical advanced technology for applied emergency hypothermia for advanced combat casualty life support.

Mr. STEVENS. I ask for consideration of the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. INOUYE. No objection.

The PRESIDING OFFICER. If not, the question is on agreeing to amendment No. 1889, as modified.

The amendment (No. 1889), as modified, was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. STEVENS. I thank the Chair. I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I ask unanimous consent that the pending amendment be set aside temporarily so that I may offer an amendment.

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

AMENDMENT NO. 1992

Mr. BYRD. Mr. President, more than 2,000 years have passed since Cicero said, ''Endless money forms the sinews of war.''

Let me repeat what I have said. More than 2,000 years have passed since Cicero, a great Roman senator, said, ''Endless money forms the sinews of war.''

How astute he was to point that out and how little the times have changed. Today, the United States is engaged not just in one war but two wars. The first of the two wars began 4 years ago when our country was invaded. Our country was attacked by 19 hijackers sent on their deadly mission by Osama bin Laden. That war continues today in Afghanistan. That is a war that was thrust upon us. That was a war in which the United States was invaded by 19 hijackers, not one of whom was from Iraq—not one. That war, as I say, was thrust upon us. The United States was invaded. The United States was attacked and thousands of Americans lost their lives. That is the war that I support. That is the war that I supported from the beginning.

But there is also another war, a war which the United States started, a war in which the United States was the attacker. We didn't wait to be attacked; we attacked another nation. We invaded, the United States invaded another nation that did not pose a threat, a direct and immediate threat to our national security. We, the United States, invaded another country that did not act to provoke our invasion.

Since March 19, 2003, our troops, Americans troops, have been sent into the breach in Iraq, a country which had no connection—none—no connection to the September 11 attacks on our country. I was against our policy with reference to the invasion of that country, Iraq. I was against that. That country did not pose an immediate threat to our national security, no. I said so then and I was right. No weapons of mass destruction were found. No weapons of mass destruction have been found to this day there in Iraq.

I hold no brief for Saddam Hussein, but we acted under the unconstitutional doctrine of first strike. The first strike doctrine, that is the doctrine that we followed. That is the doctrine that got us into Iraq. It is unconstitutional on its face. Why? Because the Constitution says Congress shall have power to declare war.

How can it be constitutional if a President, one man, Republican or Democrat or independent or whatever, can declare war if Congress has nothing to say about it, if Congress has no opportunity to debate it?

I do not question the inherent power of any President to defend our country. Congress may be out of town. Congress may be in recess. If we are invaded, of course, he has the power to act. But that was not the case here.

I and 22 other Senators voted against shifting that power to declare war, that constitutional power to declare war from the Congress to a President,

and that law is still on the books. It has not been repealed.

We can talk about that at another time, but let me say today, these two wars have cost the lives of many Americans. In the first war, the one being fought in Afghanistan and elsewhere against Osama bin Laden, 243 American troops have given their lives in the line of duty. I support our efforts in that war. I have done so from the beginning.

In the second war, the war in Iraq, 1,934 young men and women have perished. I disagree with the policy that sent our troops to Iraq, but I join with all other patriotic Americans in supporting the men and the women who have been sent to Iraq. I don't support the policy that sent them there, but I support those men and women. They went, they heeded the call, they did their duty, and they are still doing their duty. Of course I support them. I join with all other Americans in supporting them and honoring those men and women who have paid the ultimate price in service to the United States.

In addition to lives lost, these wars have also cost our country a fortune, a colossal fortune in our national wealth. According to the Congressional Research Service, the Congress has already appropriated $310 billion to pay for these two wars. The Defense Appropriations Committee bill being debated now in the Senate adds another $50 billion to that figure. Most observers believe that tens of billions more dollars will be required in a matter of months. Who knows, before it is all over, we may find that the ultimate cost in Treasury may amount to $1 trillion. Who knows, when we think of all the things that must be done. We have to replenish the equipment that has worn out, that has rusted, that has been destroyed—the military equipment. Our own military people will have their requests in this year, next year and the next year and the next year, for money to replace that equipment.

Could we fight another war if we should be invaded today? Would we be prepared to fight another war? Could we?

If these estimates are accurate, the cost of the wars in Iraq and Afghanistan could easily exceed $400 billion by early next year—$400 billion. That is $400 for every minute since Jesus Christ was born. That is a lot of money, isn't it?

Once again, ''Endless money forms the sinews of war.''

That is simply the visible part of the cost of the war. We are slowly, slowly but surely, coming to realize that there are financial costs to the war that are buried deep within the Government's ledgers. In June, the Department of Veterans Affairs admitted to a major shortfall in its budget. Working together with Senator CRAIG and Senator MURRAY, I supported an amendment to add $1.5 billion in emergency funds to the veterans health care budget. My colleagues and I then worked to add $1,977,000,000 to the VA budget for the fiscal year 2006.

Why? Why? Why is the VA running short of funds?

Part of the reason lies in the fact that the administration did not budget enough funds to take care of troops coming home from these wars with serious injuries. But there is more. These injured veterans have earned compensation from the VA for their wounds.

According to the Defense Department, more than 15,000 troops have been wounded in Iraq and Afghanistan. Congress is yet to see a full estimate of the costs of these veterans' benefits.

There is also the matter of revenue that the Government coffers will never see because of the deployment of our troops to these wars. Troops serving in combat zones are exempt from income taxes. National Guardsmen and reservists often must do without their higher civilian pay during their deployment. No one would argue that wounded veterans should not receive compensation from the VA or the troops in war zones ought to pay taxes while they are risking their lives for our country. But the American people are not being told about these hidden costs of these wars. Why? Why is that?

The fact is, the administration has never provided the Congress with a budget estimate of what the war is costing the American taxpayers. Some may argue that the budget resolution passed in Congress by the thinnest of margins included $50 billion for the cost of the wars in Iraq and Afghanistan. That is true. That money is in there. The $50 billion also appears in this appropriations bill. But that estimate is just a number made out of whole cloth. The President did not request a single dime for the wars in his budget estimate submitted to Congress in February—not one thin dime, not even one copper penny. Instead, Congress picked a number out of thin air—$50 billion—and stuck it in the budget resolution.

That number is not backed up by any number crunching, any careful analysis, or any budgetary data. It doesn't even match up with the numbers prepared by the Congressional Budget Office, which estimates that $85 billion will be required to fight these wars next year, nor is that $50 billion paid for. This $50 billion is simply added to our national debt, a debt that will have to be paid by our children and our children's children.

I say one more time, ''Endless money forms the sinews of war.'' I am quoting Cicero, of course.

The administration needs to budget for the wars in Iraq and Afghanistan. It should not be sufficient for Congress to pick a number out of a hat, appropriate funds to match that number, and hope that our troops will be taken care of. The administration needs to step up to the plate and tell Congress and the American people how much it expects to spend on the war, what the money will be used for, and how our Nation is going to foot the bill. It may be easier said than done, but we ought to do our best.

To some observers, the importance of budgeting for the war may seem like a furor over how much paper should be pushed around in Washington, DC. Although the terms used in this debate are arcane—how many people outside the beltway know anything, or much at least, about emergency supplementals, the budget process, or outlays and budget authority—the principles are vitally important to our country.

There is an important principle that a country must share the burdens of war among its citizens. Think back to World War II and what was asked of the American people in that conflict: victory gardens, daylight savings, gasoline rationing, and on and on. We do not see anything like that today. Quite the opposite. For the first time in American history, our Nation has cut taxes during a time of war.

The wars in Iraq and Afghanistan have forced great sacrifice.

Let me say that again.

These wars—the war in Afghanistan, which I support, the war in Iraq, which I have never thought we should engage in—have forced great sacrifice among those who serve our country, and their families as well. Our troops risk life and limb while their spouses, their parents, and their children pray for their safety and for their return home. It is these troops and their families who have had so little relief from the burdens of these wars.

Last year, Congress passed a law to compensate Americans for spending up to $1,000 out of their own pockets to send body armor, boots, gloves, and other equipment to troops serving overseas. But the Pentagon still has not implemented this law, giving short shrift to those who have done the most to support our troops. These families have not been recompensed for their support of the troops. Why is the Defense Department bureaucracy so slow to implement this law? Why? Why is the Defense Department bureaucracy so slow to implement this law? It ought to be a priority to help these Americans who have done so much to help our troops.

The sacrifices demanded by the two wars in Iraq and Afghanistan are falling disproportionately on the few. The President has said our Nation is at war. No. Our Nation is not at war. Our military is at war. Yes. The National Guard, the men and women in the military, they are at war but not the Nation. We scarcely hear much about it.

Our troops are shedding their blood, and their families are doing so much to support them. Meanwhile, the average American goes about his day-to-day business with little interruption, only to pause in solemn reflection upon the occasional news report about the tragic death of another soldier from his community.

When Winston Churchill rallied his country in World War II, he urged the British to ''defend our Island, whatever

the cost may be, we shall fight on the beaches, we shall fight on the landing grounds, we shall fight in the fields and in the streets.''

It was a call not just to English soldiers to fight but for the country to share the burden of the struggle.

What a stark contrast to the wars we are in today in which so little is asked of the American people compared to what is demanded of our military personnel. In light of the incredible toll of these wars on our country, it is time to rethink that unfair balance of sacrifice.

Three times before, the Senate has voted to urge the administration to budget for the cost of the wars in Iraq and Afghanistan so that there may be a debate about how the President intends to spread the sacrifice fairly among all Americans. Three times, the Senate has voted to urge the administration to budget for the cost of the wars in Iraq and Afghanistan, and three times that call has not been honored, it has been dismissed. The enormous cost of keeping hundreds of thousands of troops fighting in two wars, each of them half a world away, continues to be a black hole in the President's budget.

Congress and the American people keep hearing the same old line: The administration cannot budget for the cost of the war because the true cost is unknowable. The Secretary of Defense, Mr. Rumsfeld, when he was asked about the cost, said the cost is unknowable. Of course, he is right. It is unknowable, but surely the administration has some estimate somewhere. Surely the Defense Department has some estimate, and it has had some estimate—some estimate of what the war was going to cost.

We have heard that the cost is unknowable. We have heard that many times before. But it strains one's belief to argue that the Secretary of Defense, with legions of bureaucrats and accountants at his disposal, cannot make an estimate of how much it will take to support our troops for the fiscal year that began last week. With 18,000 American troops in Afghanistan and 149,000 troops in Iraq who are risking their lives each and every day, one would think that the Pentagon could muster the courage to estimate how much money it will take to support our fighting men and women. We are talking about an estimate.

The amendment that I offer to the Defense appropriations bill again states the sense of the Senate that the President should budget for the war. We have been at these two wars a long time now. I could understand how he might not be able to budget for the first few months of a war, but we have been at these wars a long time and we still see no budget for them. Still the American people do not know. Whatever is requested of the Congress, the administration does it with supplemental appropriations bills. There are not very thorough hearings on supplemental appropriations bills. They say: We spent this much and we have to appropriate.

The American people do not realize the cost of these wars. So let me say again, the amendment I offer to the Defense appropriations bill states it is the sense of the Senate that the President should budget for these wars. President Roosevelt did it for World War II, President Johnson did it for Vietnam, President Clinton did it for Bosnia, President Bush did it for Kosovo, and it is time to do it for Iraq and Afghanistan.

Let the American people know how much of their hard-earned tax dollars will be needed for these wars. Let Congress debate how these costs must be borne. Let our Government take a responsible approach on how we pay for our troops in the field.

I urge my colleagues to once again support the President, support my amendment, and urge the President to budget for the war.

Mr. President, I ask unanimous consent that Senator FEINGOLD may have his name added as a cosponsor of the amendment.

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

AMENDMENT NO. 1992

Mr. BYRD. Mr. President, I call up amendment No. 1992.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from West Virginia [Mr. BYRD] proposes an amendment numbered 1992.

Mr. BYRD. 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 express the sense of the Senate on budgeting for ongoing military operations in Iraq, Afghanistan, and elsewhere overseas)

At the appropriate place, insert the following:

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

(1) The Department of Defense Appropriations Act, 2004 (Public Law 108–87), the Department of Defense Appropriations Act, 2005 (Public Law 108–287), and the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005 (Public Law 109–13) each contain a sense of the Senate provision urging the President to provide in the annual budget requests of the President for a fiscal year under section 1105(a) of title 31, United States Code, an estimate of the cost of ongoing military operations in Iraq and Afghanistan in such fiscal year.

(2) The budget for fiscal year 2006 submitted to Congress by the President on February 7, 2005, requests no funds for fiscal year 2006 for ongoing military operations in Iraq or Afghanistan.

(3) According to the Congressional Research Service, there exists historical precedent for including the cost of ongoing military operations in the annual budget requests of the President following initial funding for such operations by emergency or supplemental appropriations Acts, including—

(A) funds for Operation Noble Eagle, beginning in the budget request of President George W. Bush for fiscal year 2005;

(B) funds for operations in Kosovo, beginning in the budget request of President George W. Bush for fiscal year 2001;

(C) funds for operations in Bosnia, beginning in budget request of President Clinton for fiscal year 1997;

(D) funds for operations in Southwest Asia, beginning in the budget request of President Clinton for fiscal year 1997;

(E) funds for operations in Vietnam, beginning in the budget request of President Johnson for fiscal year 1966; and

(F) funds for World War II, beginning in the budget request of President Roosevelt for fiscal year 1943.

(4) In section 1024(b) of Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005 (119 Stat. 252), the Senate requested that the President submit to Congress, not later than September 1, 2005, an amendment to the budget of the President for fiscal year 2006 setting forth detailed cost estimates for ongoing military operations overseas during such fiscal year.

(5) The President has yet to submit such an amendment.

(6) The Department of Defense Appropriations Act, 2006, as reported to the Senate by the Committion on Appropriations of the Senate on September 28, 2005, contains a bridge fund of $50,000,000,000 for overseas contingency operations, but the determination of that amount could not take into account any Administration estimate on the projected cost of such operations in fiscal year 2006.

(7) In February 2005, the Congressional Budget Office estimated that fiscal year 2006 cost of ongoing military operations in Iraq and Afghanistan could total $85,000,000,000.

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

(1) any request for funds for a fiscal year after fiscal year 2006 for an ongoing military operation overseas, including operations in Afghanistan and Iraq, should be included in the annual budget of the President for such fiscal year as submitted to Congress under section 1105(a) of title 31, United States Code;

(2) the amendment to the budget of the President for fiscal year 2006, requested by the Senate to be submitted to Congress not later than September 1, 2005, by section 1024(b) of Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005, is necessary to describe the anticipated use of the $50,000,000,000 bridge fund appropriated in this Act and set forth all additional appropriations that will be required for the fiscal year; and

(3) any funds provided for a fiscal year for ongoing military operations overseas should be provided in appropriations Acts for such fiscal year through appropriations to specific accounts set forth in such appropriations Acts.

Mr. BYRD. I have indicated the purpose of the amendment and the intent of the amendment.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, did the manager of the bill have something?

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. STEVENS. It would be the intent of the managers of the bill to indicate to Senator BYRD that we would be pleased to accept that amendment when the time comes. We will leave up

to Senator BYRD when he wants to have the vote.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. STEVENS. The Senator indicated he would be willing to have the amendment considered at this time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1992) was agreed to.

Mr. STEVENS. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. STEVENS. This is similar to an amendment we have carried in the bill before. We appreciate the Senator's position. It is the position of the Senate. The President has decided otherwise, but we hope next year the regular Defense bill will include the moneys for the ongoing war on terrorism.

Mr. BYRD. Mr. President, I thank the very distinguished Senator from the great State of Alaska for his statement. I thank the very great Senator from the State of Alaska for his statement and his support. I also thank our colleague on this side of the aisle, the other manager of the bill, Senator INOUYE, for his support.

Incidentally, may I say I guess I am the only remaining person in Congress who voted for the entry of both Alaska and Hawaii into the Union. Praise God, I did that in each case. These are two fine Senators, two of the greatest.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, let me begin by paying my respect to the Senator from West Virginia, Mr. BYRD, who has for several years now on the subject of Iraq been perhaps the most forceful and eloquent and prescient Member of the Senate with respect to the events there. He has been consistent. He has been strong. All Members in the Senate are enormously respectful of his voice and his leadership on this issue.

I know for the Senator from West Virginia, the years I have been here, there has been no more stalwart, dedicated, reliable defender of America's interests anywhere in the world. There has been no one who has stood up more for our young men and women in uniform. I know this journey he has taken with respect to his feelings about the war were not easy, and they were contrary in some ways to that long record on the surface. But it is when you get below the surface and look at some of the continuity of his thinking about the Constitution, about our obligations as Senators, and about the fundamental reasons why you send young men and women to fight anywhere that you see that, indeed, what he is fighting for now is as consistent with what he has fought for throughout his record and career in the Senate. I thank him for that and pay my respect to him.

Mr. BYRD. Mr. President, I thank the distinguished Senator from Massachusetts for his observations, for his loyalty to his country, for his service to his country, and for the costs to his human self. For that great service, I thank him. And I thank him for the statement he has just made.

Mr. KERRY. I thank the Senator.

AMENDMENT NO. 2033

Mr. KERRY. Mr. President, I ask unanimous consent that we set aside the pending amendment, and I call up amendment numbered 2033.

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

The clerk will report.

The legislative clerk read as follows:

The Senator from Massachusetts [Mr. KERRY], for himself, Mr. KENNEDY, Mr. REED, Mr. DORGAN, Mr. JEFFORDS, Ms. MIKULSKI, Mr. LAUTENBERG, Mr. CORZINE, Mr. KOHL, Mr. BAYH, Mr. DURBIN, Ms. CANTWELL, Mrs. CLINTON, Mr. BAUCUS, Mr. REID, and Mr. SCHUMER, proposes an amendment numbered 2033.

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

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

The amendment is as follows:

(Purpose: To provide for appropriations for the Low-Income Home Energy Assistance Program)

At the end of title VII, insert the following:

ADMINISTRATION FOR CHILDREN AND FAMILIES

LOW INCOME HOME ENERGY ASSISTANCE

For making payments under title XXVI of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 8621 et seq.), $3,100,000,000, for the unanticipated home energy assistance needs of 1 or more States, as authorized by section 2604(e) of the Act (42 U.S.C. 8623(e)), which amount shall be made available for obligation in fiscal year 2006 and which amount is designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

SEC. ____. Congress finds the following:

(1) An imminent emergency is confronting millions of low-income individuals in the United States who are unable to afford the cost of rising energy prices.

(2) Prior to the devastation caused by Hurricanes Katrina and Rita in the Gulf Coast region of the United States, individuals in the United States were facing record prices for oil, natural gas, and propane. Hurricane Katrina damaged platforms and ports and curtailed production at refineries in the Gulf of Mexico, the source of almost ⅓ of United States oil output, further raising energy prices.

(3) The Short Term Energy Outlook report of the Energy Information Administration of the Department of Energy states that the ranges for expected heating fuel expenditure increases for the winter heating season of 2005-2006 are—

(A) 69 percent to 77 percent for natural gas in the Midwest;

(B) 17 percent to 18 percent for electricity in the South;

(C) 29 percent to 33 percent for heating oil in the Northeast; and

(D) 39 percent to 43 percent for propane in the Midwest.

(4) According to the National Energy Assistance Directors Association, heating costs for the average family using heating oil are projected to hit $1,666 for the 2005-2006 winter heating season. Those costs would represent an increase of $403 over those costs for the 2004-2005 winter heating season, and an increase of $714 over those costs for the 2003-2004 winter heating season. For families using natural gas, prices are projected to hit $1,568 for the 2005-2006 winter heating season, representing an increase of $611 over those costs for the 2004-2005 winter heating season, and an increase of $643 over those costs for the 2003-2004 winter heating season. States need additional funding immediately to help low-income families and seniors to ensure that they can afford to heat their homes.

(5) The Mortgage Bankers Association expects that steep energy costs could increase the number of missed mortgage payments and lost homes beginning later this year.

Mr. KERRY. Mr. President, this amendment is cosponsored by Senators KENNEDY, JACK REED, DORGAN, JEFFORDS, MIKULSKI, LAUTENBERG, CORZINE, KOHL, BAYH, DURBIN, CANTWELL, CLINTON, SCHUMER, BAUCUS, HARRY REID, DAYTON, STABENOW, HARKIN, COLEMAN, SNOWE, DODD, LEVIN, and BINGAMAN. I ask unanimous consent that all of their names be added to the amendment as cosponsors.

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

Mr. KERRY. Mr. President, I know there is a reluctance, and I understand it, by the managers of the bill to have an amendment on a subject that does not fit neatly and squarely and automatically under the bill. As they know, the number of legislative opportunities here are very few now, and we are on the appropriations track. This amendment has been authorized already, so it is authorized. The question is what we are going to do to effect it.

This is an amendment to deliver $3.1 billion of emergency funding—I emphasize ''emergency'' funding—to the Low-Income Heating and Energy Assistance Program.

The tight natural gas market and the devastating impact of the recent hurricanes have resulted in what everyone knows and feels in their pocketbooks are unusually high fuel prices and very high fuel price forecasts for the foreseeable future. According to the Energy Information Agency, families are going to pay about 77 percent more for natural gas in the Midwest, 18 percent more for electricity in the South, and 33 percent more for heating oil in the Northeast. Heating oil costs for the average family using heating oil are expected to hit about $1,066 during the upcoming winter. That is $403 more than last winter, and it is $714 more than the winter heating season of 2003–2004.

Rapidly rising energy costs have an incredibly negative impact on the ability of low- and even middle-income but fixed-income individuals to be able to meet their demands. High prices are forcing working families to choose warmth over other basic necessities, or in the South, in certain seasons, obviously, cool. Those are tough choices to make. The National Energy Assistance Directors' Association found that 32

percent of families sacrificed medical care last year in order to be able to meet those prices, 24 percent failed to make rent or meet mortgage payments, and 20 percent went without food for at least a day. We have a whole bunch of people in America who are giving up food or rent or medical care in order to be able to pay for the home heating oil.

Hurricane Katrina is a stark reminder of precisely what happens when the Government does not prepare ahead of time for disaster. We have an opportunity now to prepare ahead of time. If we do not act now, families are going to be forced to choose between medical care and heat during the winter. That is just around the corner. In November, it begins to get cold in a lot of States. The fact is, having to choose between a warm house or a full stomach for your children is not a choice anyone in America, the wealthiest nation on the face of the planet, wealthiest industrial nation, ought to welcome.

The number of households receiving what is known as the LIHEAP assistance has increased from about 4.2 million in fiscal year 2002 to more than 5 million this year, which is the highest in 10 years. LIHEAP applications are expected to increase very significantly this winter. Yet the funding levels for LIHEAP are not keeping pace. LIHEAP's buying power is significantly less than when it was established. According to the Government's Consumer Price Index, what cost $100 in 1982 cost just shy of $200 in 2004. Using the CPI calculation for inflation, that means that a $1.8 billion appropriation for LIHEAP in 1982 should have been a $3.7 billion appropriation in 2004. LIHEAP currently serves less than 15 percent of those people who are eligible in the country.

I understand this amendment can be blocked procedurally. I know that. I hope that will not happen. It is a bipartisan amendment. It is not my preference to attach it to this bill, but it is our only option with the recess coming up in a few days. After the comments of the Secretary of Energy this week that the administration has no plans of asking Congress for more money, we have no choice but to say this is on the congressional agenda, this is on our radar.

I urge my colleagues to support this bipartisan amendment to add $3.1 billion for LIHEAP in the fiscal year 2006 appropriations bill. It is emergency funding. It does not require an offset as a result. It is an emergency. It is the amount we have authorized. It represents the amount we need. It is critical funding to avoid a looming but absolutely preventable crisis for millions of American families who have been hard hit by the additional costs of fuel oil and the diminishing affordability of home heating oil as the winter approaches.

I yield the floor.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 2005

(Purpose: To curtail waste under the Department of Defense web-based travel system)

Mr. COBURN. Mr. President, I ask unanimous consent that the pending amendment be laid aside and call up Coburn amendment No. 2005.

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

The legislative clerk read as follows:

The Senator from Oklahoma [Mr. COBURN] proposes an amendment numbered 2005.

At the appropriate place, insert the following:

SEC. ____. None of the funds appropriated by this Act may be obligated or expended for the further development, deployment, or operation of any web-based, end-to-end travel management system, or services under any contract for such travel services that provides for payment by the Department of Defense to the service provider above, or in addition to, a fixed price transaction fee for eTravel services under the General Services Administration eTravel contract.

Mr. COBURN. Mr. President, this is an issue that came to my attention not long after I was sworn in as a Senator. I hope the American public pays attention to the system I am getting ready to describe because way too many things in the Federal Government are bought this way.

The goal of the Defense Travel System was a worthy goal. It said: We travel so much, we ought to have a system that gets us the best fare and can do that on a routine basis so we can save money when Defense Department employees travel. They contracted with a firm to develop that system. It was not necessarily a competitive bid contract either.

What this amendment does is prohibit money from being spent on operations and further development of the system because, quite frankly, it does not work. It works less well than any private travel system that is out there now. It works less well than the GSA's travel system.

We are now close to $500 million being spent with one contractor to develop a system that does not work. The system did not work at the first development stage, which cost $47.3 million, and the Defense Department bailed them out. It did not work. It has never met the requirements or the efficiency or the savings that it was supposed to meet.

It is kind of similar to one of those things you get into and you keep hoping it will work, keep hoping it will work, and then it does not work. Well, the American taxpayers are now on the hook for almost $500 million.

The Defense Department does not even own this program. That was recently changed so the contracting law could be avoided, in terms of going after this contractor on it, because it was not competitively bid, because it was not managed properly.

When you review the DTS system, in 2002, the DOD Inspector General said it should be shut down unless a cost-benefit analysis was prepared that showed the worthiness of its continuation. No analysis has ever been conducted. That was in 2002, and we had only spent about $100 million on it. We are now at $500 million. There is no cost-benefit analysis that has been done. Every Defense Department employee can travel cheaper following some other system than this system. We do not own it. We keep paying for it. We keep paying for the development of it.

The American taxpayers are getting hooked, and yet when we are finished with it, we are still not going to have a system that is as good as what is in the private sector. It is a boondoggle, at best.

Program Assessment and Evaluation testified they were unable to complete an analysis because the DTS office had not even kept enough documentation of their own expenditures to make a reliable assessment.

We have big contracting problems in the Defense Department, and this is the best example I know of that ought to be eliminated tomorrow.

At the end of the seventh year of an 8-year contract, a cumulative total of 370,000 travelers had utilized DTS out of 5.6 million annual DOD travelers. So for $500 million, over the 7 years, we have had 370,000 travelers. It has cost us $1,500 per ticket, not counting the price of the air fare.

There is not anybody in America who would look at this, with any common sense, and say we ought to continue this boondoggle.

The utilization rate for the current calendar year under the Defense Travel System is at 15 percent. That means only one in eight employees of DOD uses this system to buy a ticket. And then they do not always get the best price.

In order to break even with the costs of DTS annualized—in other words, its annual cost—90 percent of DOD employees would have to use it. They are not using it. DTS costs $40 to $50 million per year in operations and maintenance. Orbitz does not come close to it. The GSA accounting system does not come close to it. None of them come close to it. Yet we are continuing to spend $50 million of the American people's taxpayer dollars before we get the first ticket. So it is a system that does not work. It is broken. The contracting mechanism is broken. Yet we still have people who are going to come to the floor to defend a system that is broken.

Travel executive Robert Langsfeld testified at the hearing that DTS performed less effectively than any—any—civilian e-travel system. We have $500 million in it, and it is unending on what we are going to have, and it still

works worse than any private e-travel system. We have spent half a billion dollars.

The Federal Government has also spent this money on a system that is not even reliable. It might work one day and does not work the next. It might get you the best fare, it might not.

Unlike DTS, GSA e-travel contracts do not pay operations and maintenance for the programs. They only pay a per-transaction fee.

So for what was a good idea that turned sour, we continue to pour unspoiled milk on soured milk, and it becomes soured milk. So we continue to spend money on it.

The Government still does not own DTS, as I said. It is an intellectual property—computer software and source codes. Last year, Judge George Miller of the Federal Court of Claims decided he would not even look into allegations of violations of the Competition in Contracting Act because the software and source codes are owned by the contractor. So if the contract were opened for bidding and another bidder was awarded the contract, the Government would have nothing left but a $500 million loss.

But last week, before the hearing, the contractor promised to transfer ownership of this intellectual property to the Defense Department at the end of the contract period, if requested. The reason for this, obviously, is to maintain the fiction that the open bidding on the contract in 2006 is on the level. It is not. There is no open bidding. It violates the very laws that were put on the books to try to maintain competition in contracting. Ownership of DTS bounces around to wherever it is most convenient for avoiding serious scrutiny.

One of the secret changes in the contract that was alleged to have violated the Competition in Contracting Act was the shift from a fee per transaction, as we do with all the civilian e-travel systems, to a cost plus guaranteed profit for the contractor. That has proven they are inept at developing a system. So now we have even changed the contract. Now that we spent $500 million on it, we are now going to change it. We are not going to hold them accountable. We are going to guarantee them a profit for incompetency and inefficiency. It is fair to have Defense contractors reimbursed on the same terms as civilian contractors and agency contractors who are doing the same thing. My amendment will permit that, and only that, a cost per service.

Another secret contract change was an agreement by the Government to pay $43.7 million that had been spent in development costs by the original contractor. We got absolutely nothing for that money. It just covered the losses suffered by the contractor in trying to do something they were not capable of doing, and they are still not capable of doing, rather than to go into the private sector and buy one that was already developed.

This is money the Government was not obliged to pay under the original contract, but we paid it anyway. We paid it anyway—$47 million. We are trying to pay for Katrina now. We are trying to fund the war in Iraq. We have a $500 million boondoggle that does not work, and we will have people defend that on the Senate floor. The fact is, they can't compete. That is what the testimony of the GAO is. That is what the testimony of everybody is. They do not even compete. And now they are only at a 15-percent utilization rate.

Failure carries no negative consequences when we contract this way. When we contract this way, we violate our oaths as the defender of the taxpayers of this country to spend their money wisely. I know I am up against a powerful defense contractor as I attack this process. I want to support our defense contractors. I want to make sure they are there to help us fight and win and defend our freedoms, both here and abroad. But this is the kind of garbage that needs to come out of the contracting system. It is the kind of thing that we need to put on the floor and say: Defend this. Defend it. You cannot defend it. It is indefensible that we would spend a half a billion dollars trying to get an e-travel system, when they are out there working nine times better than anything this program has developed.

I am hopeful the Members of this body, and the American public, more importantly, will call this body, will secure this body's attention on issues just like that. If we are going to not steal from our grandchildren, then we have to be about cleaning up the contracting process in the Pentagon. This is a good first step in doing that.

With that, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested. Does the Senator withhold?

Mr. COBURN. I withdraw my request.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. DURBIN. Mr. President, I salute the Senator from Oklahoma. We have been in Iraq for over 3 years. We have been asking for investigations of these no-bid contracts to these large companies. We have to have Congress accept its responsibility with oversight hearings. More oversight hearings have been held by party caucuses in the Senate than by actual committees looking at these same companies we think are profiteering and ripping off taxpayers.

Congress has a responsibility, too, not just the Department of Defense. We have a responsibility in the Senate. We ought to bring this message to both of our caucuses and say, When are we going to have oversight hearings on those contracting with the Pentagon and making millions of dollars and not making us stronger as a nation?

I salute the Senator from Oklahoma. It is a delicate subject. He has the courage to bring it before us.

IRAQ

Mr. DURBIN. Mr. President, I have come to the floor to talk about Iraq as well. I come each and every week. The reason I came the first week was that back home in Illinois someone said: I watch a lot of C–SPAN. Why don't you talk about the war in Iraq? Why doesn't anybody come to the floor and talk about the men and women dying over there? Shouldn't that be brought up every day in the Senate—our sons and daughters, husbands and wives, the bravest and best are dying every day in Iraq?

I thought to myself: How can we be in the middle of a war and go about business as usual on Capitol Hill? We should be talking about this every single day because the war goes on every single day.

This morning, the Pentagon released these figures as of 10 o'clock: 1,942 Americans have been killed in Iraq; 14,902 have been wounded. I have been to these hospitals—Walter Reed, the veterans hospitals back in the Midwest—and I have seen these brave men and women who have come home wounded and, trust me, many of those wounds are extremely serious. They have come home with amputations, serious head injuries, and psychological scars.

Since the Iraqi elections last January, which were greeted by all of us with a great deal of praise for the bravery of the Iraqi people, since those elections took place, 507 of these American soldiers have died, 507 funerals in America. The numbers keep climbing. Some days it is one at a time. Other terrible days it is five or six. Mr. President, 1,942 Americans killed in Iraq; almost 15,000 wounded.

So I will keep coming to the floor to address this issue, to make sure we never forget these men and women and the sacrifice that they, their families, and people who love them make every single day.

I don't want to pretend for a moment this was brought up to me over the weekend. I don't want to pretend for a moment this is the only death and suffering in Iraq. There are innocent Iraqi people who die every day as well. We cannot even put a number on it. I said to my staff: Go to the United Nations, go to the Red Cross, go to some group and tell me how many Iraqis have died since our invasion of Iraq.

They cannot come up with a number. Some estimates are very different. The Brookings Institution, which is recognized as a nonpartisan research organization, puts the estimate between 14,000 and 24,000 Iraqis who have been killed since the start of the war. Others have estimates that go much higher. We don't know. We don't know how many innocent people have died as a result of this war or how many died because of criminal violence.

Iraqis still die every day. Just this last week, we had three coordinated car suicide bombs that went off in a single marketplace. You have seen the

photos. You have seen the people, crushed with grief—the mothers, the friends, and fathers, standing next to the mutilated corpses of these victims. These bombs that were detonated recently were staggered to explode at different times so they killed as many innocent people as possible. This is a tactic we have seen over and over again in Israel. Now it has come to pass in Iraq on a regular basis. It is despicable, it is depraved conduct. It is an example of inhumane cruelty.

These attacks on American soldiers and on the innocent Iraqis underline the importance of our mission there and the need for us to be prepared to bring this to the right conclusion. We need to have better training and equipment of the Iraqi security forces and Iraqi police. They must not only have the capability to defend themselves, they must have the will to defend themselves.

Last week, General Abizaid, Commander of the Central Command, and General Casey, Commander of United States and coalition forces in Iraq, testified before Congress. They disclosed a piece of information that had been classified for a long period of time, but they finally brought it out to the American people, and we can speak to it on the floor. It is a piece of information we have known from our classified briefings for some time, and it is this: Of over 100 battalions of Iraqi Army forces in existence today in Iraq, exactly 1 battalion is ready to fight independently—1 out of over 100. That is an incredible number. Billions of dollars that we put in there, promises to the American people that Iraqi soldiers will stand and fight so our soldiers can come home, and as of last week, these two generals testified in open session that one battalion is combat ready as an independent force.

President Bush has said over and over: As Iraqi forces stand up, we will stand down. There is only one Iraqi battalion. That is about 1,000 soldiers. Only 1 battalion standing up; 146,000 American soldiers standing up. They are trying to bring peace to a country that is obviously not ready to defend itself and may not be for a long time.

Many Members on this side of the aisle and the other side are stating very clearly that we need assessments, not platitudes, when it comes to the situation in Iraq. We need to know how many Iraqi forces must be trained so we can start bringing home American troops. We need to know when this administration expects we will reach that number. The fact is over the last 6 months, despite all the promises that have been made, still only one battalion is ready to fight, and the American people need to know the cost, not just in these graphic human terms, but in terms of dollars being spent: $5 billion a month in Iraq. We appropriated $18 billion for the reconstruction of war-torn Iraq, and I remind my colleagues that when we debated that, I don't recall a single Senator coming to the floor and saying: We have to cut spending in some other area before we rebuild Iraq. No, they save that argument for the rebuilding of America after Hurricane Katrina. But we put the $18 billion in place.

Yet when you read the press accounts of the average families in Iraq today, they tell you that life is so much worse than it was a few years ago—no electricity, no sewage, no regular water, no security on the streets, fears that their children will be kidnapped on the way to school. They are trying to leave if they can find a way out. That is the real situation in Iraq on the ground today despite the heroic efforts of our men and women in uniform. Our men and women in uniform have not failed; the political leaders have failed—failed to come up with a plan which said after Saddam Hussein is gone, this is how we will end this war. Sadly, we were not prepared to answer that question, and our soldiers have paid the price.

I am told the President this week will be giving a speech to America about Iraq. It is time for some answers, specific answers, and it is time for accountability. Let's get beyond the generalities. We are talking about real human lives—our sons and daughters—and we need specific answers.

I respectfully suggest the President ought to address four issues: First, how many Iraqi forces must be capable of operating on their own before we can start bringing American soldiers back home, and how soon will we reach those goals?

Second, what specific measures will the Bush administration take before and after the October 15 constitutional referendum to forge the necessary political consensus and reconcile the growing sectarian and religious differences?

Three, what efforts has President Bush made or will he make to bring in broader international support? The coalition of the willing has been shrinking ever since the invasion of Iraq. It is American soldiers and some British soldiers and a few others willing to stand and fight and secure this country. What is this administration doing, if anything, to bring in Muslim forces so we can blunt the criticism that we are somehow a force of occupation, unwelcome in this Muslim country?

Fourth, how should the American people assess the progress in reconstructing Iraq? What are the tangible results of the billions of dollars American taxpayers have provided for Iraq? How is this money being accounted for?

I made the point earlier to the Senator from Oklahoma that we have yet to have a serious oversight hearing about the no-bid contracts in Iraq. Haliburton, all of the names we have heard over and over again, multimillion and billion-dollar contracts, and we won't even ask the hard questions as to whether the money is being well spent. We are shirking our responsibility, our congressional oversight responsibility.

I hope the President goes beyond generalities in his speech. Let's get down to specifics. Let's say to the American people and the soldiers they love: This is our plan for bringing our troops home from Iraq.

I hope this speech is an announcement that we have a new strategy, a strategy for success, a strategy for our soldiers to come home. Staying the course is not a new strategy. I hope on Thursday the President speaks truth to the American people. I hope he offers honest and realistic assessments of what we face.

On October 15, the people of Iraq will vote on a constitution. If it passes, there will be parliamentary elections in December. If it is rejected, the constitutional process will start all over again in December.

There is a lot of speculation about what might happen. A constitution alone is not going to stop the violence, but if the constitution can lead to a unified country or the notion of nationhood making any sense, then that constitution is a step in the right direction.

Sadly, this nation of Iraq is a nation of many different groups who have yet to show us they can come together, and until they do, it is unlikely we can bring our troops home.

There were 23 of us in the Senate who voted against the use-of-force resolution; 23 of us—1 Republican and 22 Democrats who had serious questions about this decision by this administration to invade Iraq. Many of us felt we needed a broader alliance. Many of us felt the information given to the American people prior to the invasion was misleading about weapons of mass destruction, nuclear threats, and alliances with al-Qaida.

Sadly, in the 3 years since, we found that information was just plain wrong. Information given to the American people to ask them to give their sons and daughters in combat was just plain wrong. And here we stand today.

Iraq is a diverse place. The war has made the differences among religious and ethnic groups so much more than they were even before our invasion. To add to these internal tensions, I know there are many neighbors of Iraq who don't want to see that nation succeed. It is a mean neighborhood, no question. Syria, Iran, and others clearly are fomenting trouble, making a terrible situation even worse.

The enemies of Iraqi progress in unity would like to see this division and chaos continue. The Sunnis, the Shi'as, the Kurds, and 24 other recognized groups have the future of Iraq in their hands. The question is whether they believe they have the possibility of becoming a nation and defending themselves.

Many Sunnis did not participate in the last election to choose those who wrote the constitution. We have been told as late as today that they are rewriting the constitution 10 days before the election in the hopes of winning Sunni support.

It is hard to believe this is going to result in what we hope for, but I pray it will. A stable Iraq, moving forward, controlling its own destiny, is the best thing for that country and the best thing for America.

There are a lot of reasons why the Sunnis oppose the constitution. They represent 20 percent of the population, but they represent about 90 percent of these insurgents who are causing these attacks every day, killing innocent Iraqis and our men and women in uniform. Most Sunnis are not insurgents; they are peace-loving people. But they are being overrun by forces they cannot control.

There is a fight over oil. The oil is primarily in Shi'a and Kurdish territory. The Sunnis resent that fact. They want to make certain the riches of that country are shared.

The constitution postpones a lot of critical decisions to a later date, but this constitution is the fundamental underlying law that could guide Iraq in its future.

I am told that when we take a look at the militias and forces in Iraq, we find they are basically split into different factions. Only one battalion combines Iraqis. The others are Kurdish battalions and Shi'a battalions and Sunni battalions. It does not give a positive feeling about this nation moving forward toward one common country.

I hope we can see the changes that are being proposed in this constitution result in its passage and support by all of the different forces that can make Iraq a nation on its own feet.

Secretary of State Colin Powell told President Bush before the war: You break it, you buy it. That is not entirely true. We may well have broken Iraq from what it once was, but we cannot and do not own it. We are unwelcome tenants at this moment in that country, but we need to start thinking about when we will return, and we need to have the hope and the aspirations of the people of Iraq in our minds and be prepared to accept them.

President Bush has a chance tomorrow to tell us that there is a new course, a course that will stop the killing of innocent American soldiers, a course which will avoid those who are wounded and suffering as a result of this war in Iraq, and a course which will bring to an end quickly the insurgency which kills so many innocent Iraqis.

The PRESIDING OFFICER (Mr. COBURN). The Senator from Alaska.

Mr. STEVENS. Mr. President, I ask unanimous consent that at 7:30 today, the Senate proceed to votes in relation to the following amendments in the order listed, provided further that no second-degree amendments be in order to the amendments prior to the votes. The first is the Warner amendment No. 1955, which is defense of germaneness; the second is Bayh amendment 1933; the next is McCain amendment 1977. Provided further that there be 6 minutes equally divided for debate prior to each of the above ordered votes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. STEVENS. I thank the Senator from Illinois.

(Several Senators addressed the Chair.)

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. WARNER. If I might just make a parliamentary inquiry of the Chair. Our distinguished colleague from Connecticut has been waiting for a period of time. I wish to respect that, but I ask following his remarks if the Senator from Virginia could be recognized for the purposes of a colloquy with the Senator from Michigan, Mr. LEVIN.

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

The Senator from Illinois.

Mr. DURBIN. I am not sure if I still have the floor. I say to my colleague from Connecticut that I will speak for about 10 or 12 minutes and then will yield the floor.

Mr. DODD. I ask unanimous consent that I follow my distinguished colleague from Illinois.

The PRESIDING OFFICER. That is the understanding of the Chair.

Mr. WARNER. Did we understand that the Senator from Illinois wants another 15 minutes?

Mr. DURBIN. That is right.

The PRESIDING OFFICER. The Senator had the floor and has that right.

Mr. WARNER. Yes, of course, I recognize that. I was just trying to be informed as to how the rest of us can plan our schedules. The Senator from Connecticut might well desire what period of time?

Mr. DODD. I would say to my colleague, I hope maybe it is 15 minutes or so. Depending upon the reaction of the chairman and the ranking member of the committee, maybe even less time than that. I will try to be brief because I know the Senator from Virginia and the Senator from Michigan are interested in having a colloquy.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, in the interest of keeping business moving, I am going to yield the floor at this point and return at a later moment. I will let the Senator from Connecticut take the floor.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

AMENDMENT NO. 1970

Mr. DODD. Mr. President, I thank my colleague from Illinois for his graciousness. I thank my colleague from Virginia as well for his consideration, and I will try to be brief.

I call up amendment No. 1970 and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside.

The clerk will report.

The legislative clerk read as follows:

The Senator from Connecticut [Mr. DODD] proposes an amendment numbered 1970.

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

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

The amendment is as follows:

(Purpose: To improve the authority for reimbursement for protective, safety, and health equipment purchased for members of the Armed Forces deployed in Iraq and Central Asia)

At the appropriate place, insert the following:

SEC. ____. (a) REIMBURSEMENT FOR CERTAIN PROTECTIVE, SAFETY, OR HEALTH EQUIPMENT PURCHASED BY OR FOR MEMBERS OF THE ARMED FORCES FOR DEPLOYMENT IN OPERATIONS IN IRAQ AND CENTRAL ASIA.—

(1) IN GENERAL.—Subject to subsections (d) and (e), the Secretary of Defense shall reimburse a member of the Armed Forces, or a person or entity referred to in paragraph (2), for the cost (including shipping cost) of any protective, safety, or health equipment that was purchased by such member, or such person or entity on behalf of such member, before or during the deployment of such member in Operation Noble Eagle, Operation Enduring Freedom, or Operation Iraqi Freedom for the use of such member in connection with such operation if the unit commander of such member certifies that such equipment was critical to the protection, safety, or health of such member.

(2) COVERED PERSONS AND ENTITIES.—A person or entity referred to in this paragraph is a family member or relative of a member of the Armed Forces, a non-profit organization, or a community group.

(3) REGULATIONS NOT REQUIRED FOR REIMBURSEMENT.—Reimbursements may be made under this subsection in advance of the promulgation by the Secretary of Defense of regulations, if any, relating to the administration of this section.

(b) PROTECTIVE EQUIPMENT REIMBURSEMENT FUND.—

(1) ESTABLISHMENT.—There is hereby established an account to be known as the ''Protective Equipment Reimbursement Fund'' (in this subsection referred to as the ''Fund'').

(2) ELEMENTS.—The Fund shall consist of amounts deposited in the Fund from amounts available for the Fund under subsection (f).

(3) AVAILABILITY.—Amounts in the Fund shall be available directly to the unit commanders of members of the Armed Forces for the making of reimbursements for protective, safety, and health equipment under subsection (a).

(4) DOCUMENTATION.—Each person seeking reimbursement under subsection (a) for protective, safety, or health equipment purchased by or on behalf of a member of the Armed Forces shall submit to the unit commander of such member such documentation as is necessary to establish each of the following:

(A) The nature of such equipment, including whether or not such equipment qualifies as protective, safety, or health equipment under subsection (c).

(B) The cost of such equipment.

(c) COVERED PROTECTIVE, SAFETY, AND HEALTH EQUIPMENT.—Protective, safety, and health equipment for which reimbursement shall be made under subsection (a) shall include personal body armor, collective armor or protective equipment (including armor or protective equipment for high mobility multi-purpose wheeled vehicles), and items provided through the Rapid Fielding Initiative of the Army, or equivalent programs of the other Armed Forces, such as the advanced (on-the-move) hydration system, the

advanced combat helmet, the close combat optics system, a Global Positioning System (GPS) receiver, a gun scope and a soldier intercommunication device.

(d) LIMITATION REGARDING AMOUNT OF REIMBURSEMENT.—The amount of reimbursement provided under subsection (a) per item of protective, safety, and health equipment purchased by or on behalf of any given member of the Armed Forces may not exceed the lesser of—

(1) the cost of such equipment (including shipping cost); or

(2) $1,100.

(e) OWNERSHIP OF EQUIPMENT.—The Secretary shall identify the circumstances, if any, under which the United States shall assume title or ownership of protective, safety, or health equipment for which reimbursement is provided under subsection (a).

(f) FUNDING.—

(1) IN GENERAL.—Except as provided in paragraph (2), amounts for reimbursements under subsection (a) shall be derived from any amounts authorized to be appropriated by this Act.

(2) EXCEPTION.—Amounts authorized to be appropriated by this Act and available for the procurement of equipment for members of the Armed Forces deployed, or to be deployed, to Iraq or Afghanistan may not be utilized for reimbursements under subsection (a).

(g) REPEAL OF SUPERSEDED AUTHORITY.—Section 351 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118. Stat. 1857) is repealed.

Mr. DODD. Mr. President, this is old business in the sense of what I am bringing up was a matter considered a little over a year ago on similar legislation. I regret that I have to come back again this year. My colleagues voted unanimously a year ago to adopt this amendment or an amendment very much like it. The other body as well agreed to this amendment during conference between the two bodies. It became the law of the land.

The amendment basically said that for those men and women in uniform serving in Iraq and Afghanistan who purchased—or family members, neighbors, or others—essential equipment that they needed in their role as service men and women, it would be reimbursed up to a maximum amount of $1,100 over a relatively limited period of time. The amendment was straightforward, clear-cut, and enjoyed the strong support, I might add, of the chairman of the Armed Services Committee, Senator WARNER, as well as others who believed this was the right thing to do.

At the time, the Pentagon objected to the amendment, offered talking points against it, and said it was unmanageable to have a reimbursement program for equipment that our service men and women were having to either buy themselves or having bought for them by family members or others.

Over the last year and almost a half, I have had some 15 or 16 exchanges and correspondence with the leadership of the Pentagon. Up until today, and I mean literally this afternoon, there had been almost no response to this requirement of law. As of today—and I will get to this in a minute—they have decided to issue some regulations. It is not a coincidence that they are offering those proposed regulations the very day I am offering the amendment again on the floor. There is an old expression, ''I was born at night but not last night,'' and I would love to believe that this was strictly a matter of timing, but I am concerned that basically there is still a resistance to the idea that our service men and women ought to be receiving the kind of equipment they need, particularly in a war zone.

As we all know, and again I am stating the obvious, we are at war. The safety and protection of our troops in the field could not be a more serious issue for every single one of us. So why is it that the Pentagon has repeatedly failed to adequately equip these men and women? As far back as June of 2003, the military was regularly reporting that up to a quarter of the troops deployed to Iraq were short of critical body armor needed to protect themselves from shrapnel and AK–47 fire.

Just this last June, the Marine Corps Inspector General estimated that 30,000 marines in Iraq needed twice as many heavy machine guns, more fully protected armored vehicles, and more communications equipment to perform their operations successfully than they were getting. Let me repeat: 30,000 marines in Iraq need twice as much heavy equipment in some areas as they are getting.

The Army has had so many troubles mass-producing body armor that it eventually lost as many as 10,000 armored plates as reported by the Army Inspector General's Office.

Most frustrating of all is that as casualties mounted due to roadside bombs or, in DOD parlance, the improvised explosive devices, IEDs, we found that the Pentagon had gravely underestimated the necessary armor needed to protect Army and Marine ground vehicles.

At a Senate Armed Services Committee hearing in March of 2004, Acting Army Secretary Les Brownlee—a good friend of mine, I might add—testified that the Army had not made fortifications of humvees a priority, saying:

> We simply were not prepared for that kind of counterinsurgency that attacked our convoys.

As a result of all of these failures, our soldiers, our sailors, our airmen and marines, were forced to take matters into their own hands in far too many cases.

As early as 2003, the Army's own Soldier Systems Command reported that soldiers, particularly infantrymen, were paying an average of $400 each out of their own pockets for their equipment that their civilian leaders had failed to provide them. Again, the Soldier Systems Command reported those statistics and that the figure did not even include personal body armor that was being purchased. Because they saw the Pentagon failing our troops, servicemembers and their families have all pitched in to pay for protective gear, even vehicle armor, so they did not have to see their own people going off to war without the equipment they need to keep safe.

Things seemed to come to a head when in December of 2004 a soldier asked Secretary Rumsfeld about having to sift through garbage dumps for scrap metal for Army vehicle armor. The Defense Secretary cavalierly replied:

> You have to go to war with the Army you have, not the Army you want.

Of course, we all recall the reaction of the public to that statement. It was very negative, to put it mildly.

Two weeks ago, my office received a call from a constituent I will call Gordon, his first name. Gordon is a good American. He is a former mayor of a small town in Connecticut and a Vietnam veteran. He asked that he be identified only by his first name because he is afraid of retribution against his son. His only son is a lance corporal, recently deployed in Iraq, in the U.S. Marine Corps.

A loyal Republican, Gordon is not looking for Government handouts or to be challenging the President of the United States. He just wants his son to be safe. That is why last month he contacted the online store Diamond Back Tactical and ordered combat gear for his son totaling $683.36. His purchase included lower back double-plated body armor, CAT NAPP body armor for the lower torso and pelvis area. He willingly paid for the order in full, as would any parent, I suggest. But why is it that this family had to place a purchase order on their own? And how can we bear to let good Americans such as Gordon pay this price when there should be regulations on the books providing reimbursements for these kinds of purchases if we are not going to make them on behalf of these young men and women ourselves?

Last week, I met another marine, SGT Todd Bowers, now a reservist attending George Washington University, who has already pulled two tours in Iraq. On his last deployment, Sergeant Bowers said he was fired on by a sniper. It was not the gear provided by the Marine Corps that saved his life but, rather, a $600 rifle scope that his father had just purchased at a gun show in Arizona and a pair of goggles he himself bought for $100. The bullet from the insurgent's gun lodged into Sergeant Bowers' scope rather than his skull, and the goggles guarded his eyes from scattering shrapnel. Thank goodness Sergeant Bowers' father made these purchases. But why is it these concerned parents had to make these purchases on their own? And what about the hundreds of military families without the resources to buy these items? Are we going to allow these sons and daughters, husbands and wives in uniform to go without the battlefield equipment that is essential for their safety?

This is not a new issue. In fact, we have been sounding the alarm to Secretary Rumsfeld and the Pentagon's

leadership for several years now. To address inadequate equipment supplies, in 2003, I proposed an amendment to the emergency supplemental appropriations bill to resolve $322 million in shortfalls in critical health and safety gear, identified by the Army itself, including body armor, camelback hydration systems, and combat helmets. Unfortunately, the administration opposed this legislation, and the amendment was defeated along party lines.

Last year, we tried a different approach—requiring the Pentagon to reimburse military personnel, their families, and charities that bought equipment for military servicemen in Iraq and Afghanistan. Fortunately, in June of 2004, despite ardent objections, I might add, of the Department of Defense, this body approved that amendment 91 to 0.

On October 9, 2004, this body approved the final version of that bill, and the President signed it into law, including a requirement for the Secretary of Defense to implement a reimbursement program by February 25 of this year. It is now October 5, 2005, nearly a year after this provision became the law of the land, over 7 months after the Defense Department was required by law to set up a system for the troops to receive compensation for the protective gear they purchase for use in combat, equipment they bought because the Government failed to provide it. All of this time has passed and still the administration has failed to comply with the law.

My office has made dozens of contacts to the Pentagon, both in phone calls and in letters, and still we heard nothing back and still little action has been taken. Maybe they thought they could just ignore the law or that I might just go away. Instead, under pressure from renewed press interest on this issue, the Defense Department finally issued early guidelines—guess when. Today—for implementing the reimbursement program just over 7 months late.

The regulations are incomplete, with provisions for reimbursement for only a select few items. If one needs any proof that DOD is once again coming up short, all one needs to do is look at the list of reimbursement items. It does not include the gun scope that saved Todd Bowers' life. It does not include the gear that Gordon bought for his son. It does not even include items that were purchased in an attempt to protect humvees with what has been called ''hillbilly armor,'' as depicted by this New York Times story in May of 2004.

In this story, a community in New Jersey went out as a community and bought a lot of this body armor to use on the floor of humvees to protect the young men and women from their own State from those problems, such as bombs going off that were taking so many lives. This goes back to that date. They would not be included in the list provided by the Pentagon.

As I understand it, there are still no plans for each of the military services to actually enforce these regulations. The Pentagon's leadership has done everything in its power, unfortunately, to stop this measure from being implemented, either by circulating talking points against my amendment last year or merely failing to implement the statute as it was enacted a year ago. Why should they stop now, I ask?

In their talking points to Congress last year, the Department of Defense actually said that it ''set an unmanageable precedent,'' and that it would actually ''encourage servicemembers and their loved ones to purchase equipment on their own.''

Such arguments seem absolutely appalling to me. It is the Pentagon's failure to equip our soldiers that is causing servicemembers to go out and buy equipment, not legislation promoting reimbursement for gear that should have been provided anyway. If only the Defense Department's leadership had kept its commitment to protect our troops, I would not be taking the measures I am taking today.

I regret to say I am telling only part of the story. It seems not only the Pentagon miscalculated what the needs are of our troops, but it also underestimated the need to fix the problem in short order. At the time I originally introduced my amendment, in June of 2004, the Pentagon leadership pledged they would have all the equipment needs addressed by July 31, 2004. All troops deployed in Iraq and Afghanistan would have adequate protective gear, they claimed. All appropriate vehicles would have the necessary body armor, they said. And according to the Pentagon, all our deployed soldiers, sailors, airmen, and marines could rest assured that their equipment needs would be met. We therefore crafted our amendment to reimburse troops for purchases only made between September 11, 2001, and July 31, 2004.

But, as many military members and their family members such as Gordon or Todd Bowers will tell you, private purchases of critical gear are still occurring every day. We owe it to our troops to make sure that they are adequately compensated for these purchases. For all of those reasons, I introduced this additional legislation that I hope will move this Government into action.

Let me briefly describe what it does. First, since Secretary Rumsfeld has demonstrated an inability or unwillingness to comply with the law, we take out of his hands the requirement to devise the reimbursement program, and instead we leave it up to the individual troops' unit commanders to decide which equipment need is worthy of reimbursement. If the unit commander thinks it is necessary, they can say reimburse for it. If they say no, you don't get reimbursed. Leave it to your unit commanders. No one knows the needs of our troops better than the commanders deploying alongside our fighting men and women.

Rather than waiting for some bureaucrat at the Pentagon to decide what kind of armor our soldiers and marines should be entitled to, it is far more appropriate, in my view, to leave that up to their company commanders or squadron leaders.

My colleagues should have no objections to this requirement, since they endorsed the unit commanders' discretion in the original version of the amendment that was unanimously passed by this body in 2004.

Second, as I have already stated, in spite of the Pentagon's assurances, the military has not yet met the troops' armor and equipment needs so the legislation I am offering today will allow reimbursement for equipment purchases made at any time in support of operations Iraqi Freedom or Enduring Freedom, not just the period between September 11, 2001, and June 31, 2004, as originally recommended by the Department of Defense.

Words cannot adequately express this Senator's frustration that in the year 2005, the most powerful nation on Earth cannot even see to it that its military personnel have the safety equipment they need while deployed in harm's way. I believe we owe it to our troops to do the right thing and to pass this measure. This legislation has already received the endorsement of several national military organizations, including the Veterans of Foreign Wars, the Military Officers Association of America, National Guard Association of the United States, and the Enlisted Association of the National Guard.

I particularly thank Retired Brigadier General Green for his strong endorsement of this bill, along with Retired Master Sergeant Kline of the Enlisted Association of the National Guard for their strong endorsement. They appeared with me a few days ago at a press conference in which I announced I was going to offer this amendment and gave very strong statements in support of this effort.

Again, I do not want to take up a lot of time. We have already adopted this amendment a year ago, virtually the same amendment. I regret I am back again more than a year later urging similar action. But, again, I point out it has taken far too long for some response to this. Again, if the problem were over with, if it were not ongoing, I would not offer the amendment. I would be disappointed the administration or Pentagon did not comply with last year's law but, as I testified, we have problems every single day in this area. The Pentagon needs to get to business on this.

Today they have all of a sudden come up with a proposed set of regulations, but I point out no gun scopes, no humvee protection, no GPS receivers, no radios. These and other items that are being purchased by our troops are included on our list. It is a step in the right direction but occurring on the very day I am offering the amendment

is not mere coincidence, in my view. I thank them for their action today, but we need to do more.

I urge the adoption of this amendment. I hope my colleagues will make this a unanimous vote here to support the amendment.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. I commend my colleague from Connecticut.

Mr. STEVENS. Will the Senator yield for a procedural matter?

Mr. WARNER. I yield the floor.

Mr. STEVENS. Just to correct an error to the RECORD.

Mr. WARNER. Certainly.

AMENDMENTS NOS. 1895, 1996, 2017

Mr. WARNER. Mr. President, I have sent modifications to the desk on amendments 1895 for Senator BINGAMAN, 1996 for Senator MIKULSKI, and 2017 for Senator BENNETT. I didn't know the amendments had already been sent to the desk.

I ask unanimous consent these amendments, as submitted, be agreed upon and not the modifications I sent to the desk.

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

The amendment (No. 1895) was agreed to.

(The amendment is printed in the RECORD of September 29, 2005.)

The amendment (No. 1996) was agreed to.

(The amendment is printed in the RECORD of October 4, 2005.)

The amendment (No. 2017) was agreed to.

(The amendment is printed in the RECORD of October 4, 2005.)

The PRESIDING OFFICER. The Senator from Virginia.

AMENDMENT NO. 1970

Mr. WARNER. I commend our distinguished colleague from Connecticut. I would say, knowing him through these many years and enjoying a warm and cordial friendship, his indignation was in full control and modest in comparison to other periods, but he is absolutely right. Were I in his position, I would be indignant about the fact that you have tried assiduously to urge the Department to follow the law which I was privileged to work with you in putting into effect last year. That law was Section 351 of the Defense bill last year. It set forth, as the Senator has in this bill, much the same relief for the men and women of the Armed Forces who, on their own initiative, have gone out and expended, and indeed their families have contributed, sums of money.

I am very much in favor of this. I hope the managers of the bill will see fit to accept it. But I do urge upon the managers and my colleague from Connecticut that consideration be given to a clause which was in the law last year. I will read it:

> The protective safety or health equipment was purchased by the member during the period beginning on September 11, 2001, and ending on July 31, 2004.

That enables some period of time within which we have an understanding of what was involved in the expenditures. We, in the legislative body, call that a sunset provision. It is not found in the pending amendment.

Having had modest service myself, as a sailor and so forth, inconsequential though that be, I know a little bit about the life of a service person. The modern GI, this generation, I guess as great as any generation we have ever witnessed in the history of the country—believe me, leave it to them and they can figure out a lot of things that presumably are better than provided by the military.

The Senator pretty well restricted himself to those essential things with which I agree. But if we leave this open, we enable these young men and women, proudly wearing the uniform today, to buy a whole lot of things. Next thing you know we are going to have an open door for a lot of things to be purchased.

A wrong, in my judgment, was done in the early procurement system of this equipment, failure to have it, failure to deliver it in a timely way to some of our troops, and you have made that clear today, as have other Senators on the floor. But I say, I do believe consideration should be given to some terminal date—maybe through 2006—in which to give the military the chance to make certain that everything that can protect the life is there, and there is no requirement for these young people to go out and purchase it on their own.

Mr. DODD. If my colleague will yield.

Mr. WARNER. Yes.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. I thank my friend, the chairman of the Armed Services Committee, for his support. You were tremendously helpful. At a time when the Pentagon was resistant, the chairman of the committee and others stood up and said we should do this—regrettably, we should be doing this.

We have done two things a little differently in this amendment. The chairman pointed it out. One, we removed the decision from the Pentagon to the field commander to make a decision on what is reimbursable or not, on the theory, as a squadron leader or platoon leader, field commander, they are in a better position to decide whether or not an item a soldier may purchase should be reimbursable, rather than someone at the Pentagon who would not have a firsthand knowledge of the kind of equipment.

Second, we limit the amount that can be collected. This is not an unlimited amount. Some of these items would be in excess of the limitations we put in the amendment. That is what we had last year.

Third, I am willing to consider some outlying date. The reason we limited it last year was because of the assurances we had been given that, in fact, the problem no longer existed. In fact, it still exists. I am prepared to accept an appropriate time, 2006 or something.

I hope we do not have to come back to this amendment, but the idea of having some outside date as a parameter, I am willing to accept that.

Mr. WARNER. Mr. President, if I could regain the floor?

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. I urge the adoption of the amendment in hopes that the distinguished colleague from Connecticut, with two extraordinary veterans of military life, can sit down and work this out in a mutually satisfactory manner.

Mr. President, under the unanimous consent agreement, we have been recognized, the Senator from Virginia and the Senator from Michigan, to conduct a colloquy?

Mr. STEVENS. Mr. President, we would like to dispose of this amendment if it is possible.

The PRESIDING OFFICER. Does the Senator from Virginia yield?

Mr. WARNER. We yield for the parliamentary desire.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. STEVENS. I am constrained to say that even back in World War II we bought some of our own stuff and thought the Government should pay for it. No one did. The question is, How much should we be able to spend? We will work it out. I urge the Senator to allow us to adopt this now by voice vote so it will not be involved in the cloture process tomorrow.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 1970) was agreed to.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

AMENDMENT NO. 1955

Mr. WARNER. Mr. President, I note the presence on the floor of my distinguished colleague, the ranking member of the Armed Services Committee.

During the course of yesterday, the distinguished chairman of the subcommittee on appropriations, Mr. STEVENS, and myself participated in a parliamentary situation, whereby the Senator from Virginia sent an amendment to the desk. It was actually filed. I asked it be called up and it was.

At that time, there was an objection interposed by the Senator from Alaska, referring to the CONGRESSIONAL RECORD of today, at page S10967.

We went through the parliamentary situation, whereby I desired to have the amendment considered. The Senator from Alaska objected. Whereupon, I raised the question of germaneness to the amendment, and it was referred to the Parliamentarian.

I would like to read exactly what the Parliamentarian stated on this occasion. I stated: ''the Parliamentarians have advised,'' and I stress that word ''advised''—''the Parliamentarians have advised'' that in the Parliamentarians' opinion ''there is sufficient language in the House bill to permit Senator WARNER to assert the defense of germaneness with respect to his amendment numbered 1955.''

I ask, at this moment in time, a parliamentary inquiry. Has the Senator from Virginia correctly stated what was put forth to the Senate through the Chair? And, if so, what is the nature of the vote that is now before the Senate?

The PRESIDING OFFICER. The Senator has adequately stated the statement that was made with respect to that issue.

The Senate will vote whether or not the amendment is germane under the provisions of rule XVI.

Mr. WARNER. Would that be as requested by the Senator from Alaska?

The PRESIDING OFFICER. That is correct.

Mr. WARNER. I thank the Presiding Officer. I thank the Parliamentarian.

I took this action, frankly, on behalf of the men and women in the Armed Forces. Our Nation is engaged in war—a war on terror with two very major engagements, one in Afghanistan and the other of larger proportions in Iraq.

We have men and women in far-flung posts all over the world, men and women on the high seas, men and women back here training, and the men and women of the Armed Forces and their families look to the Congress of the United States to provide for their needs. That is clearly set forth as our responsibility in the Constitution.

The Committee on the Armed Services was established by this body for the purpose of examining the President's budget, examining a wide realm of other issues that come before us, and preparing each year a bill known as the authorization bill for a certain year—in this case it is 2006. Our committee did that and unanimously reported out favorably to the floor that bill. That bill was taken up by this body and debated for a series of days. Some 30 amendments by colleagues were accepted. They are part of the amendment that is now pending and is the subject of this vote this evening.

There came a time when it was the judgment of the majority leader and the Democratic leader that this bill would be taken down to give a higher priority to appropriations bills. That is a leadership decision. Thereafter, Senator LEVIN and I worked with our leadership in an effort to get our bill back at a specific place on the calendar so that it could be considered by the Senate. It had been our hope that that opportunity would have been given to us prior to the appropriations bill. All of us who have been privileged to work on these bills through the years—this is the 27th year in which I have been privileged to work. The same number of years of my colleague—recognize the value of the authorization bill being passed prior to the enactment of the appropriations bill.

Given that situation, realities are such that we were not able to get it up. We are now faced with the need to exercise every option under the rules to get our bill considered. Although it is an extraordinary procedure and it has only been done once in 1988, I think we at this juncture, given the indefinite time in which our bill could be taken up, and the short period in which, presumably, the Congress is going to remain in session, have to seize this opportunity at this time to have our bill considered in conjunction with the appropriations bill.

For that purpose, I filed the amendment, amended it to take out section B which relates to the Department of Energy, and section C which relates to MILCON, leaving section A which is those provisions which dovetail and support many provisions of this appropriations bill which is pending here today.

I have heard the distinguished managers of the appropriations bill time and time again in previous years, as in this year, explain the desirability of having the authorization bill acted upon prior to the appropriations bill.

I readily acknowledge to the managers of the appropriations bill the essential requirement to get passed as quickly as possible—hopefully, before this recess—the requirements for the ongoing financial needs of the Department of Defense. They are critical.

I have not put this on to that bill as a dilatory measure. And to expedite consideration of the authorization bill, I carefully selected a series of amendments, originally numbered 110 amendments, and filed them at the desk in two managers' amendments, the purpose of which was to say to our colleagues they are your amendments. Senator LEVIN and I have reconciled such differences as existed such that we both now agree—the Senator from Michigan and the Senator from Virginia—that they are ready for enactment on our bill through the vehicle traditionally used of a managers' amendment requiring just one single vote, if necessary. We can perhaps incorporate them into the underlying bill—but one vote on these packages.

Given the changes in circumstances of germaneness, it was necessary for the Senator from Virginia to prepare a third amendment, which I will now file with the clerk. It is permissible under the unanimous consent, and I send to the desk about 100 amendments, which, in the judgment of myself and others, are germane to the bill. Therefore, I send that to the desk.

Mr. STEVENS. Mr. President, reserving the right to object, I am not sure that is in order. I would like to reserve the right to object to this when the Senator is finished.

Mr. WARNER. Mr. President, at this point in time, parliamentary inquiry: Does not the standing unanimous consent allow a Senator to file an amendment in the second degree?

The PRESIDING OFFICER. The amendments in the second degree may be filed. They are not subject to——

Mr. STEVENS. Parliamentary inquiry: I thought we had an understanding that there would be no amendments filed after a specific time. This is a second-degree amendment. We did not permit second-degree amendments at that time.

Mr. WARNER. Mr. President, I have to say in fairness that I have checked with the Parliamentarian each step of my procedure yesterday and today. I have checked, and it was the interpretation given to me, as frequently given to Members of this body by the Parliamentarians, that the unanimous consent did not prohibit, as the Chair just announced, the filing of second-degree amendments.

Mr. STEVENS. That was not my understanding.

The PRESIDING OFFICER. The Chair advises that the transcript will be reviewed, and the Chair also advises that he is not aware of a prohibition of filing second-degree amendments at this time.

Mr. WARNER. Could the Chair repeat that a little louder, please?

The PRESIDING OFFICER. The Chair advises the Senator from Virginia that the transcript will be reviewed, and the Chair, as of this moment, prior to reviewing that, is unaware of the prohibition on second-degree amendments.

Mr. WARNER. I thank the Presiding Officer.

The PRESIDING OFFICER. Against the filing of second-degree amendments.

Mr. WARNER. Yes. That is precisely what I asked the Presiding Officer to accept, and I think your ruling is consistent with the request of the Senator from Virginia.

We can proceed.

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

Mr. WARNER. Yes.

Mr. LEVIN. In terms of the content of the package——

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. WARNER. Mr. President, I yield for a question.

Mr. LEVIN. Without losing his right to the floor, I want to see if I can clarify what I understand to be in the package which was sent to the desk. My understanding is on the underlying amendment which the Senator filed and which I cosponsored that the sections of our Defense authorization bill relating to energy and to military construction have been removed.

Mr. WARNER. That is correct.

Mr. LEVIN. And that the purpose of this package is to remove any amendments relating to those two subjects from the managers' package.

Mr. WARNER. The Senator is correct. I would add that it was for the

purpose, at a subsequent time if the Senate enables this amendment of the Senator from Virginia and the Senator from Michigan jointly put up, which is our annual authorization bill, that we would then ask this amendment be brought up of 101 amendments by our colleagues and be attached to our authorization bill by having one vote, if necessary, on one amendment, which encompasses by management procedure 100 amendments by our colleagues.

The PRESIDING OFFICER. The Senator from Virginia is still recognized.

Mr. WARNER. I yield for a question.

Mr. STEVENS. There is still a unanimous consent request before the Senate.

Mr. WARNER. No. I have not made one, I say to the Presiding Officer.

The PRESIDING OFFICER. There is a unanimous consent request before the Senate. The Senator from Alaska is reserving the right to object, and that unanimous consent is asked for. Is there objection to the unanimous consent by the Senator from Virginia?

Mr. STEVENS. I still reserve the right to object because I don't understand what the Senator is doing. The Senator filed a portion of the Defense authorization bill as an amendment. He then filed a separate package of amendments—some 80 amendments—to that amendment. Now he has filed another set of amendments—as amendments to what?

In any event, we thought we had an understanding that there would be no second-degree amendments filed under this procedure.

Mr. WARNER. Mr. President, if I may try——

Mr. STEVENS. I would prefer the Chair rule.

Mr. WARNER. I say to the distinguished Senator from Alaska that the Chair has ruled that the——

Mr. STEVENS. Then I object. I just object.

Mr. WARNER. If I could clarify what I am trying to do——

Mr. STEVENS. Does the Chair understand that I object to the unanimous consent request?

The PRESIDING OFFICER. The Chair's understanding is that the Senator from Virginia has the right to file amendments for printing and that they be called up.

Mr. WARNER. The Chair is correct.

The PRESIDING OFFICER. He is not proposing those amendments at this time. Therefore, it does not require unanimous consent to have that done.

Mr. STEVENS. What the procedure is doing is making sure that an amendment is offered by every Senator in the place. The two Senators who are not managers of the present bill are offering their package as managers of their bill in order to get support of the Senate to attach this amendment in the first place. It is a procedure I have not seen in my 38 years here in the Senate, and I object to their procedure. But I may not be able to be heard on it. I believe this is a very odd procedure. Now the two Senators are saying they are the managers of the bill and they are going to accept 108 amendments to our bill. We haven't even read them. We don't know what they are. We don't know how many more amendments will likely come to these amendments.

I yield the floor.

Mr. LEVIN. Mr. President, will the Senator yield for an inquiry without losing his right to the floor?

Mr. WARNER. Yes. I yield for a question.

Mr. LEVIN. I wonder if I could inquire——

The PRESIDING OFFICER. The Senator from Virginia has a perfect right to submit amendments to be printed. They have not been called up. Therefore, they are not in order at this time to be offered, but they may be submitted for printing.

Mr. WARNER. Mr. President, that is the request of the Senator from Virginia. I thank the Presiding Officer.

Mr. LEVIN. If the Senator will yield for a question without losing his right to the floor, my understanding of the amendments which have just been printed is those are amendments to the Senator's amendment, not to the bill.

Mr. WARNER. I beg your pardon?

Mr. LEVIN. Is my understanding correct that the amendment which was just sent to the desk to be printed are amendments to Senator WARNER's amendment, not amendments to the bill itself?

Mr. WARNER. Mr. President, that is correct. In the event the Senate concurs in the position of both of us with regard to the forthcoming vote and the Senate agrees as to germaneness, it is my intention to call up my amendment, which is the 2006 armed services bill, and at that time to put on it a managers' amendment—jointly, the two of us—which is the third pending amendment at the desk. We will discard the other two amendments because this third amendment has been carefully drawn to have those amendments, as the Senator from Michigan said, those amendments relative to part A, which constitutes the amendment at the desk at this time. It will be the subject of a vote, and not parts B and C.

Mr. STEVENS. Parliamentary inquiry: Are not these amendments that the Senator struck from the amendment as he offered it—there is a section B and C now of the authorization bill, which was struck from the amendment? That was the understanding. They would not be offered.

The PRESIDING OFFICER. The Chair has no knowledge of the substance of the amendments.

Mr. WARNER. Fine.

This third amendment I have filed is simply a consolidation drawing from the first amendment of 80-some amendments, and the second, I think, was 18 to 20. Only those amendments in this third filing are ones relative to part A. All amendments relative in the earlier packages—the first and the second I filed—basically were part A, but there were some relevant to parts B and C, so I removed those. Because if there is a challenge at the time I bring it up—assuming the Senate in its vote sustains the judgment of the Senator from Virginia and others that there is germaneness in our underlying amendment—then I seek to amend that with this third package which constitutes only amendments related to part A, such as if there is another challenge on germaneness I will not be burdened down by sections B and C.

In no way does this third filing in any way try to restore parts B or C. To the contrary, it takes out all amendments which are related to B and C, so hopefully if I have a further challenge on germaneness, it can be sustained, that they are germane.

Mr. LEVIN. Will the Senator yield?

Mr. WARNER. Yes.

Mr. LEVIN. To try to clarify this, what the Senator from Virginia calls part 3 is a skinned-down version of 1 and 2, eliminating from 1 and 2 those provisions which might violate the understanding which existed that there would not be any provisions in this package that related to the energy piece and to the MILCON piece. The effort being made by the Senator from Virginia, as I understand it, is not to add something into this part in violation of an understanding, but is to make sure that parts 1 and 2—that this modification complies with the understanding that the Senator from Alaska and the Senator from Virginia had; is that correct?

Mr. WARNER. Mr. President, the statement is correct.

I would not use the word ''understanding.''

Mr. LEVIN. I apologize for that statement.

Mr. WARNER. The Senator is exercising his rights in a very courteous way throughout.

Mr. LEVIN. But in terms of the representation of what was in the package, it did not contain in packages 1 and 2 anything relative to the Energy and MILCON bills. The effort of this printed package is to make sure the proposed amendments to your amendment comply with your representation.

Mr. WARNER. Mr. President, that is correct. The third filing consists of amendments only relative to part A in the hopes—if we have another challenge at the time we try to amend it. So now the Senate is faced with a tough call on this vote. I fully appreciate for my colleagues the difficulty of trying to evaluate how Members should vote.

In all fairness, this Nation is at war. The men and women of the Armed Forces are watching ever so carefully what the Congress is doing. I am fearful if we do not avail ourselves of this opportunity to put our bill on—which has been done once before—and hopefully add those amendments which are very important to many Senators, that

this could be misconstrued not only at home, not only abroad by the men and women of the Armed Forces, but indeed there could be some puzzlement throughout the world as to where is the Congress in supporting the men and women of the Armed Forces.

This is a critical time. We must do it. I say to my good friend, it is not an effort in any way to undermine the Senator's efforts to get this appropriations bill through. By the incorporation of these 100 amendments, together with the 30-some amendments which have already been adopted by the Senate the previous time we had this bill on the floor, there will not be forthcoming a massive number of amendments which in the end could result in a further drawing out of the time needed to have this body exercise its judgment on the appropriations bill.

I plead with my colleagues to have an understanding of the imperative nature to act upon this bill promptly. It underlies much of what the Senator is trying to do in the appropriations bill. It is needed authorization language.

I see my colleague who has joined me in this, if the Senator wishes to go ahead. Does the Senator have a question?

Mr. LEVIN. I thought the unanimous consent request would be a colloquy.

Mr. WARNER. That is what we have, a colloquy.

Mr. STEVENS. How long will the colloquy go on? It has been going on 30 minutes—20 minutes, anyway.

The PRESIDING OFFICER. No time has been offered.

Mr. LEVIN. I assure the Senator from Alaska I will be brief. I simply join in the plea.

The PRESIDING OFFICER. Does the Senator from Virginia yield the floor?

Mr. WARNER. Yes.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. LEVIN. I join the Senator from Virginia in making a plea to our appropriators here, the managers on the bill, to understand the situation in which we find ourselves. That is, we had a bill in the Senate which the Republican leader decided for reasons which were very clear at the time that the bill would be pulled down. It was left in limbo. And the request is whether we will now have an opportunity to vote on a bill which does so much for the men and women in the military. We cannot think of any other way we can bring up the authorization except by offering it as an amendment to the appropriations bill, which is pending.

It has met the threshold of germaneness, we are assured. The Senate will decide whether it is germane. But the Parliamentarian has advised the Senator from Virginia that it meets the threshold.

So now with the provisions in this bill—the pay provisions, the special pay provisions, the bonuses, the death gratuity enhancement, the increased life insurance, the health care provisions, the TRICARE provisions—we could go on and on—there are critically important provisions in this bill to the men and women in the military.

We have men and women in the military with their lives at risk in Iraq and Afghanistan and now we have an additional responsibility in the gulf. We have so much at stake. Usually appropriators and the authorizers have been able to work together. I hope that will continue now. Somehow or other I hope we will be able to figure out a way——

Mr. STEVENS. Will the Senator yield?

Mr. LEVIN. If I can finish the sentence.

I hope we can find a way consistent with the wonderful relationship which has existed between appropriators and authorizers in the defense area, that we can find a way to get this authorization bill before the Senate. We have tried to get it freestanding, without success. This is an opportunity to bring this bill to the Senate.

As the Senator from Virginia said, we have over 100 items which have been cleared. That is not done for any sinister reason. That is done for a very simple way to expedite this bill so that the appropriators are not confronted with 100 amendments. The appropriators should not be confronted with an authorization bill where there are 150 amendments pending.

The Senator from Virginia and this Senator have tried very hard to accommodate Senators on both sides of the aisle so we could help the appropriators, so we could represent to the appropriators that we would not be confronted with 100 or 150 amendments, but that a managers' package would be able to resolve most of those amendments. That has been done. It has been done in good faith.

I hope that somehow or other the managers of this bill can find a way to help us bring this bill to the floor. There will not be more than perhaps a dozen amendments that would be offered to this bill, we think, because we believe we can work out most of the other amendments. That is my plea to the appropriators and to our good friends, the Senators from Alaska and Hawaii.

Mr. WARNER. I will be glad to yield for a question.

The PRESIDING OFFICER. The Senator from Michigan maintains the floor.

Mr. LEVIN. I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. I thank my colleague.

We have worked these many years together and we have tried to work in the spirit of what is best, as our managers of the appropriations bill, for the men and women of the Armed Forces. I plead, give not just the managers a chance, but give the Senate, I say to our managers, the chance to show that they are not going to come up here with a whole lot of amendments to drag this appropriations bill down, trying to attach those amendments to our amendments.

We have worked hard for weeks to compile this list of 100 amendments. We do not know of any others out there—there are some, but not massive numbers—that are going to come in and literally capsize this appropriations bill. Give it a chance. After a day or so here, if the leadership finds factually that the Senate is taking steps, and is within their right to try and put second degrees on, and that is an impediment to finishing the bill by Friday, I am sure we can sit down with the two leaders and work out a solution.

I simply say, give us not just a chance but give the Senate as a body a chance to show responsibility to enact the annual authorization bill.

AMENDMENT NO. 1977

Mr. President, I endorse strongly the McCain amendment. I have been a cosponsor from the beginning. I have looked into this situation. At one time when I was privileged to be Secretary of the Navy when the war in Vietnam came to an end, I dealt extensively with the prisoner issue and their families in that tragic era of our history. I have had some insight into this situation which enables me to give the strongest possible endorsement to this amendment by the Senator from Arizona, a very respected member of this Senate and a man with an extraordinary record in the armed services of the United States.

The McCain amendment provides us with the opportunity to better ensure our Nation's military does not repeat the errors, faults and misdeeds we have seen occur at military detention facilities overseas as we fight this war on global terrorism.

As General Abizaid told us last week this will be a long war against terrorists and our Armed Forces must have clear and understandable standards.

The McCain amendment has two parts of equal vital importance, both critical. The first establishes clear rules for the conduct of our soldiers, sailors, airmen, and marines involved in interrogation operations. It does not add new approaches or techniques, it merely takes Army doctrine which is our clearest guidance on conduct of interrogations and makes it our military standard as set forth in the Army Manual.

Clearly the Constitution gives Congress a role to play in the creation of rules pertaining to the treatment of detainees. Article 1, section 8 provides that the Congress shall have power to make rules concerning captures on land and water, and also to make rules for the government and regulation of the land and naval forces. Rules for treatment and interrogation of detainees clearly falls within this authority given to Congress by the Constitution.

The second part of the McCain amendment speaks to American values. It tells our soldiers, sailors, airman, and marines, our allies, and the rest of the world that the cruel, inhuman, and degrading treatment or punishment are not part of the American character.

Our standards against cruel, inhuman, and degrading treatment or punishment are deeply rooted in our Bill of Rights. Ultimately it is our uniquely American character that must be embedded in our American way or war.

Mr. LEVIN. I ask unanimous consent I be listed as a cosponsor of the McCain amendment relative to the treatment of detainees.

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

Mr. LEVIN. Mr. President, I support the McCain amendment on interrogation standards because it protects our troops. Major General Fay, in his investigation into the role of military intelligence in the prisoner abuses at Abu Ghraib, found that DoD's development of multiple policies on interrogation operations for use in different theaters or operations confused Army and civilian interrogators at Abu Ghraib.'' This confusion over what standards applied contributed to the horrific abuses of detainees. This confusion has put our troops at risk of being subjected to abusive treatment should they ever be captured.

Senator MCCAIN's amendment would protect our troops by establishing a single, uniform standard for interrogations. This is consistent with the recommendations of Major General Fay. Senator MCCAIN's amendment also requires that detainees in U.S. custody shall not be subjected to cruel, inhuman, and degrading treatment or punishment. This is consistent with the high standards to which our military is trained, with how we expect our soldiers to be treated if they fall into enemy custody, with our international obligations, and with our cherished values as Americans. I urge my colleagues to support the McCain amendment.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. WARNER. If I could make certain I still remain a cosponsor of the McCain amendment that is now the pending amendment.

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

The Senator from Alaska is recognized.

Mr. STEVENS. Mr. President, the majority leader laid out a plan for the consideration of the Defense authorization bill. It was before the Senate for 4 days or a little bit longer. There were over 200 amendments offered to that bill and it was brought down.

The Senator from Virginia, the chairman of the Committee on Armed Services, came to me and asked if I would object if they put their bill on this bill with a time agreement, with specific amendments with time limits on each amendment. Senator INOUYE and I discussed that and we said we would have no objection.

We were then informed that was not possible. The Senator from Virginia said he would like to offer his amendment to this amendment for the purpose of putting pressure on the majority leader to make an arrangement to call up this bill.

I urged him not to do that, as a matter of fact. We met off the floor and he said he was going to do it. He indicated he was going to delete a portion of that bill as he offered it. He did not inform me that the reason for that deletion was because the Parliamentarian had advised him that the bill would be subject to a point of order on the basis of germaneness if he did it. So he eliminated the two provisions of the bill that might be subject to germaneness. The Parliamentarian has now advised that the Senator from Virginia has a right to raise the defense of germaneness and the Senate will vote on that at 7:30.

Beyond that, the concept now of bringing in 108 amendments to the bill when there are still amendments outside—I ask unanimous consent that we adopt the amendments offered by the Senator from Virginia and that no further amendments from the authorization bill be permitted to this bill.

Mr. LEVIN. I object.

Mr. STEVENS. That proves it. The Senators do not know how many of the other 200 amendments are going to come out here on this bill. I have stated time and time again this bill must be passed and sent to conference before we leave this week. We will not leave this week until we finish this bill. I have told the Senate time and time again the emergency supplemental is attached to this bill for Iraq and the war on terror and Afghanistan. Those items must be approved by the President no later than November 15.

We had a supplemental for the past fiscal year, 2005. This is the supplemental for 2006, and 2006 started October 1. We have a continuing resolution we are operating on for the basic operations of the Defense Department, but there is no continuing operation for the supplemental for Iraq and Afghanistan and the war on terror.

This must be passed. The Committee on Armed Services knows this. The Senator from Virginia, I must correct. Never before in history has a bill been offered to the appropriations bill and been subject to amendment.

We have taken the authorization bill twice during my time on the Appropriations Committee in full, already agreed to by the committee, and taken it to conference. We have never accepted a portion of a Defense authorization bill and left it open to amendment. Why? The Senate can see right now why. The managers have not reached an agreement on their bill. The committee has not reached an agreement on their bill.

The bill is subject to amendment, and there are over 200 amendments at the desk now that were filed against the armed services bill. They have picked out 108 of them, and they have approved them. They never consulted with us on what they did, but they have approved them and offered them now as an amendment. As they offer the amendment, there are other amendments that come in now because of the circumstance of how many they have picked out and the ones they have not picked out.

Does the Senator believe Senators who offered other amendments that you will not accept will not come here and ask us to accept them? No. They know that. And Senator LEVIN said there may be some out there, 10 or 12. Well, how long are 10 or 12 amendments going to take when you are on the authorization bill and we are not handling that bill; they are.

I think the Senate has to realize the procedure we are in now. If we start down this road, then every time there is a Defense appropriations bill someone who has not gotten a bill passed in terms of another 1 of the 12 subcommittees—there are 13 on appropriations—is going to come in and say: We want to put our bill on your bill, but, by the way, it will be subject to amendment. You can call up your bill. We can't call up our bill because it is not ready to be called up.

Now, an armed services bill, when it comes here, is a great bill. It takes a long time. We know how long it takes. Our bill usually takes—one year it took 3 hours. Most years it takes less than a day. Why? Because we are a bipartisan subcommittee. When this bill came out of the subcommittee, it came out unanimously. Not one Senator voted against it. When it came out of the full committee, it was unanimous. Not one Senator voted against it.

The two of us have run a bipartisan team now since 1981. This is the first year that this has been done. I hope the Senate says: We do not want to do it this way because this is opening the door to an entirely new process of using a bill that must be passed as a vehicle to take on a bill that cannot be passed. If they could pass their bill, they would have done it. They would have proved to the majority leader they had amendments, and they could have agreed to them.

That is not our problem. That should not be the appropriators' problem. We have a timeframe. We have 13 bills. We are supposed to get them all done once each year. We have had years when we did not even have an authorization bill, and we survived it. We have had many years where they passed their bill months after we passed the Defense appropriations bill, and we survived it.

But this year—this year—because we are at war, this is absolutely wrong, absolutely wrong. I hope the Senate listens to me. We have to pass this bill before we leave to go home for this recess for these holidays next week. If we do not, we do not have the ability, once we get back, to pass it and then get to conference and then get it to the President in time for the money to be available to use to support our people in the field.

Now, people say: Well, wait a minute, you can reprogram money. We are in a period of a continuing resolution.

There is no money that can be reprogrammed. You cannot reprogram money now. We do not have 2006 money to reprogram. There is no emergency money to reprogram. The emergency money is in part of this bill that has to be passed.

Now, I am getting a little mad. I do not mean to be too mad, but I mean to be very angry and disturbed at the process. The Senator from Virginia and the Senator from Michigan know better than to do this. You know better than to do this. It is time for us to realize we have soldiers and sailors, marines, the Coast Guard in the field now. The money to support them is running out. The reason it has not run out is because we did reprogram some money before September 30 we had available then. There is no more money to reprogram to take care of this war.

Now, I do not know how I can express it any more bluntly than that. I hope the Senate will listen to us and vote against this concept that this bill is germane to this bill to start with. It is not germane. It is a whole authorization bill minus the MILCON and energy portions. But it is still the whole authorization bill, which is subject to amendment. As I said, there are over 100 amendments out there that Members have filed already against this bill.

Now, I will be pleased to take this, if there are no more amendments. That was the understanding to start with: We would take their bill if they had a time agreement, a time to vote for certain on it. I think we have gone too far.

My friend from Hawaii—I do the shouting; he does the thinking—may want to say something more. But I tell you, I am really basically deeply concerned about the future of our men and women in uniform if we treat their money portion of this process this way. This is the authorization process. This is policy. We went into that on another amendment today. I don't know much about all the precedents in terms of the Geneva Conventions and what is in the Army Field Manual. Those amendments—I respect the Senator from Arizona. The Armed Services Committee people do. We know what is in here for money.

The Senator's bill does not pertain to money. It does have some authorizations, but that is all right. They can be passed later after we pass our bill. No one is going to be harmed. But there is going to be a great deal of harm if we do not get this bill passed and sent to conference and get it to the President soon after we get back from this recess.

Now, I do not know how we can do anything more than just say, once again, the Senator from Virginia has embarked on a course that has never been done before. He said it had been done before. It has never been done. Never before has a part of an authorization bill been introduced to this bill, or any other bill for that matter, that was subject to amendment. We do not operate that way. I can remember taking a bill that stood off the floor that far because it had so many authorization bills in it that could not get through, but we took them because they were ready, complete. They were complete. They were ready to go, and they took them in an omnibus bill.

But this is not an omnibus bill. This is one bill. This is a bill for the appropriations for the Department of Defense for the fiscal year 2006, plus the emergency supplemental funding for the war in Iraq, Afghanistan, and the war on terror. Under those circumstances, I am appalled that the two Senators would proceed this way. And I tell the Senator from Virginia, our friendship is very close to the brink—very close to the brink—because I believe my job is to get this bill passed, and get it passed as a bill we know we can go to conference on, and get it done and be ready when we get back.

If we were to take this portion of this bill, the Defense bill, to conference, we could not finish the conference until they were finished. And that is definitely not proper.

I yield to the Senator from Hawaii.

The PRESIDING OFFICER. The Senator from Hawaii is recognized.

Mr. INOUYE. Mr. President, much as I would prefer to have amity and comity on this floor and be able to accommodate the concerns of my dear friend from Virginia, I must say that I fully agree with my chairman, Mr. STEVENS of Alaska. This procedure will set a terrible precedent, one that we will regret in the years to come.

If you look at it very carefully, it will take away some of the rights of people with minority views. So I would hope that another step be taken—I do not know what it is—where we can resolve this matter. I would hope the leadership of the Senate realizes the seriousness of what we are confronting at this moment. It affects the future of this land, and I am not being dramatic.

Thank you, Mr. President.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, I say to my two very dear and old friends, I tender any apologies, but I have acted strictly in accordance with the rules, exercising the right that any Senator has. I feel it is imperative because we are a nation at war. We have diligently tried to get up our bill, and this is an option I felt under the rules was open to me, and I have followed it.

There was a time, as Senator STEVENS did correctly state—and he was correct in his statements—that we had hoped there would be an agreement between the two sides on what few remaining amendments to our bill, over and above the 100-plus that are in the amendment up here, could be acted upon expeditiously. I still feel there are but a few amendments out there and that we can—Senator LEVIN and I—resolve them.

I know parts B and C are essential to be enacted into law before this session concludes. I would assume at some point in time the leadership will enable us to bring up sections B and C, at which time such other amendments as colleagues may have can be brought forth and resolved at that point in time.

But I think it is imperative to act now on the core section of the armed services bill. I would hope our colleagues would see that we are giving the whole Senate a chance—not just the managers of the bill but the whole Senate a chance—to show the men and women of the Armed Forces, the people of this Nation, that we can, in these times of emergency, act in a bipartisan way to reconcile a problem such as this, and that if our amendment remains, after the vote at 7:30, and is brought up, that there will not be forthcoming a deluge of amendments which, in effect, would impair the ability of these two managers to get this essential piece of legislation acted upon prior to the commencement of the recess, and that there will be a future time with parts B and C, when they will be able to bring forth such additional amendments as they believe are necessary to be enacted in the 2006 armed services bill; that is, sections B and C would be the tree on which those amendments could be affixed.

So I say to my good friend, I have acted as I feel duty calls. You have stated very clearly the facts. And now I entrust the Senate to make the decision that is right for the country.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, my last word on this, before we come on the 6 minutes before the vote at 7:30, will be this: There are two packages of amendments before the desk. Under any normal procedure, Senator INOUYE and I would review those amendments. We have not seen them. We have not even gotten a copy of them. Normally we would have had a copy of them, at least. But we do not know how many of those are in conflict with our own bill.

The two Senators have acted as managers of a part of our bill because they offered their bill as an amendment. What procedure is this? How can we assure the Senate what is in this bill? How can we even be prepared to go to conference on this bill when we do not know what is in those two packages? There are three portions here. We know what is in the part A, which was part of the authorization bill, but these amendments, we don't know what they are. We may have already accepted some of them. I do not know.

But I think it is really a strange procedure that anyone would suggest, by offering an amendment, that control over the bill go to members from other committees and, in doing so, they clear amendments that we will have to defend in conference, theoretically, as Members of the Senate, but we do not know what is in them. No one knows what is in them. Normally, a package like that, if they had their bill out

here, the Defense authorization bill, they would have a bill in front of us, wouldn't they? As a matter of fact, I think the rules require it. But now there are amendments offered at the desk, and I do not think they have given anyone a copy of the amendments.

I think this procedure violates the rules of the Senate. I am not going to get into the problem of that yet because we are going to vote on germaneness. Germaneness does not eliminate the points of order we may have against those amendments later. But as a practical matter, this is a really odd procedure, and one that is bound to, as the Senator from Hawaii said, lead to processes in the future that will be totally unmanageable.

I urge the Senate to think about this as we approach the vote at 7:30 p.m.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. WARNER. Parliamentary inquiry: Did not the Senator from Virginia on Monday file an amendment in the nature of a managers' amendment with 60 amendments and they have been at the desk since that period of time?

The PRESIDING OFFICER. That would be a matter of public record. The Chair does not keep a record.

Mr. WARNER. A matter of public record. Then yesterday I filed a second amendment with about 18 in the nature of a managers' amendment, and they were in the public record.

I say to my good friends, the amendment I filed today, the third one, is nothing more than taking from each package only those amendments which have been at the desk, filed, and consolidating them in a third package.

I say to my friend, I am in no way trying to be devious at all. Those amendments have been a matter of public record Monday, Tuesday, and today's amendment simply is a consolidation of all of those that have been at the desk in that period of time.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. MCCAIN. Mr. President, I know the Senator from Rhode Island is waiting, and I will be very brief. First, it is not a happy day for this body when we are in this kind of imbroglio where we are unable to accept as an amendment on an appropriations bill the authorization for the men and women who are fighting in our Nation's defense around the world. It seems to me the least we can do, however this is sorted out, is to have the distinguished leaders—Senators STEVENS, INOUYE, LEVIN, and WARNER—sit down and see if there is a way to work this out. It may require the participation of the respective leaders. But we should not be in a situation where the best option is to attach an entire authorization bill as an amendment to an appropriations bill. It is a sad commentary on the way we do business.

AMENDMENT NO. 1977

Mr. MCCAIN. Mr. President, if I can ask the indulgence of my friend from Rhode Island for 1 minute, I would like to read a statement into the RECORD.

It reads:

GEN COLIN L. POWELL, USA (RETIRED),
Alexandria, VA, October 5, 2005.

Dear Senator MCCAIN: I have read your proposed amendment to the Defense Appropriations Bill concerning the use of the Army Field Manual as the definitive guidance for the conduct of our troops with respect to detainees. I have also studied your impressive statement introducing the amendment.

I fully support this amendment. Further, I align myself with the letter written to you by General Shalikashivili and a distinguished group of senior officers in support of the amendment.

Our troops need to hear from the Congress, which has an obligation to speak to such matters under Article I, Section 8 of the Constitution. I also believe the world will note that America is making a clear statement with respect to the expected future behavior of our soldiers. Such a reaction will help deal with the terrible public diplomacy crisis created by Abu Ghraib.

Sincerely,

COLIN POWELL.

I hope my colleagues will pay very careful attention to our former Secretary of State and Chairman of the Joint Chiefs of Staff. I do not have to tell any of my colleagues of his outstanding and superb record of service to this Nation and the depth of his knowledge as it pertains to this and many other national security issues.

I am very grateful he has come forward with this statement, and I hope my colleagues will pay attention to it.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. WARNER. Mr. President, if the Senator will yield, I want to commend my long-time friend, Senator MCCAIN, for the initiative he has taken. It has been a privilege for me and many others to join him in this effort. I think what he stated here should be taken into consideration by every Senator tonight as they cast his or her vote.

The PRESIDING OFFICER. The Senator from Rhode Island.

AMENDMENT NO. 2033

Mr. REED. Mr. President, rising energy prices could financially wipe out working-class families and seniors this winter. We are about to see an extraordinary runup in prices that imperil the ability of many families simply to keep their homes warm during this coming winter.

In New England, the average cost for a family using heating oil is projected to hit $1,666 during the upcoming winter. This represents an increase of $403 over last winter's prices and $714 over the winter heating season of 2003–2004. That is an extraordinary increase in the cost families have to spend to heat their homes.

For a family using natural gas in the Midwest, prices are projected to hit $1,568, representing an increase of $611 over last year's prices and $643 over the price of the 2003–2004 heating season.

The Mortgage Bankers Association, looking at this data, expects steep energy costs could increase the number of missed payments and lost homes this year. So we have observers who are fearful that this huge energy shock could cause families to, indeed, lose their homes.

In America, no family should be forced to choose between heating their home or putting food on the table for their children. No senior citizen should have to decide to either buy lifesaving pharmaceuticals or pay their electric bill. But, unfortunately, low-income working Americans are facing these decisions this winter.

In some respects, this is a tidal wave, not of rising water but of rising energy prices which is a consequence of Hurricanes Katrina and Rita.

For this reason, Senator KENNEDY, Senator KERRY, and I offered an amendment to the Defense Department appropriations bill to provide $3.1 billion in emergency funds for the Low-Income Home Energy Assistance Program, known as LIHEAP. This funding will provide our Nation's most vulnerable—low-income families, seniors, and disabled individuals—with affordable energy this winter. Again, we saw and were shocked as a nation to see rising waters imperil the most vulnerable in our society on the gulf coast. Well, these rising energy prices will do the same thing by threatening the most vulnerable people through the Northeast, through the Midwest, through every area of the country that anticipates cold weather this winter.

I urge my colleagues to join us to secure $3.1 billion in additional LIHEAP funding.

In September, I, along with over 20 of my colleagues, both Republicans and Democrats, sent a letter to the President urging that he include additional funding for LIHEAP in a supplemental appropriations bill for Hurricane Katrina. We sensed, as he sensed, that one of the consequences of Katrina was a severe shock to our energy sector with complementary increases in prices. So I believe it is appropriate to deal with this issue now. We are waiting not only for the supplemental for Katrina, but also dealing with it on this particular appropriations bill.

On Monday, I was dismayed to learn that President Bush currently does not have plans to request additional LIHEAP funds this year. States are bracing for a crisis caused by a lack of affordable energy, and this funding will ensure low-income families and seniors will have safe, warm homes this winter.

President Bush, I strongly urge that you reconsider. The warning has been issued. Will you once again ignore a looming crisis facing America?

In addition to LIHEAP funding, there are other steps that Congress and the administration need to take to address our Nation's high energy costs. First, we need to pass Senator CANTWELL's Energy Emergency Consumer Protection Act to ban price gouging at the

gas pump in the wake of natural disasters such as Hurricane Katrina.

Second, we need to pass Senator DORGAN's Windfall Profits Rebate Act which imposes a temporary windfall profits tax on big oil companies and uses the revenues to provide a rebate to American consumers to help offset the higher cost of oil and gasoline products.

Total energy spending for the Nation this year will approach $1 trillion, 24 percent higher than in 2004. Energy will claim the biggest share of U.S. output since the end of the oil crisis 20 years ago. Oil and natural gas companies are making record profits, while energy prices are overcoming and overtaking workers' salary increases. This is wrong.

We also must fix those bankrupt energy policies that provide oil and gas companies with billions of dollars from the Federal Treasury for production. These tax breaks should be repealed to pay for LIHEAP and conservation programs that help American energy consumers, not big business.

The Federal Government must lead by example also. The President called on Americans to reduce their energy consumption and conserve oil. I know American families are up to this challenge and will respond. But Americans have the right to expect that their President and their Government will also make sacrifices.

The President should implement a Federal savings target to demonstrate a serious commitment to improving our Nation's energy security. He should set a 40-percent savings target for Federal agencies by 2020. Over the past few years, the Federal Government has reduced its petroleum consumption by less than 1 percent. We can and we must do better.

As a nation, we must step back and evaluate our priorities. Now is not the time to cut funding for social programs such as LIHEAP, Medicaid, and food stamps that support working families and seniors while the President and Members of the Senate continue to push for irresponsible tax breaks. We must prioritize, and the most vulnerable among us must be considered first.

Millions of Americans are struggling each day to make ends meet. They deserve our support. I hope the President and this Congress will heed this warning and help build an energy safety net for all Americans.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. MARTINEZ). The Senator from Hawaii.

Mr. INOUYE. Mr. President, I ask that the pending amendment be set aside.

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

AMENDMENT NO. 1963

Mr. INOUYE. Mr. President, in behalf of the Senator from New Jersey, Mr. LAUTENBERG, I send to the desk an amendment.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Hawaii [Mr. INOUYE], for Mr. LAUTENBERG, proposes an amendment numbered 1963.

The amendment is as follows:

(Purpose: To require the Secretary of Defense to maintain a website listing information on Federal contractor misconduct, and to require reports on Federal no-bid contracts related to Iraq reconstruction)

On page 220, after line 25, add the following:

SEC. 8116. ENSURING TRANSPARENCY IN FEDERAL CONTRACTING.

(a) PUBLICATION OF INFORMATION ON FEDERAL CONTRACTOR MISCONDUCT.—The Secretary of Defense shall maintain a publicly-available website that provides information on instances of improper conduct by contractors entering into or carrying out Federal contracts, including instances in which contractors have been fined, paid penalties or restitution, settled, plead guilty to, or had judgments entered against them in connection with allegations of improper conduct.

(b) REPORTS ON FEDERAL NO-BID CONTRACTS RELATED TO IRAQ RECONSTRUCTION.—

(1) REPORTS REQUIRED.—Not later than 7 days after entering into a no-bid contract to procure property or services in connection with Iraq reconstruction, the head of an executive agency shall submit to the Secretary of Defense a report on the contract.

(2) CONTENT.—Each report submitted under paragraph (1) shall include the following information:

(A) The date the contract was awarded.

(B) The contract number.

(C) The name of the contractor.

(D) The amounts awarded and obligated under the contract.

(E) The scope of work under the contract.

(3) PUBLICATION.—The Secretary of Defense shall maintain a publicly-available website that lists the information provided in reports submitted under paragraph (1).

(4) EXECUTIVE AGENCY DEFINED.—In this subsection, the term ''executive agency'' has the meaning given such term in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403).

Mr. INOUYE. I thank the Chair.

AMENDMENT NO. 2016

Mr. STEVENS. Mr. President, I have an amendment at the desk on behalf of Senator SHELBY.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside.

The clerk will report.

The legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for Mr. SHELBY, proposes an amendment numbered 2016.

The amendment is as follows:

(Purpose: To prohibit the transfer from the Army of authority relating to the tactical unmanned aerial vehicles)

At the appropriate place insert the following:

SEC. ____. (a) PROHIBITION ON TRANSFER OF AUTHORITY ON TACTICAL UNMANNED AERIAL VEHICLES.—None of the funds appropriated by this Act may be used to transfer research and development, acquisition, or other program authority relating to current tactical unmanned aerial vehicles (TUAVs) from the Army.

(b) EXTENDED RANGE MULTI-PURPOSE UNMANNED AERIAL VEHICLES.—The Army shall retain responsibility for and operational control of the Extended Range Multi-Purpose (ERMP) Unmanned Aerial Vehicle (UAV) in order to support the Secretary of Defense in matters relating to the employment of unmanned aerial vehicles.

Mr. STEVENS. Mr. President, regarding the two amendments that were sent to the desk, I ask that they be considered en bloc.

The PRESIDING OFFICER. Without objection, the amendments will be considered en bloc.

The question is on agreeing to amendments Nos. 1963 and 2016.

The amendments (Nos. 1963 and 2016) were agreed to.

Mr. STEVENS. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Ms. LANDRIEU. I ask unanimous consent to lay aside the pending amendment.

The PRESIDING OFFICER. Is there objection?

The Senator from Alaska.

Mr. STEVENS. Has the Senator called up an amendment?

The PRESIDING OFFICER. The Senator is about to identify the amendment she wishes to call up.

Without objection, it is so ordered.

AMENDMENT NO. 1942

Ms. LANDRIEU. I call up amendment No. 1942.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Louisiana [Ms. LANDRIEU] proposes an amendment numbered 1942.

Ms. LANDRIEU. 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 $10,000,000 for Operation and Maintenance, Air Force, and $20,000,000 for Other Procurement, Air Force, for the implementation of IMT–2000 3G Standards Based Communications Information Extension capability for the Gulf States and key entities within the Northern Command Area of Responsibility)

At the appropriate place, insert the following:

SEC. ____. (a) IMPLEMENTATION OF IMT-2000 3G COMMUNICATIONS CAPABILITIES.—Of the amount appropriated by title II under the heading ''OPERATION AND MAINTENANCE, AIR FORCE'', up to $10,000,000 may be used by the United States Northern Command for the purposes of implementing IMT–2000 3G Standards Based Communications Information Extension capabilities for the Gulf States and key entities within the Northern Command Area of Responsibility (AOR).

(b) IMPLEMENTATION OF IMT–2000 3G COMMUNICATIONS CAPABILITIES.—Of the amount

appropriated or otherwise made available by title III under the heading ''OTHER PROCUREMENT, AIR FORCE'', up to $20,000,000 may be used by the United States Northern Command for the purposes of implementing IMT–2000 3G Standards Based Communications Information Extension capabilities for the Gulf States and key entities within the Northern Command Area of Responsibility (AOR).

Ms. LANDRIEU. Mr. President, as we consider many important amendments to this underlying bill, I will take just a moment to speak about this amendment which I offer that will call the attention of my colleagues to the important investments that we should be making in interoperability and communications.

As my colleagues know, we have had a very recent disaster along the gulf coast that has made quite apparent the lack of a communications system that is adequate to handle natural disasters of this magnitude and even manmade disasters that we could contemplate. So this is quite serious. I know there are many committees of the Senate and the House that are working very hard on this issue right now.

Since Katrina and Rita and even before these terrible hurricanes and the subsequent flooding of this region, which has been devastating, we have known for some time that we have to get a better system of communication. Our military has some interesting and very promising initiatives underway that could truly help us at this time. That is basically what this $30 million amendment will do, is dedicate or allocate $30 million to U.S. Northern Command for the purposes of implementing IMT–2000 3G Communications Capabilities. The IMT–2000 3G Standards will be used for the Gulf States and key entities within the Northern Command Area of Responsibility, AOR.

We have many needs that have shown themselves out of this storm and out of the subsequent disaster. It would be hard even for the Senator from the State that was most directly hit to have to list them in an order of priority because they are overwhelming and they are so great: water, food, electricity, housing, direct help to our local governments. We will debate that as these days unfold, and we will debate that as these weeks and months unfold.

One thing I am positively sure of is that the communications system we had in this country did not work well in 9/11. It did not work well for the hurricanes that hit the Presiding Officer's State in such a devastating way only a year or two ago, and it did not work well for Louisiana, Mississippi, and Alabama, which experienced one of the worst natural disasters in the history of the country.

To address the devastating problems caused by the lack of communication, $30 million is a small investment. I offer this amendment and ask, as we move through the next few days of consideration of this Defense bill, if we would please take a very careful look at the importance of this amendment.

I submit the amendment for the Senate's consideration.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. DURBIN. Mr. President, I have an amendment pending which I would like to speak to. I will not call up this amendment at this time.

Mr. INHOFE. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. The unanimous consent agreement was to set aside the quorum call. I wanted to find out if the Senator is going to be offering it now. I wanted to get the floor if he is. If not, I will not object.

Mr. DURBIN. I thank the Senator from Oklahoma. I am only going to speak to my amendment and will offer it at a later time, and I will probably take in the range of 10 or 15 minutes.

Mr. INHOFE. I will not object.

Mr. DURBIN. Mr. President, military personnel are under tremendous pressure to be physically fit. The conditions under which they work and train are often harsh and demanding, making physical strength and endurance essential.

This pressure makes dietary supplements particularly attractive to members of our Armed Services, especially products marketed for weight loss and performance enhancement.

Finding these products on base is easy. A 2004 report on dietary supplements in the journal Military Medicine notes that a newly deployed U.S. Air Force base had eight different dietary supplements stocked on its shelves that were marketed for weightlifting and energy enhancement just 5 months after it opened. Six of these products contained the notorious supplement ephedra.

This article appeared in Exchange and Commissary News last month. It describes a store where the ''supplement category is located on the main aisle at the front of the store, indicative of its importance to our customers.''

Thermogenic's Extreme Thermo Rush is one of the most popular items. Extreme Thermo Rush contains 200 mg of caffeine. That is the equivalent caffeine in five cans of Coca-Cola. In addition, this drink contains 200 mg of Citrus Aurantium, which is an ephedra-substitute that was found by a group of University of California scientists to increase heart rate among healthy people. It is a stimulant. These scientists released a report in April saying that dietary supplements containing Citrus Aurantium could have some of the same adverse health effects associated with ephedra products.

Let's look at just how many service members are taking supplements.

As you can see from this chart, a 1999 study by the U.S. Army Research Institute for Environmental Medicine found that 85 percent of the 2,200 male soldiers surveyed reported use of dietary supplements.

A similar study conducted by the Department of the Navy found that 89 percent of Marines have used supplements. When broken down by category, the survey showed that 26 percent of Marines took supplements containing stimulants.

Most dietary supplements are safe and provide health benefits to those who take them.

I am not on the warpath against a daily vitamin tablet. I take my vitamins every day. I don't know if it helps to make me healthy, but it makes me feel better to take them and I do, and I think everyone should have the right to make that decision. But we are talking about a different category of dietary supplements. We are not talking about multivitamins or minerals, we are talking about stimulants.

Some of these supplements, these stimulants, can cause serious harm. Of greatest concern are those containing stimulants such as ephedra and citrus aurantium, which are often marketed for energy promotion, performance-enhancement, and weight loss. The Navy released a list of serious problems they had encountered among sailors and officers related to dietary supplements recently. The list includes health events such as death, rapid heart rate, shortness of breath, severe chest pain, and becoming increasingly delusional. These are over-the-counter products sold nominally to make you more energetic or to lose weight which when taken result in these conditions: shortness of breath, rapid heart rate, severe chest pain, and becoming delusional, and in one or two cases, probably more, actual death. Unfortunately, most of the time adverse events such as these are never known to the Food and Drug Administration or to the public because not only is there no premarket safety review of these products, there is not even a mandatory adverse-events reporting to the FDA.

Consider this: If you walk into a drugstore to fill a prescription the doctor has given you, the prescription is filled, you go home, you have a bad reaction to that drug, and you go back to the hospital or doctor because of that reaction. That is reported to the Food and Drug Administration. The FDA can then look across America and say: Wait a minute, we are finding people who have adverse reactions to this drug over and over again. We better take a closer look at it or take it off the shelf because it could be dangerous. So the prescription drugs you buy have an adverse-event report requirement. In other words, if you sell the product in America and somebody gets sick or dies, you have to tell somebody. You have to report it to the Government.

So if, in fact, it is a dangerous product, it is removed from the shelf.

Then let's go back to the beginning. In order to put a product on the shelf like a prescription drug, they have to be tested in advance by the Food and Drug Administration for two things: safety and efficacy. In other words, if you take the normal dosage, would the normal person be safe in taking it? I think we want to know that. And second, is that drug which you just took for arthritis really helpful when it comes to the condition of arthritis? Efficacy.

But the dietary supplements we are talking about are never tested in advance. They are not tested as to whether they are safe. There is no FDA review of clinical data. There is no requirement manufacturers produce it. And when it comes to efficacy, we find time and again that these companies, many of them fly-by-night operations by people with limited resumes and limited talent selling so-called supplements with all sorts of health claims, turn out be not even close to effective for what they charge or what they say they can achieve. Here you have a whole category of dietary supplements without testing as to their safety, without testing to make sure they actually do what they say they are going to do, for sale. Where? All over America, in every drugstore you walk into, and some gas stations. If you go into a convenience store or gas station, don't be surprised to see dietary supplements on the counter. I bet you think as a consumer they couldn't sell those in America if they were not safe. Yes, they could. There is no requirement they be safe. There is no requirement they be tested.

So you think, I guess if somebody ever got sick, they would be reported to the Government, and the Government would take them off the shelf. There is no requirement in the law to report, even if a person drops dead from taking a dietary supplement. It is, in fact, the biggest gamble a consumer can take for many of these dietary supplements. There has been no testing. There are very few, if any, quality standards to certify what they say on the label happens to be what is inside the bottle. There is no testing to determine if it is effective. There is no report if it turns out it is harmful.

I referred several times in this statement to ephedra, supplements containing ephedra. The military across the United States took ephedra off its shelf at the end of 2002 because between 1997 and 2001 at least 30 Active-Duty personnel died after taking it. Ephedra is something most people are aware of. Ephedra was this dietary supplement, this naturally occurring substance similar to the drug ephedrine, which people took and which was a stimulant. Over the years, we found out it was dangerous to a lot of people. Thirty Active-Duty military personnel died. Many others did as well. It turns out that ephedra was then banned in Canada. You cannot buy it in Canada.

The American Medical Association suggested we ban it here in the United States, too, because it is too dangerous to be sold as a dietary supplement. But the industry that makes these products is extremely powerful. As I recount to you what happened with ephedrine, you will find out why.

After 7 years of effort, the FDA finally banned ephedra in 2004. At that time, 150 deaths were linked to that product. But one Federal court in Utah this past April called into question the FDA procedure, and marketers of these products have hit the street with advertising: Ephedra Is Back. Look at this. Natural Life Nutrition Center in Cincinnati, OH, days after this court decision in Utah: ''Ephedra Is Back.'' You can buy your ephedra products again. They put up the sign to try to lure customers back. The court in Utah said the FDA had failed to justify its rule banning ephedra, particularly at lower doses, particularly 10 milligrams or less per day.

The FDA has said it will continue to enforce its ban except for doses 10 milligrams or lower, but less than 2 weeks after the ruling, just to show you how toothless the Food and Drug Administration is when it comes to dietary supplements, I had one of my staffers get on the Internet and see if we could buy some ephedra in larger doses. This staffer bought 30 pills containing 200 milligrams each from a company with a post office box in Boonville, MO.

The Federal Drug Administration, after this Utah court decision, said: OK, we will let you sell ephedra, but it can't be in doses in excess of 10 milligrams. It turns out that there is no enforcement whatsoever. You can continue to buy this ephedra over the Internet in 200-milligram doses, which could be very dangerous, if not lethal.

The FDA has announced it is appealing this ruling on ephedra, but clearly its hands are tied as it waits for a decision. That is why we need to step in. Congress needs to address this problem. We may not solve it with this bill, but we can do something to protect our men and women in uniform. We should be protecting everyone in America, but this bill addresses our men and women in uniform, and that is what my amendment addresses.

The intent of my amendment is to protect American soldiers from dietary supplements containing stimulants that have unknown adverse effects. This amendment will disallow funds from being used by military stores to sell dietary supplements containing stimulants in cases where it is made known to the Department of Defense that the manufacturer does not have a policy of reporting their serious adverse events to the FDA's Special Nutritional Adverse Event Monitoring System.

We know this happens. Manufacturers collect information, and we know it because of this infamous Metabolife case. You maybe remember the Metabolife brand. It was all over television, magazines, newspapers, selling Metabolife. It was something that was going to make you healthier and thinner and give you more energy.

About 5 years ago, Metabolife, a dietary supplement company specializing in diet products containing ephedra, told Congress it had received no reports of people taking their products who experienced serious injury or death. Guess what. They lied. After the company was sued, it was revealed that Metabolife had actually received over 16,500 adverse events of Metabolife with ephedra. Many reports were serious. They knew that more than 100 people had died from their product. They misled Congress. They told us they had not received any information of people taking their product and experiencing serious injury or death. Finally, when they were sued, the information came out.

The FDA collects that kind of information on prescription drugs and over-the-counter drugs. If they learned that something was being sold in America that killed 100 people or injured 16,000 people, they clearly would take action. But this industry is so powerful here in Washington that they conceal this information. They will not share it unless they are forced in a lawsuit.

You think to yourself, Why hasn't Congress risen to its responsibility of protecting consumers? Why don't we at a minimum require these companies to report it when these dietary supplements harm people seriously or kill them?

Frankly, this Congress is in the thrall of this industry, and it has shown for so many years. I went to the floor, this floor, last year to address the same issue. Some of my colleagues came to the floor and said: Oh, we can't wait to join you. This is a great idea, adverse-event reporting. Here we are again a year later and nothing has happened. The same Senators who said, ''We can't wait to work with you'' can't return phone calls when it comes to this issue.

My challenge to them is this: If you truly want to keep dangerous products off the market, if you happen to believe they are healthy products and don't hurt anybody, why are you afraid of adverse-event reporting? If it is good enough for the major pharmaceutical companies, why isn't it good for the nutritional supplement industry?

I hope my colleagues will come to the Chamber and understand that we are putting our men and women in uniform at risk by selling these dietary supplements which are being used by so many men and women in uniform and are dangerous. They are dangerous to their health.

The Institute of Medicine issued a report last year recommending that adverse-event reporting become mandatory for dietary supplement manufacturers—the Institute of Medicine. Here is what they said:

> [W]hile spontaneous adverse event reports have recognized limitations, they have considerable strength as potential warning signals of problems requiring attention, making monitoring by the FDA worthwhile.

The Institute of Medicine recommended that Congress amend the 1994 supplement act, DSHEA, to require manufacturers of supplements to report to the FDA in a timely manner any serious adverse event associated with the use of their products.

The supporters of the amendment which I offer include the American Dietetic Association, the American Osteopathic Association, Consumers Union, Center for Science in the Public Interest, the American Society for Clinical Pharmacology and Therapeutics, and the American Society of Pharmacology and Experimental Therapeutics.

It wasn't that long ago that a starting pitcher for the Baltimore Orioles dropped dead. He was a man trying to lose some weight taking the ephedra stimulant, and obviously it cost him his life.

The same thing happened in my part of the world in central Illinois, where a 16-year-old boy getting ready for a football game wanted to have performance enhancement and goes down to the local gas station and buys over the counter an ephedra product, takes it and washes it down with a Mountain Dew and ends up dying from a heart attack—a healthy 16-year-old boy.

Now we have our men and women in uniform all across the United States walking into these base exchanges wanting to make sure they are at peak physical condition to serve this country and buying these dietary supplements which claim to enhance performance and give them new energy or perhaps lose some weight not realizing they are risking their lives every time because the shoddy manufacturers who sell these products do not report to the Government when people get sick and die because of these dietary supplements.

How long is it going to take us? How many Americans have to die before we accept responsibility for the consumers of this country? They trust us. They expect the Food and Drug Administration to be there, when it is needed, to report on these dangerous supplements. But we have let them down for more than 10 years since it was passed. We should not let them down when it comes to this bill. Let us start by protecting our men and women in uniform. Let us start by not letting them be in danger by buying the products on the shelves in these PXs or commissaries that are not good for them. That is, I think, the least we can do, and then let us not stop there. Let us move across America to say we are going to stand behind consumers; that we are going to stand behind children and families so that when they buy something in a drugstore in America that is supposed to be good for their health, they know their Government has at least the interest and has taken the time to make sure it is safe.

This is not some wild, crazy idea I have. It is an idea backed up by the leading medical organizations in America, and it is one that reflects the reality of the danger of these products.

I invite my colleagues to support amendment No. 2035, which I have introduced, when it comes up for consideration at a latter point in this bill.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Mr. President, I rise today with mixed feelings on what I heard because this was brought up under the Defense authorization bill. I talked to the Senator from Illinois, and we agreed that we would work on something—that would actually do something. We have been doing that, but with a slight interruption from Katrina. Now it is being offered again. And in the same way, I have mixed emotions because I probably ought to suggest to the Senator from Alaska to take this amendment because it will not achieve anything. We have an opportunity to do something and to achieve something. But this amendment will not do that.

Of course, it brings some attention to the fact that there may be some adverse reaction to dietary supplements. That is important. The discussion is important. If we had more time for discussion, we ought to have a lot of discussion on it, but we don't have a lot of time. I will try to keep my remarks brief on this.

This amendment would withhold funding from any store on a military installation or a commissary store—most of those are on military installations as well—that sells any dietary supplement containing a stimulant unless the manufacturers of the supplement submits reports on serious adverse events associated with the supplement. If they don't, we shut down the action on the base. But that is definitely not the only place you can buy dietary supplements. What we merely do is invite military people to go off base to get their dietary supplements—and they will.

It is important that we get reporting done so people will know if something is having an adverse effect on their health.

I recognize the Senator from Illinois has strong concerns about adverse reporting for dietary supplements, and so do several other Senators. Senator HATCH and Senator HARKIN have been working diligently on this. Both of them are on the Health, Education, Labor and Pensions Committee, and that is the committee of jurisdiction on this particular issue.

We have been working on it. I share his interest on the issue. It is important that we maintain the safety of dietary supplements that benefit so many Americans. I mention that this isn't the first time this has been offered.

I hope he will withdraw his amendment, and we may move on without having to go through the difficulty of a vote.

As I said, I question the effectiveness of achieving such reporting by withholding legal products only from men and women in uniform and their families while the same products are available to the civilian population. That is unfair to our soldiers and we should not support it. Punishing our soldiers is not the way to ensure the safety of dietary supplements. A piecemeal approach does nothing to protect the civilian population from products that are being withheld from the military population.

This amendment places the regulation of dietary supplements in the hands of the Secretary of Defense and cuts the Food and Drug Administration out of the loop.

I would like to point out that the FDA is already taking aggressive steps to regulate stimulants that are dietary supplements, including the banning of ephedra.

We should be sure that requiring additional reporting does not inadvertently derail those enforcement efforts.

Finally, the Appropriations Committee has included for fiscal year 2006 funding of approximately $5.5 million for the Center for Food Safety and Nutrition Adverse Events Reporting System. That includes approximately $1.7 million for dietary supplements. That is over $1 million more than the amount in the budget request. The Senate is already moving in the right direction on this issue.

I wish to point out that the Dietary Supplement Health and Education Act is squarely within the HELP Committee's jurisdiction.

I know that Senator DURBIN has worked with Senators HATCH and HARKIN and myself to develop a proposal on mandatory adverse events reporting for dietary supplements. I wish to work with the Senator from Illinois and my fellow committee members, especially Senators HATCH and HARKIN, to see how we might address the issue in my committee through regular order.

I respectfully ask the Senator from Illinois to withdraw his amendment and work with the HELP Committee on this issue. If not, I will have to oppose the amendment. I think it will take up unnecessary time when we can do it considerably more effectively and without punishing in a big way the servicemembers in uniform while we allow the civilian population to do whatever they want.

Mr. DURBIN. Mr. President, will the Senator yield for a question without losing his right to the floor?

Mr. ENZI. Yes.

Mr. DURBIN. Last year when I offered this amendment, Senator HATCH came to the floor. Senator HARKIN joined afterwards. They conceded that they thought it was not a bad idea, if you sell dietary supplements in America, and somebody is harmed, seriously injured or dies as a result, that the manufacturer of that dietary supplement should report that event to the FDA so that they can see if there is a pattern, if it is something that might lead to a decision to take something off the market.

I would like to ask the Senator from Wyoming: Does he agree with that?

Does he think that is a reasonable standard to ask the dietary supplement manufacturers to report truly adverse events such as is required of the pharmaceutical companies today?

Mr. ENZI. I said before that I think it is very important for us to come up with a piece of legislation that does that on and off military bases, so there is a reporting of adverse events so that FDA can take action when it is affecting people, and have enough information to be able to tell whether they are acting properly or not. We do have an agency that is designed to do that. It is not the Department of Defense.

Mr. DURBIN. If the Senator will yield for another question, I agree with the Senator. This is not the way to address it. I thought it was the only way to bring the subject up before the Senate. I wish to ask the Senator from Wyoming, whom I respect and I have worked with and we have been able to work out some very serious difficulties in the past and I know he genuinely wants to reach solutions, can the Senator from Wyoming give me his assurance that he will try to schedule hearings in the consideration of this issue on a timely basis before his committee so that we can raise this issue in a thoughtful way and address it beyond the Department of Defense?

Mr. ENZI. I can give the Senator assurances that we will deal with this issue. If you check with members of my committee, you will find that because of Katrina and pensions and all of the health issues that we have now, and all of the education, higher education and Head Start we are trying to work our way through, that we have gone to a system of roundtables instead that allows us to bring in more people with more information so we can learn more from them in order to be able to deal with these issues in a knowledgeable way.

It has been working. I appreciate the cooperation of Senator KENNEDY, who is ranking member on my committee, for this approach of being able to gather information so that we can do effective legislation quicker. As the Senator probably noticed, we have a lot of bills which we are working on, and it is because we have gone through a mechanism where we are working in a very bipartisan way to gather information. This is a bill of some priority for us.

Mr. DURBIN. If the Senator will further yield for a question, I salute the Senator. What he says is true. He has done an excellent job in joining both sides of the aisle with bipartisanship in finding solutions and getting things done. I am sorry we can't say that for all of us in the Senate. We could probably learn a lot the way the Senator from Wyoming approaches it. I don't want to suggest that the Senator change his approach. If the Senator from Wyoming will give me his assurance that this is a priority, that he will try to bring it up before his committee in a timely way when appropriate, I understand he has other priorities, if he will give me that assurance, I will withdraw this amendment. I hope we can work together from this point forward.

Mr. ENZI. I assure the Senator that we can work together, and it will be put into the prioritization. It is already in the prioritization of the committee. We are handling the emergencies first.

I apologize for the 2-week delay we had while we are working on Katrina. Staff is working on this one, along with the staff of the Senator from Illinois. We will do it.

Mr. DURBIN. Mr. President, at this point, I ask unanimous consent to withdraw my amendment No. 2035.

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

The Senator from Michigan.

Ms. STABENOW. Mr. President, before my colleague and friend from Illinois leaves the floor, I want to thank him for his leadership on this very important issue, in fact, for so many people in our country. I also wish to thank Senator ENZI for indicating his desire to make this a priority within his committee.

Mr. President, I ask unanimous consent to set aside the pending amendment.

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

AMENDMENT NO. 1937

Ms. STABENOW. Mr. President, I call up my amendment which is at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Michigan [Ms. STABENOW], for herself, Mr. JOHNSON, Mr. THUNE, Mr. AKAKA, Mrs. MURRAY, Mr. DAYTON, Mr. NELSON of Florida, Mr. LAUTENBERG, Mr. SALAZAR, Mrs. LINCOLN, Mr. CORZINE, Mr. BAUCUS, Ms. LANDRIEU, Mr. JEFFORDS, Mr. BAYH, and Mr. BINGAMAN, proposes an amendment numbered 1937.

Ms. STABENOW. 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 ensure that future funding for health care for former members of the Armed Forces takes into account changes in population and inflation)

At the appropriate place, insert the following:

SEC. ___. (a) FUNDING FOR VETERANS HEALTH CARE TO ADDRESS CHANGES IN POPULATION AND INFLATION.—Chapter 3 of title 38, United States Code, is amended by adding at the end the following new section:

"§ 320. Funding for veterans health care to address changes in population and inflation

''(a) By the enactment of this section, Congress and the President intend to ensure access to health care for all veterans. Upon the enactment of this section, funding for the programs, functions, and activities of the Veterans Health Administration specified in subsection (d) to accomplish this objective shall be provided through a combination of discretionary and mandatory funds. The discretionary amount should be equal to the fiscal year 2005 discretionary funding for such programs, functions, and activities, and should remain unchanged each fiscal year thereafter. The annual level of mandatory amount shall be adjusted according to the formula specified in subsection (c).

''(b) On the first day of each fiscal year, the Secretary of the Treasury shall make available to the Secretary of Veterans Affairs the amount determined under subsection (c) with respect to that fiscal year. Each such amount is available, without fiscal year limitation, for the programs, functions, and activities of the Veterans Health Administration, as specified in subsection (d). There is hereby appropriated, out of any sums in the Treasury not otherwise appropriated, amounts necessary to implement this section.

''(c)(1) The amount applicable to fiscal year 2006 under this subsection is the amount equal to—

''(A) 130 percent of the amount obligated by the Department during fiscal year 2004 for the purposes specified in subsection (d), minus

''(B) the amount appropriated for those purposes for fiscal year 2005.

''(2) The amount applicable to any fiscal year after fiscal year 2006 under this subsection is the amount equal to the product of the following, minus the amount appropriated for the purposes specified for subsection (d) for fiscal year 2005:

''(A) The sum of—

''(i) the number of veterans enrolled in the Department health care system under section 1705 of this title as of July 1 preceding the beginning of such fiscal year; and

''(ii) the number of persons eligible for health care under chapter 17 of this title who are not covered by clause (i) and who were provided hospital care or medical services under such chapter at any time during the fiscal year preceding such fiscal year.

''(B) The per capita baseline amount, as increased from time to time pursuant to paragraph (3)(B).

''(3)(A) For purposes of paragraph (2)(B), the term 'per capita baseline amount' means the amount equal to—

''(i) the amount obligated by the Department during fiscal year 2005 for the purposes specified in subsection (d), divided by

''(ii) the number of veterans enrolled in the Department health care system under section 1705 of this title as of September 30, 2004.

''(B) With respect to any fiscal year, the Secretary shall provide a percentage increase (rounded to the nearest dollar) in the per capita baseline amount equal to the percentage by which—

''(i) the Consumer Price Index (all Urban Consumers, United States City Average, Hospital and related services, Seasonally Adjusted), published by the Bureau of Labor Statistics of the Department of Labor for the 12-month period ending on the June 30 preceding the beginning of the fiscal year for which the increase is made, exceeds

''(ii) such Consumer Price Index for the 12-month period preceding the 12-month period described in clause (i).

''(d)(1) Except as provided in paragraph (2), the purposes for which amounts made available pursuant to subsection (b) shall be all programs, functions, and activities of the Veterans Health Administration.

''(2) Amounts made available pursuant to subsection (b) are not available for—

''(A) construction, acquisition, or alteration of medical facilities as provided in subchapter I of chapter 81 of this title (other than for such repairs as were provided for before the date of the enactment of this section through the Medical Care appropriation for the Department); or

''(B) grants under subchapter III of chapter 81 of this title.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

''320. Funding for veterans health care to address changes in population and inflation.''.

Ms. STABENOW. Mr. President, I ask unanimous consent that Senators MURRAY, KERRY, KENNEDY, DAYTON, and BIDEN be added as cosponsors of my amendment.

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

Ms. STABENOW. Mr. President, I rise to thank both the chairman and ranking member, Senator INOUYE, for their leadership on this legislation. I am very supportive of the Defense appropriations bill. And I appreciate all of the hard work and leadership they have brought to this point in this important legislation.

I come to the floor this evening to fix a broken promise to our veterans, a promise our country made to the men and women who serve our country in the armed services. They put their lives on the line to protect us, as we know, and in exchange we have a sacred obligation to extend to them the honors and benefits and the health care benefits they have earned through their service.

I have met with men and women from Michigan and across the country who are recovering at Walter Reed Army Medical Center, as many of my colleagues have. Some have suffered minor injuries that will not have a dramatic impact on the rest of their lives. Others though, because of their injuries, will need years of rehabilitation and face considerable obstacles as they return to their civilian lives.

We owe these men and women our continued support so that they can recover from their injuries and lead productive lives.

Today's soldiers are tomorrow's veterans—and America has made a promise to these brave men and women to provide them the care they deserve. They deserve the respect and support of a grateful nation when they return home.

We also owe it to the men and women who have fought in America's prior conflicts to maintain a place for them in the VA system so they can receive the care they need, as well. We need to keep our promise to our veterans, young and old.

Together we can do better for our men and women who have served our country. We must consider the ongoing costs of medical care for America's veterans as part of the continuing cost of our national defense. The long-term legacy of the wars we fight today is the care of the men and women who have worn the uniform and are willing to pay the ultimate price for their nation.

Senator JOHNSON, Senator THUNE, and I are offering an amendment today to provide full funding for VA health care to ensure the VA has the resources necessary to provide quality health care in a timely manner to our Nation's disabled veterans. The Stabenow-Johnson-Thune amendment provides guaranteed funding for America's veterans from two sources.

First, the legislation provides an annual discretionary amount that will be locked in for future years at the 2005 funding level. Second, in the future, the VA receives a sum of mandatory funding that is adjusted year to year based on changes in demand from the VA health system and the rate of health care inflation.

This funding mechanism will ensure that the VA has the resources it needs to provide a steady and reliable stream of resources to care for America's veterans. It will also ensure that Congress will continue to be responsible for the oversight of the VA health system as it does with other Federal programs funded directly from the U.S. Treasury.

This amendment will bring funding for veterans health care into line with almost 90 percent of Federal health care spending which is mandatory rather than discretionary. One of our greatest accomplishments as a nation is that every American knows when they enter their golden years, when they reach 65 or if they are disabled, they receive the health care they need. Medicare is a universal and comprehensive system that benefits a person for their life's work. Our veterans deserve the same. We can do better for them by ensuring that their service is repaid with reliable health care benefits.

I thank the cosponsors of this amendment for their support: Senators JOHNSON, THUNE, AKAKA, DAYTON, NELSON, LAUTENBERG, SALAZAR, LINCOLN, CORZINE, BAUCUS, LANDRIEU, JEFFORDS, BAYH, BINGAMAN, MURRAY, KERRY, KENNEDY, and BIDEN.

In July, I offered this amendment to the 2006 Defense authorization bill. Unfortunately, the Defense authorization bill was pulled from the Senate at that time. While we are working out whether this will be included in this particular bill, it is important to offer my amendment again at this time. The amendment has been endorsed by the Partnership for Veterans Health Care Budget Reform, a group of major veterans service organizations that has been working to provide a reliable stream of health care for America's veterans over the last 2 years. It includes the American Legion, the AMVETS, the Blinded Veterans Association, Disabled American Veterans, Jewish War Veterans of the United States, Paralyzed Veterans of America, and the Veterans of Foreign Wars, all of them together asking us to get this right for our veterans.

The problem we face today is that resources for veterans health care are falling behind demand. We have more veterans being created, more men and women coming home from the wars. Yet the funding is falling behind. Shortly after coming into office, the President created the task force to improve health care delivery for our Nation's veterans. The task force found historically there has been a gap between the demand for VA care and the resources to meet the needs of our veterans. The task force also found that:

> The current mismatch is far greater . . . and its impact potentially far more detrimental both to the VA's ability to furnish high quality care and to the support that the system needs from those it serves.

The task force released its report in May of 2003, well before we understood the impact of the men and women fighting in Iraq and Afghanistan and the impact that would have on our VA system.

If the mismatch between demand and resources was bad in May of 2003, imagine what it is today. Over 360,000 brave soldiers have returned from Iraq and Afghanistan, and over 86,000 have sought health care from the VA. There are an additional 740,000 military personnel who served in Iraq and Afghanistan who are still in the service. This next generation of veterans will be eligible for VA health care and will place additional demands on a system that is already strained. These are promises we need to keep.

In addition, each reservist and National Guard member who has served in Iraq is eligible for 2 years of free health care at the VA. The administration has in its own way admitted they do not have sufficient resources to provide adequate care for our veterans. While they would not until recently admit there were shortfalls, they have for years attempted to ration care and cut services at the expense of our veterans. We can do better than that.

In 2003, the VA banned the enrollment of new priority 8 veterans. For the past 3 years, I fought attempts by the administration to charge middle-income veterans a $250 enrollment fee to join the VA health care system and a 100-percent increase in prescription drug copays. This year, the administration also proposed slashing Federal support for the State veterans homes from $140 million to $12 million. The head of the Grand Rapids Home for Veterans and the D.J. Jacobetti Home For Veterans in Marquette tells me these cuts would be devastating.

The fiscal year 2005 and 2006 VA health care budgets are a case study in why Congress should guarantee reliable and adequate resources through direct spending.

Last March, the President submitted an inadequate fiscal year 2005 budget request for VA health care to Congress that fell $3.2 billion short of the recommendation of the independent budget, an annual estimate of critical veterans health care needs by the coalition of leading veterans organizations.

In fact, in February 2004, Anthony Principi, then the Secretary of VA, testified before Congress that the request the President submitted to Congress fell $1.2 billion short of the amount he had recommended. It then fell to Congress to again increase the amount provided to the VA for health care. The

final amount Congress provided to the VA for health care was $1.2 billion over the President's request, but it was still not enough to meet their immediate needs.

In April of this year I cosponsored an amendment with Senator MURRAY to the fiscal year 2005 supplemental appropriations bill for Iraq and Afghanistan to provide $1.9 billion for veterans medical care, especially for those soldiers returning from Iraq and Afghanistan. During the debate on the amendment we were again told that the President's budget was sufficient but, in fact, on April 5, Secretary of Veterans Affairs Jim Nicholson sent a letter to the Senate that said:

> I can assure you that the VA does not need supplemental funds for FY2005 to continue to provide timely, quality service that is always our goal.

I was proud to cosponsor an amendment in June, however, to provide an additional $1.5 billion for veterans health care because they finally admitted there was a gap in funding for this year. Finally, they admitted, in fact, the veterans health care system was not adequately funded this year. I was pleased we were able to add dollars under an emergency spending measure, to be able to fill the gap this year.

As it turned out, we received more bad news from the administration on July 14, when the administration requested another $300 million for this year and a whopping $1.7 billion for next year. The total shortfall for this year and next was nearly $3 billion, 3 billion short of where we should be in adequately funding health care for our veterans.

At the end of July, I was pleased to support the conference report for the Interior appropriations which included the $1.5 billion this year that the Senate has twice unanimously supported. Further, in September, I supported the Senate's Military Construction and Veterans Affairs appropriations bill which provided a total of $33 billion for veterans health care. This is $1.1 billion more than the administration requested and $2.5 billion more than the House version of the legislation for veterans health care.

I tell this to make two points: First, it is clear that the demand for veterans health care is increasing, and a good portion of this increase can be attributed to men and women seeking care after they are returning from Iraq and Afghanistan. The second is to show despite the best intentions of the VA and Congress, the VA does not have a reliable and dependable stream of funding to provide for veterans health care needs. We should not have to pass an emergency funding bill to give our veterans the health care they need and deserve.

In 1993, there were about 2.5 million Americans in the VA health care system. Today there are more than 7 million veterans enrolled in the system, over half of which receive care on a regular basis. Despite the increase in patients, the VA has received on average a 5-percent increase in appropriations over the last 8 years. My amendment will fix this problem and ensure that each year we provide the funding necessary to care for our veterans in a timely manner that is separate from the uncertainty and the ups and downs of the congressional calendar.

At last count, at least 86,000 men and women have returned from Iraq and have sought health care from the VA. We can safely assume that this number will reach hundreds of thousands. This bill provides the resources our troops need to prepare and defend our country in Iraq. We must not forget about them when they return home and put on a veteran's cap. We must ensure that we keep our promises to them when they come home as veterans. Let's stop this up-and-down roller coaster of emergency spending measures, of budgets that do not match with need year to year. We owe our veterans better than that. Together, we can do better than that.

I urge the support of my colleagues for this very important amendment.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. STEVENS. Mr. President, I regret to do this, but as we have examined this amendment of the Senator, we find this requires this spending to become a part of the mandatory process of expenditures. It requires funds to come out of the Treasury to implement this section, and in effect it becomes a matter that we believe is subject to a point of order under section 302(f) of the Congressional Budget Act that provides spending in excess of the subcommittee's 302(b) allocation under the fiscal year 2006 concurrent resolution of the budget. I make that point of order.

Ms. STABENOW. I move to waive the applicable sections of the Congressional Budget Act for the purpose of considering my amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. STEVENS. Mr. President, we will have a request for votes to commence at 7:30, but first I offer a managers' package, as we call it, with modifications.

AMENDMENTS NOS. 1914; 1972; 1962; 1979, AS MODIFIED; 1976; AND 1945, EN BLOC

Mr. President, I send to the desk, for Senator NELSON of Florida, amendment No. 1914, for surface sonar dome windows; for Senator DODD, amendment No. 1972, for countermeasures to nerve agents; for Senator LIEBERMAN, amendment No. 1962, for defense manufacturing technology; for Senator CHAMBLISS, amendment No. 1979, as modified, for environmental cleanup; for Senator LOTT, amendment No. 1976, for lightweight ammunition; and for Senator ROBERTS, amendment No. 1945, for intelligence scholars. I send those amendments to the desk and ask that they be considered en bloc, with Senator CHAMBLISS's amendment modified according to my submission.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for other Senators, proposes en bloc amendments numbered 1914; 1972; 1962; 1979, as modified; 1976; and 1945.

The amendments are as follows:

AMENDMENT NO. 1914

At the appropriate place insert the following:

SEC. . Of the amount appropriated in title III under the heading ''**OTHER PROCUREMENT, NAVY**'', up to $2,000,000 may be made available for the Surface Sonar Dome Window Program.

AMENDMENT NO. 1972

(Purpose: To make available $700,000 from Research, Development, Test, and Evaluation, Army for Medical Countermeasures to Nerve Agents)

At the appropriate place, insert the following:

SEC. ____. Of the amount appropriated by title IV under the heading ''RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, ARMY'', up to $700,000 may be used for Medical Countermeasures to Nerve Agents.

AMENDMENT NO. 1962

(Purpose: To make available $5,000,000 from Research, Development, Test, and Evaluation, Defense-Wide, for High Performance Defense Manufacturing Technology Research and Development)

At the appropriate place, insert the following:

SEC. ____. Of the amount appropriated by title IV under the heading ''RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, DEFENSE-WIDE'', up to $5,000,000 may be used for High Performance Defense Manufacturing Technology Research and Development.

AMENDMENT NO. 1979, AS MODIFIED

(Purpose: To provide that, of the amount made available under title II for Operation and Maintenance, Army, up to $600,000 may be made available for removal of unexploded ordnance at Camp Wheeler, Georgia)

On page 220, after line 25, add the following:

SEC. 8116. Of the amount appropriated by title II under the heading ''OPERATION AND MAINTENANCE, ARMY'', up to $600,000 may be made available for removal of unexploded ordnance at Camp Wheeler, Georgia.

AMENDMENT NO. 1976

(Purpose: To make available $4,000,000 from Research, Development Test, and Evaluation, Army, for the development of lightweight rigid-rod ammunition)

At the appropriate place, insert the following:

SEC. ____. Of the amount appropriated by title IV under the heading ''RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, ARMY'', up to $4,000,000 may be used for the development of light-weight rigid-rod polyphenylene ammunition.

AMENDMENT NO. 1945

On page 220 after line 25, insert the following:

SEC. ____. Of the amounts appropriated by title VII under the heading ''Intelligence Community Management Account'', up to $2,000,000 may be used for the Pat Roberts Intelligence Scholars Program.

Mr. STEVENS. Mr. President, I urge adoption of the amendments.

The PRESIDING OFFICER. Is there further debate on the amendments en bloc? If not, the question is on agreeing to the amendments.

The amendments (Nos. 1914; 1972; 1962; 1979, as modified; 1976; and 1945) were agreed to.

Mr. STEVENS. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 1979

Mr. CHAMBLIS. Mr. President, I rise today in support of my amendment, No. 1979, as modified, to H.R. 2863.

Camp Wheeler, near Macon, GA, was a World War II Army facility which has a proud history of training American soldiers. Unfortunately, and like many formerly used defense sites in the United States, there is unexploded ordnance on the former Camp Wheeler site that, today, threatens the safety of people who live in the vicinity. This amendment would earmark $600,000 to clean up Camp Wheeler.

The unexploded ordnance at Camp Wheeler was found during an inspection sponsored by the Savannah District of the U.S. Army Corps of Engineers. The Corps has indicated that cleanup of Ordnance Operable Unit No. 1 at Camp Wheeler, which is in a neighborhood in Twiggs County, GA, is the No. 1 munitions cleanup program in the State of Georgia.

I have worked with the Corps over the past several months on this project, and my staff has received briefings and updates from the Corps on a regular basis.

Since filing my amendment, the Corps has announced that $1.5 million in fiscal year 2005 funds will be used to conduct cleanup at Camp Wheeler. Additionally, the Corps of Engineers has assured me that there are funds available in their budget to work toward completion of cleanup of Ordnance Operable Unit No. 1 at Camp Wheeler in the fiscal year 2006 budget.

This amendment will ensure that the necessary funds are spent on this project and that the Camp Wheeler cleanup is completed as the Corps of Engineers has promised.

I ask my colleagues to support the amendment.

Mr. STEVENS. Mr. President, it is my understanding that at 7:30 we will start with the vote on Senator WARNER's submission of the Defense authorization bill as an amendment. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. STEVENS. We already have an agreement to have 3 minutes on each side on that amendment, Senator BAYH's amendment No. 1933, and Senator MCCAIN's amendment No. 1977, is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. STEVENS. We are working on a modification to Senator REED's amendment. We then also have Senator MCCAIN's amendment, which is amendment No. 1978. And we have Senator GRAHAM's amendment, which is 2004.

I say to the Senator, are you prepared to accept that amendment now?

AMENDMENT NO. 2004

Mr. President, I ask unanimous consent that Senator GRAHAM's amendment No. 2004 be laid before the Senate so we might consider it.

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

Mr. STEVENS. Mr. President, I withdraw that request.

AMENDMENT NO. 2033

Mr. President, is it in order for me, as manager of the bill, to move to table Senator KERRY's amendment No. 2033 at this time?

The PRESIDING OFFICER. The amendment is not presently pending. The Senator may ask for the regular order with respect to the amendment.

Mr. STEVENS. Mr. President, I ask for the regular order with respect to that amendment.

The PRESIDING OFFICER. The amendment is now pending.

Mr. STEVENS. Mr. President, I move to table Senator KERRY's amendment which deals with LIHEAP and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be.

The yeas and nays were ordered.

Mr. STEVENS. Mr. President, I ask unanimous consent that be put into the schedule to be developed by the leadership as to the time at which that vote will occur.

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

Mr. STEVENS. Mr. President, as to the amendment offered by Ms. STABENOW, I have made the point of order. At what time would that vote occur?

The PRESIDING OFFICER. The time for the vote has not yet been scheduled.

Mr. STEVENS. Would it be all right with the Senator if we ask for it to be scheduled according to the leadership in this process this evening?

Ms. STABENOW. Yes. That is fine.

Mr. STEVENS. Mr. President, I ask unanimous consent that amendment be added to the list for a vote this evening.

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

Mr. STEVENS. Mr. President, I yield the floor to the Senator from West Virginia.

I suggest the absence of a quorum first.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. STEVENS. Mr. President, I ask unanimous consent that following the votes already scheduled at 7:30 today, the Senate proceed to vote in relation to the following amendments, in the order listed, provided no second-degree amendments be in order to the amendments prior to the votes: first is Senator MCCAIN's amendment No. 1978; the next is Senator KERRY's amendment No. 2033, for which I made a motion to table, and next is Senator STABENOW's amendment No. 1937, which is a motion to waive my point of order; provided that there be 2 minutes equally divided prior to the debate on each of the above ordered votes. And I ask unanimous consent that for the votes that start at 7:30, the first vote be the regular number of minutes—20 minutes, I believe—and that following that—we have six in the order—the five remaining votes be limited to 10 minutes each.

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

Mr. STEVENS. 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. OBAMA. 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. OBAMA. Mr. President, my understanding is that Senator SESSIONS is going to speak for approximately 10 minutes. I ask unanimous consent to speak as soon as he is finished.

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

The Senator from Alabama is recognized.

Mr. SESSIONS. Mr. President, I see the chairman. I suppose we are ready to go forward. Does the chairman have anything he needs to say at this time?

Mr. STEVENS. I say to the Senator, Mr. President, if I may respond to his question, we are waiting for Senator BYRD to make a statement. But he is not ready at this time, so the Senator may proceed. He should be ready in about 5 or 10 minutes.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SESSIONS. I thank the Chair.

Mr. President, we in this country have the highest standards of conduct in our legal system, and our military has the highest standards of behavior as they deal with prisoners with whom they come in contact.

Have problems occurred? Yes, they have. Has that occurred in every war we have ever been involved in, that any nation has ever been involved in? Unfortunately so.

But I want to take a few minutes now to express my deep feeling that we do not have a program of systematic abuse of prisoners going on by our U.S. military; that they are maintaining the discipline of our troops; and that

they are, day after day, subjecting themselves to personal risk—not firing randomly or rapidly but hesitating to make sure innocents are not injured, and have complied with the most extensive set of requirements dealing with prisoners that any nation and army has ever had in the history of the world. Our military has taken disciplinary action time and time and time again if anybody violates those standards.

We should all remember that event that made a good bit of news when a fine Army colonel was in a combat area taking fire and captured an enemy, and to save the lives of his troops, as his soldiers later testified, he fired a gun beside the head of a captured prisoner in order to frighten him and see if he would provide information that might be of value in saving the lives of the American soldiers he commanded. He was kicked out of the Army for it. The news media did not discover this occurrence. The military did and acted upon it.

We all heard about Abu Ghraib, and the sick and unacceptable behavior that went on in that prison. But I remember distinctly that within one day of the information being brought to the commanders of our soldiers in Iraq, an investigation was commenced. Within 3 days, they had made a public announcement to the world that there had been allegations of abuse in Abu Ghraib and that an investigation was ongoing. And it was months—2 or 3 months—later that these pictures came out.

Why do I say that? I say that because the military took the allegations seriously from the beginning. They were not reacting to the release of pictures that embarrassed them. Rather, they immediately initiated the investigation about what happened on this midnight shift by these soldiers who lost discipline in Abu Ghraib and abused prisoners in a way that is unacceptable to us.

Those guards, have all been tried and convicted. The Wall Street Journal, just a couple of days ago, published an op-ed entitled ''The 'Torture Narrative' Unravels.'' It noted that the trial and conviction of PFC Lynndie England, who was sentenced as the ''leash girl'' for her activities there, ''was relegated to the innards of newspapers.'' That did not make any big news—the Army's professional, proper response to a lack of discipline.

The op-ed goes on to note that ''by one of the greatest leaps of logic ever seriously entertained in our national discourse, those memos''—that were written by the Department of Justice in analyzing what the President's proper powers were with regard to the detaining of enemy soldiers, who are not lawful combatants—that it was ''one of the greatest leaps of logic ever seriously entertained in our national discourse'' to say that memos as part of a discussion in the Department of Justice of the United States had anything to do with those soldiers in Iraq carrying out that abuse.

But that is what was alleged. It was during a campaign season, I understand, and it resulted in calls for the resignation of Secretary Rumsfeld and, I guess, to call for the removal of the President of the United States before the election.

We had one Senator, whose name is known all over the world, say: ''Saddam's torture chambers reopened under new management, U.S. management.''

I submit that was a slander on our troops and our soldiers who are in harm's way because we sent them there. We asked them to go there to defend the legitimate national interests of our country. We put them at risk, and when we say things about them that are not true, to suggest to the world that we have systemic abuse in our military. Those charges place them at greater risk. It makes it harder for us to negotiate peace treaties with people who are suspicious of us. They believe these things.

When we have Members of the House and the Senate and political leaders in our country making irresponsible and unfounded charges against the military, that they are systematically abusing prisoners, it is wrong. It ought to stop, and I feel strongly about that.

Oh, we remember those comments, when all the pictures of the abuses were leaked and were made available. They said higher-ups were involved, it went all the way to the Secretary of Defense, and that these people were using interrogation techniques according to some memo written somewhere, and that it was all part of poor leadership and mismanagement, and our military discipline was not being maintained.

Remember those comments? It could not be just the lower-ranking soldiers; ''why don't you prosecute the higher ups?'' We heard Senators saying that time and again.

It just was not so. This is what the Wall Street Journal article said. They quote the judge when PFC Lynndie England was before the court. The judge asked her this: ''You feel that by doing these things you were setting conditions for interrogations?''

Remember that allegation, that the abuses of these prisoners were carried out to set them up, to prime them to be interrogated by the Army interrogators or other interrogators, and that this was part of a systemic plan to soften up the prisoners so they could be interrogated? So the judge asked her under oath—she could use this as a defense:

> You feel that by doing these things you were setting conditions for interrogations?

Her answer:

> No, sir.

So the judge responded:

> So this was just a way to embarrass them?

Referring to the prisoners.

And she replied:

> Yes, sir.

Or consider the testimony of SP Jeremy C. Sivits. He pled guilty, too, as I recall. This is what Sivits said about their behavior in that prison:

> Our command would have slammed us. They believe in doing the right thing. If they saw what was going on, there would be hell to pay.

I will say right now, every one of these Senators who has been complaining that this misbehavior in the prison was a direct result of some sort of approved interrogation techniques by the Secretary of Defense or the President or the Department of Justice, and they were overruling JAG officers somewhere in doing these things, is not so.

I was a prosecutor for quite a long time. I am telling you, when you have somebody being prosecuted and you are accusing them of a crime—I know the chairman has been a prosecutor—and they have an excuse or defense, don't they say it? They say: It wasn't my fault; they told me to do it; I was following orders. These people did not say that. They took their medicine, they were tried and convicted or pled guilty, and many are serving a very long sentence in jail for that misbehavior.

It embarrassed the soldiers. I had soldiers tell me: This is an embarrassment to me. We worked our hearts out to make Iraq a better place, and this was an embarrassment to us. It undermined our ability to do our job.

They were angry with these people who misbehaved. They were glad to see them prosecuted. It galls me that we have people suggesting this was the policy of our Army. It is not correct.

We had the complaints about Guantanamo Bay, that there were systematic abuses going on down there. By the way, we have had over 25 hearings in this Senate and in the House dealing with prisoner abuse. We have had more hearings on this issue than we have had on how to win the war. In addition to that, there have been 10 major reviews, assessments, inspections, and investigations. I mean major reviews. We had those generals and admirals who conducted the reviews before our committees. We interviewed them, and we made them explain their reports. Mr. President, 16,000 pages of documents have been delivered to the Congress, and 1,700 different interviews were conducted. Detentions, operations, enhancement, oversight training—all those issues were brought up. There are 390 criminal investigations completed or ongoing.

People who are responsible for misbehavior are being held to account. If I thought our military was not responding well, I would be very concerned. I have seen law officers involved with a bad criminal, and that person runs and they chase him and have to wrestle him down. They are so pumped up sometimes they do more to that person they have apprehended than they should. Maybe they beat them. You have to contain the felon, but sometimes you go too far. I have seen abuse

cases filed against them. It breaks your heart sometimes because you know the police officers lost control in tough conditions and went too far, but they have to be disciplined because we do not allow that in our country.

The same is true for our soldiers. It is easy for us to talk about what it is like being out in combat, having your life at risk. Some of us might lose some of our discipline, too. We don't excuse it. We understand it.

The activities at Guantanamo have been proven to involve only two or three incidents that have been indefensible, and action has been taken concerning those.

Also, we have had tremendous evidence of how good the conditions are there, how well they are being fed, their full rights to conduct their religious expression openly and freely, and the other things that have gone on.

Now we have a letter pop up from a Captain Fishback who has made allegations concerning the 82nd Airborne. I don't know the full details of it. I will quote a small portion. We heard all these complaints that say that he has submitted proof of systemic abuses in the prisons. This is a New York Times article, and the New York Times has made a full-time effort to try to root out and expose and publicize any misbehavior that has occurred there. They have gone too far, sometimes, in my opinion. But this is what the New York Times says:

> Captain Fishback said he had seen at least one interrogation where prisoners were being abused.

I don't know what ''abused'' means. I am a former prosecutor. What does ''abused'' mean? Did they shake him? Did they respond to being spit on by prisoners, as many of our guards have been? Did they injure him in some way? I think if they were beaten, he would have said they were beaten. He didn't say that. He used a far more general term, that they were ''abused.''

Then he goes on to say that he was told about other ill-treatment of detainees by his sergeant. ''Ill-treatment,'' what is that? He didn't say they were beaten, shot, killed, wounded, or tortured.

An investigation is being undertaken of these allegations. It is odd, though, when asked to name the sergeants and the people who conducted the activity so they could follow up and investigate and make sure people who did wrong were disciplined, Captain Fishback refused to disclose the names of the sergeants, one who left the Army and the other who has been reassigned because he did not want to reveal his identity.

It is hard for the Army to investigate if the guy making the complaint, telling Human Rights Watch and the New York Times all these points, will not tell the Army what actually occurred.

I am dubious, for complex technical reasons, of the amendment that has been offered today and which we will vote on later tonight because I am not sure it makes good legal sense to have a law that is a moving law, it seems to me, that complies with the Army regulations. Army regulation is going to change, and you have a law and the law is going to change while the regulation changes? A statute is supposed to be permanent. As a lawyer, I am troubled by that. I don't think this is a necessary action. I don't intend to vote for the amendment for that reason and a number of other complex reasons.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Chair informs the Senator from Alaska that we had a unanimous consent request that was agreed to that the Senator from Illinois would be recognized. Does the Senator from Alaska have a request other than the previous regular order?

Mr. STEVENS. I was not on the floor, apparently, when that occurred. We had previously indicated the Senator from West Virginia would be recognized. May I inquire from the Senator from Illinois how much time he would like?

Mr. OBAMA. Mr. President, I request 7 or 8 minutes, but as my esteemed colleague from West Virginia knows, I am happy to defer to him if we do not have enough time before the vote.

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senator from Illinois be recognized for not to exceed 10 minutes and then the Senator from West Virginia be recognized for not to exceed 15 minutes, and then I be recognized following the Senator from West Virginia.

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

The Senator from Illinois is recognized.

(The remarks of Mr. OBAMA pertaining to the introdution of S. 1821 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions,'')

The PRESIDING OFFICER (Mr. THUNE). The Senator from Arizona is recognized but should be aware of the unanimous consent agreement.

Mr. MCCAIN. I understand. I rise in an attempt to modify the unanimous consent agreement, with the agreement of the Senator from West Virginia.

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

Mr. MCCAIN. Mr. President, I ask unanimous consent to be recognized for not longer than 4 minutes, to be immediately followed by the Senator from West Virginia.

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

Mr. MCCAIN. Mr. President, I have had to come to this Chamber many times and have had the privilege of doing so since 1987 when I entered this body. I never thought I would have to come to the Senate floor to defend the integrity and the reputation of a brave young American who has put his life on the line for his country defending the freedom of Afghan and Iraqi people.

The remarks of the Senator from Alabama concerning his allegations of abuse and his disparagement of his word and his conduct is unacceptable. This young man, Captain Fishback, served in Afghanistan and Iraq, is a member of the 82nd Airborne, was highly decorated, and had the courage to come forward because of his deep-seated dedication to this Nation and his desire to see that we do the right thing in the treatment of prisoners of war.

He says very eloquently:

> . . . Do we sacrifice our ideals in order to preserve security? Terrorism inspires fear and suppresses ideals like freedom and individual rights. Overcoming the fear posed by terrorist threats is a tremendous test of our courage . . .

Captain Fishback is a noble, brave young American. He does not deserve to be disparaged on the Senate floor by any Senator, and the Senator from Alabama owes him an abject and deep apology.

I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

AMENDMENT NO. 1955

Mr. BYRD. Mr. President, the Senate will vote within the next few minutes on a procedural motion relating to the amendment offered by Senator WARNER and Senator LEVIN. This amendment proposes to add much of the Defense authorization bill to the Defense appropriations bill. The Defense authorization bill is most complex legislation. The bill deals with a broad array of policy matters, ranging from providing for increased pay and benefits for our troops to changing laws relating to nuclear nonproliferation programs to authorizing military construction projects and so on.

The committee report that accompanies this bill is 494 pages in length. It is legislation that deserves close scrutiny, full and open debate, and an opportunity to freely amend. If this motion carries and the amendment is adopted, the Senate will only have a bobtailed debate of just a few hours on this very important bill.

I am a member of the Senate Armed Services Committee as well as the Appropriations Committee. I attended a portion of the markup of the Defense authorization bill which lasted several full days. Senator WARNER and Senator LEVIN conducted the markup in an exemplary bipartisan manner, and I commend them for their outstanding efforts. They are always fair and very considerate of others and always courteous to every other Senator.

The bill was reported from the committee on May 12 of this year, and it was brought to the floor on July 20. For reasons which have been widely discussed, the Defense authorization bill was pulled from the floor on July 27, after only five votes on amendments to the bill. The Senate could have finished consideration of the Defense authorization bill within a matter of 2 or 3 days or perhaps a week, if necessary,

if the leadership had not pulled it from the floor.

This was a precipitous act, and because of this precipitous action most Senators have had no opportunity to offer amendments and no opportunity to receive votes on their amendments. That is not the way the Senate ought to operate. That is not the way the Senate used to operate. We used to have full and open debates on this floor, take a week perhaps or 2 weeks on a bill this size. As I have stated, here is the history of this important legislation.

The matter before the Senate is whether to allow the Defense authorization bill to be added to the Defense appropriations bill as an amendment. What a way for the Senate to operate. What a way to conduct this important business of the people. This is not the way the Senate is supposed to conduct its business. This is a forum for free, open, and unlimited debate. This is how the Senate is so different from other upper bodies throughout the world today. This is why the Senate is such an incredibly powerful and important forum of free debate, open debate, unlimited debate, the full airing of legislation, time to ask questions, time to answer questions, time to explain, explore, deliberate, and time to offer amendments. What a travesty.

The Senate is an institution sui generis, one of its kind in this country, a forum where there can be free, open, unlimited debate, freedom of debate, freedom of speech. So the Senate is an institution where freedom of speech, freedom of debate, and the freedom to amend reign.

Attaching such a massive bill, the Defense authorization bill, to another important bill, the Defense appropriations bill, will mean that the Senate will never have an opportunity to focus its undivided attention on the important matters of the Defense authorization bill. This is a travesty on freedom of debate. It is a travesty that strikes at the heart of the Senate: freedom of speech, freedom of debate, and freedom to amend.

Freedom of speech has its roots buried in antiquity. Henry the Fourth in 1407 said that the members of commons would have freedom of speech. They could say whatever was on their minds about the king, if necessary. Freedom of speech, there it was in the English Declaration of Rights, February 3, 1689. And there it was, in the English Bill of Rights, placed there on December 6, 1689: Freedom of speech. The freedom of commons to speak on any subject, not to be questioned elsewhere in the English House of Commons, and that freedom of speech is enshrined in the American Constitution.

Here we are putting a limitation and we are self-imposing it—on ourselves. I am a member of both the Armed Services Committee and the Appropriations Committee, and I believe there is a great importance to allowing the Senate to consider the authorization bill and the appropriations bills separately. Debate about funding our military should take place on the appropriations bill and debate about defense policy should take place particularly on the authorization bill. They are both important bills, and they should be considered separately.

The Defense authorization bill should be brought to the floor of the Senate for debate and amendment as a freestanding bill, not as a massive rider to another bill, the appropriations bill. There ought to be a debate about the important matters addressed by the Defense authorization bill. Let there be amendments and let there be votes about such important matters as health care benefits for National Guardsmen and about the war in Iraq.

The immediate question before the Senate is procedural in nature, but the heart of the matter is whether the Senate will allow parliamentary maneuvers to conduct an end run around how important legislation should be considered on the floor of the Senate.

If the Defense authorization bill is attached to the Defense Appropriations Committee bill, these important and controversial matters will not have a full hearing on the floor of the Senate. Instead, any changes that may be made to the Defense authorization bill will only occur behind closed doors in a large, unwieldy conference committee. That is not the right place for debate on these important issues. These issues should first be debated on the floor of the Senate as they were on the floor of the House many months ago, but even more so because this is the forum for free speech—freedom of debate. The Senate should not be cutting corners on the legislative process because what ends up being cut out is the freedom of speech, freedom of debate, and freedom to amend.

It is also worth noting that the amendment now pending does not encompass all of the provisions of the Defense authorization bill. The sections of the bill that relate to military construction projects and nuclear weapons issues have been left out. Those are very important matters, considering the base closure round that occurred this year and the multitude of important matters relating to the thousands of nuclear weapons that the United States still possesses.

What would happen to these provisions of the Defense authorization bill? Would they be left in limbo or would they be slipped into a conference report in the dark of night, never to receive any debate on the floor of the Senate? That is the wrong way to go.

I have very great affection for Senator WARNER and Senator LEVIN. I serve on their committee, the Committee on Armed Services. They are knowledgeable and able leaders of the Armed Services Committee. But I oppose this effort to attach the Defense authorization bill to the Defense Appropriations Committee bill. It is the wrong way to go, the wrong thing to do. It shortchanges debate. It shortchanges the American people, in that they will not be fully informed as to what is in each bill. Their representatives, their elected representatives in this Senate, will not have had an opportunity to fully debate, to answer questions, to ask questions, and to amend freely.

What is happening to the Senate? What is happening to the Senate, I ask? What is happening to freedom of debate in the Senate? What is happening to an orderly process, the legislative process by which the elected representatives of the people in the Senate have a full opportunity to debate, to ask questions?

Woodrow Wilson said the informing aspect was as important as the legislating aspect of the Senate, the informing aspect. And debate brings out information that the American people need and that they are entitled to.

So what is happening to this Senate? I think all Senators should stop and think about this question. Those of us who have been here many years have seen the Senate when it was somewhat different than it is today. There was time to debate. We just weren't in session 3 days a week and then gone; in 3 days a week, out 4 days a week, and the 3 days a week often begin with a vote, which is kind of a bed-check vote at 6 o'clock in the evening on Tuesday. So you have, really, nothing on Tuesday but a bed-check vote anymore, and then Wednesday and Thursday. What a shame.

What is happening to the Senate? What is happening to this forum, this forum of freedom of debate, freedom of speech, freedom to amend—what is happening to this Senate, and why?

I am sorry that the Senate is going in this direction. What is happening? This institution has built its distinguished reputation, its distinguished character on the principle of freedom to debate—freedom of debate, freedom of speech, freedom to amend.

Mr. President, I ask unanimous consent that I may proceed for another 5 minutes?

Mr. STEVENS. Mr. President, I would say to the Senator, we are scheduled to start at 7:30, and 6 minutes before that was equally divided between the Senator from Virginia and myself. So the Senator has probably about 3 minutes that he could proceed.

Mr. BYRD. Yes, if I could have 3 more minutes.

Mr. STEVENS. Three more minutes to the Senator.

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

Mr. BYRD. But the Senate has begun to fall short on those important constitutional principles. We have just a handful of votes each week and then the rush is on to get out that door, out that door, out this door here—get out. The rush is on to wrap up business on an artificial timetable.

So what has happened to the Senate? The American people need to know.

Why can't the Senate take the time for important debates on the important issues before our Nation. Our troops are at war in Iraq and Afghanistan. They are doing an outstanding service for our country. The Senate ought to give its undivided attention to each of the bills that relate to our troops. If the members of the National Guard are able to put their lives on hold to go fight for our country overseas, then the Senate ought to be able to surely spare whatever time it takes to debate the Defense appropriations bill and the Defense authorization bill as freestanding measures. America deserves that. Our troops deserve that.

The Defense authorization bill ought to be brought up as a freestanding measure so that the Senate may work its will on that legislation. It should be open to debate and amendment. That is why I oppose the motion on the defense of germaneness for the Warner-Levin amendment. The Senate should not cut corners on the legislative process.

Therefore, I shall vote no on the motion on the defense of germaneness, and I urge my colleagues to join me in voting no.

Let's stand up for freedom of speech in this Senate, freedom of debate, freedom to offer amendments. Let's do right by the American people.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I thought I had a unanimous consent to do a series of modifications in the managers' package. I ask unanimous consent I be able to proceed now for 10 minutes, to take care of this managers' package?

The PRESIDING OFFICER. Is there objection?

Mr. SESSIONS. Mr. President, I ask if I might be given, as a matter of personal privilege, 2 minutes to respond to the statement of Senator MCCAIN?

The PRESIDING OFFICER. Is there objection? Does the Senator from Alaska so modify his request?

Mr. STEVENS. With the understanding that the Senator has 2 minutes, I then have 10 minutes, and then the 6 minutes starts before the 7:30 vote.

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

Mr. SESSIONS. Mr. President, the Senator from Arizona has asked that I apologize for disparaging Captain Fishback in my earlier remarks. I do not believe I did so in any way. The Captain has a distinguished record in the military. Nobody questions that.

I did note, however, that his allegations contained in the New York Times article said that he had:

> . . . seen at least one interrogation where prisoners were being abused and was told about other ill treatment of detainees by his sergeants.

In my statement I simply raised the question of what ''abuse'' meant precisely, and whether, by implication, if this was a basis for a charge, as the newspapers were making and others were, that there was systematic abuse of prisoners—which I do not believe to be the case.

I did note that, when asked to name the individual sergeants who admitted they had been misbehaving or that bad activities had occurred, he refused to give those names.

If something is in error about that—I simply quoted from the New York Times—I would be pleased to apologize. But I think those in this Senate who have accused the up-and-down members of the chain of command of the U.S. Army, the U.S. Marines, and Department of Defense of promoting policies to abuse prisoners, they ought to think about whether they should apologize. I believe that accusation is false.

I thank the chairman and I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

AMENDMENTS NOS. 2002; 1986, AS MODIFIED; 2028; 1906, AS MODIFIED; 1899, AS MODIFIED; AND 2008, EN BLOC

Mr. STEVENS. Mr. President, I have managers' package No. 3 before the Senate. This includes a Grassley amendment No. 2002 for the multipurpose utility vehicle; a Voinovich amendment No. 1986 for the Millennium Gun System, as modified; a Graham amendment No. 2028 for moldable armor; a Feingold amendment No. 1906 for civilian linguists, which contains a modification; an Akaka amendment No. 1899, transition assistance programs, which contains a modification; and a Cantwell amendment No. 2008 for infrared countermeasures improvement.

I ask the Chair lay those amendments before the Senate for consideration en bloc.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the amendments en bloc.

Mr. STEVENS. I ask for their consideration, please.

The PRESIDING OFFICER. Is there further debate?

Mr. MCCAIN. Reserving the right to object, I will not object. I do not know if I have seen that amendment.

Mr. STEVENS. I thought the Senator had.

Mr. MCCAIN. I do not object. I think we have already seen that. Thank you.

Mr. STEVENS. I ask unanimous consent that the amendments be agreed to.

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

The amendments were agreed to en bloc, as follows:

AMENDMENT NO. 2002

(Purpose: To make available $1,000,000 from Research, Development, Test, and Evaluation for the Army for the Multipurpose Utility Vehicle)

At the appropriate place, insert the following:

SEC. ____. Of the amount appropriated by title IV under the heading ''RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, ARMY'', up to $1,000,000 may be used for Combat Vehicle and Automotive Technology (PE#0602601A) for the Multipurpose Utility Vehicle.

AMENDMENT NO. 1986, AS MODIFIED

(Purpose: Of the amounts provided for the Navy for research, development, test, and evaluation, up to $3,000,000 may be available for land attack technology for the Millennium Gun System)

At the appropriate place, insert the following:

Of the amount appropriated by this title under the heading ''RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY'', up to $3,000,000 may be available for land attack technology for the Millennium Gun System.

AMENDMENT NO. 2028

(Purpose: To make available $2,000,000 from Research, Development, Test, and Evaluation for the Army for Moldable Armor)

At the appropriate place, insert the following:

SEC. ____. Of the amount appropriated by title IV under the heading ''RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, ARMY'', up to $2,000,000 may be used for Moldable Armor.

AMENDMENT NO. 1906, AS MODIFIED

(Purpose: To provide for the establishment of a pilot project to create a civilian language reserve corps in order to improve national security by increasing the availability of translation services and related duties)

At the appropriate place, insert the following:

SEC. ___. PILOT PROJECT FOR CIVILIAN LINGUIST RESERVE CORPS.

(a) IN GENERAL.—The Secretary of Defense, acting through the Chairman of the National Security Education Board, shall, during the 3-year period beginning on the date of enactment of this Act, carry out a pilot program to establish a civilian linguist reserve corps, comprised of United States citizens with advanced levels of proficiency in foreign languages, who would be available, upon request from the President, to perform translation and other services or duties with respect foreign languages for the Federal Government.

(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 in which proficiency by United States citizens is critical for the national security interests of the United States and the relative importance of such proficiency in each such language;

(2) identify United States citizens with advanced levels of proficiency in each foreign language identified under paragraph (1) 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 securing the performance of the services and duties referred to in subsection (a) by the citizens identified under paragraph (2); and

(4) invite individuals identified under paragraph (2) to participate in the civilian linguist reserve corps.

(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 program established under this

section, the Secretary shall conduct a study of the best practices to be utilized in establishing the civilian linguist reserve corps, including practices regarding—

(1) administrative structure;

(2) languages that will be available;

(3) the number of language specialists needed for each language;

(4) the Federal agencies that 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 for the next 2 years, the Secretary shall submit to Congress an evaluation report on the pilot project conducted under this section.

(B) CONTENTS.—Each report 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 a civilian linguist reserve corps.

(f) FUNDING.—Of the amount appropriated under the heading ''Operation and Maintenance, Defense-Wide'' in title II, up to $1,500,000 may be available to carry out the pilot program under this section.

AMENDMENT NO. 1899, AS MODIFIED

(Purpose: To make available up to $5,000,000 for the participation of Vet centers in the transition assistance programs of the Department of Defense for members of the Armed Forces)

At the appropriate place, insert the following:

SEC. ____. (a) FUNDING FOR PARTICIPATION OF VET CENTERS IN TRANSITION ASSISTANCE PROGRAMS.—Of the amounts appropriated or otherwise made available by this Act, up to $5,000,000 may be used for the participation of Vet centers in the transition assistance programs of the Department of Defense for members of the Armed Forces.

(b) VET CENTERS DEFINED.—In this section, the term ''Vet centers'' means centers for the provision of readjustment counseling and related mental health services under section 1712A of title 38, United States Code.

AMENDMENT NO. 2008

(Purpose: To make available, from funds appropriated for research, development, test and evaluation, Air Force, up to $2,500,000 for advanced technology for IRCM component improvement)

On page 220, after line 25, insert the following:

SEC. 8116. Of the amount appropriated by title IV under the heading ''RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE'', up to $2,500,000 may be available for advanced technology for IRCM component improvement.

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

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

The motion to lay on the table was agreed to.

AMENDMENTS NOS. 1989, AS MODIFIED; 1911, AS MODIFIED; 2027, AS MODIFIED; 2010; 1947, AS MODIFIED; 2030, AS MODIFIED, AND 2012, EN BLOC

Mr. STEVENS. I also have before the Senate a managers' package No. 4. Has the Senator from Arizona seen this? This contains Senator ALLEN's amendment, No. 1989, for operational gasification with a modification; Senator SNOWE's amendment, No. 1911, for New England manufacturing with a modification; Senator KERRY's amendment, No. 2027, for expeditionary fighting vehicle, with a modification; Senator REED of Rhode Island, No. 2010, for shipboard automated reconstruction; Senator CORNYN, No. 1947, for activated factor VII, as modified; Senator TALENT, No. 2030, on the C–17, as modified.

I ask unanimous consent that those amendments be considered en bloc as presented to the Senate.

The PRESIDING OFFICER. Without objection, the Senate will proceed to consider them en bloc.

Mr. STEVENS. Mr. President, I failed to mention Senator BOXER's amendment on mental health. It is amendment numbered 2012. I include that and repeat my unanimous consent request for consideration.

The PRESIDING OFFICER. The Senate will also consider the Boxer amendment.

Mr. STEVENS. I ask that the Senate consider and agree to the amendments.

The PRESIDING OFFICER. Is there further debate on the amendments?

If not, the question is on the amendments.

The amendments were agreed to, as follows:

AMENDMENT NO. 1989, AS MODIFIED

(Purpose: From funds appropriated for research, development, test and evaluation, Army, and available for demonstration and validation, up to $5,000,000 may be available for the Plasma Energy Pyrolysis System (PEPS), Operational Gasification unit)

On page 220, after line 25, insert the following:

SEC. 8116. Of the amount appropriated by title IV under the heading ''RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY'' and available for demonstration and validation, up to $5,000,000 may be available for the Plasma Energy Pyrolysis System (PEPS), Operational Gasification unit.

AMENDMENT NO. 1911, AS MODIFIED

(Purpose: To provide that, of the amount authorized to be appropriated for the use of the Department of Defense for research, development, test, and evaluation for Defense-wide activities, up to $5,000,000 may be available for the rapid mobilization of the New England Manufacturing Supply Chain Initiative)

At the appropriate place, insert the following:

SEC. ____. Of the amount appropriated by this Act under the heading ''RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE'', up to $5,000,000 may be available for the rapid mobilization of the New England Manufacturing Supply Chain Initiative to meet Department of Defense supply shortages and surge demands for parts and equipment.

AMENDMENT NO. 2027, AS MODIFIED

(Purpose: To provide that, of the amount made available under title IV for the Navy for research, development, test, and evaluation, up to $1,000,000 may be made available for Marine Corps assault vehicles for development of carbon fabric-based friction materials to optimize the cross-drive transmission brake system of the Expeditionary Fighting Vehicle)

On page 220, after line 25, add the following:

SEC. 8116. Of the amount appropriated by title IV under the heading ''RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY'', up to $1,000,000 may be made available for Marine Corps assault vehicles for development of carbon fabric-based friction materials to optimize the cross-drive transmission brake system of the Expeditionary Fighting Vehicle.

AMENDMENT NO. 2010

(Purpose: To make available $2,000,000 from Research, Development, Test, and Evaluation for the Navy for the Shipboard Automated Reconstruction Capability)

At the appropriate place, insert the following:

SEC. ____. Of the amount appropriated by title IV under the heading ''RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, NAVY, up to $2,000,000 may be used for Program Element #0603235N for the Shipboard Automated Reconstruction Capability.

AMENDMENT NO. 1947, AS MODIFIED

(Purpose: From amounts available in RDA in title IV, up to $1,000,000 may be available for Recombinant Activated Factor VII)

At the appropriate place, insert the following:

SEC. ____. (a) BLAST INJURY PREVENTION, MITIGATION, AND TREATMENT INITIATIVE OF THE ARMY.—Of the amount appropriated by title IV under the heading ''RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, ARMY'', up to $1,000,000 may be available for Program Element #63002A for far forward use of recombinant activated factor VII.

AMENDMENT NO. 2030, AS MODIFIED

(Purpose: To provide for the procurement of 42 additional C-17 aircraft)

On page 220, after line 25, insert the following:

SEC. 8116. Beginning with the fiscal year 2006 program year, the Secretary of the Air Force is strongly encouraged to exercise the option on the existing multiyear procurement contract for C–17 aircraft in order to enter into a multiyear contract for the procurement of 42 additional C–17 aircraft.

AMENDMENT NO. 2012

(Purpose: To provide for a Department of Defense task force on mental health)

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 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).

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

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

The motion to lay on the table was agreed to.

AMENDMENTS NOS. 1991, AS MODIFIED; 1964, AS MODIFIED; 1948; 2029, AS MODIFIED; 1927, AS MODIFIED, EN BLOC

Mr. STEVENS. Mr. President, I have a managers' package No. 5 before the Senate.

Senator KENNEDY's amendment, No. 1991, for basic research programs, as modified; Senator SALAZAR, colloquy on system controls; Senator MURRAY, No. 1964, for transition assistance programs, as modified; Senator COBURN, No. 1948, on placing directives in the bill; Senator ALEXANDER, No. 2029, for heat pumps, as modified; Senator WARNER, No. 1927, for electron source program, as modified.

I ask unanimous consent that these amendments be considered en bloc by the Senate, as modified.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of amendments en bloc.

Mr. STEVENS. Mr. President, I ask for consideration of the amendments.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendments.

The amendments were agreed to, as follows:

AMENDMENT NO. 1991 AS MODIFIED

(Purpose: To make available additional amounts for defense basic research programs)

At the appropriate place, insert the following:

SEC. ____. (a) ARMY PROGRAMS.—Of the amount appropriated by title IV under the heading ''RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, ARMY'', up to an additional $10,000,000 may be used for Program Element 0601103A for University Research Initiatives.

(b) NAVY PROGRAMS.—Of the amount appropriated by title IV under the heading ''RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, NAVY'', up to an additional $5,000,000 may be used for Program Element 0601103N for University Research Initiatives.

(c) AIR FORCE PROGRAMS.—Of the amount appropriated by title IV under the heading ''RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, AIR FORCE'', up to an additional $10,000,000 may be used for Program Element 0601103F for University Research Initiatives.

(d) DEFENSE-WIDE ACTIVITIES.—Of the amount appropriated by title IV under the heading ''RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, DEFENSE-WIDE''—

(A) up to an additional $10,000,000 may be used for Program Element 0601120D8Z for the SMART National Defense Education Program; and

(B) up to an additional $5,000,000 may be used for Program Element 0601101E for the Defense Advanced Research Projects Agency University Research Program in Cybersecurity.

(e) SENSE OF SENATE.—It is the sense of the Senate that it should be a goal of the Department of Defense to allocate to basic research programs each fiscal year an amount equal to 15 percent of the funds available to the Department of Defense for science and technology in such fiscal year.

AMENDMENT NO. 1964 AS MODIFIED

(Purpose: To provide for studies of means of improving the transition assistance services of the Department of Defense and other benefits for members of the National Guard and the Reserves)

At the appropriate place, insert the following:

SEC. ___. REPORT ON REVIEW AND IMPLEMENTATION OF COMPTROLLER GENERAL RECOMMENDATIONS ON TRANSITION ASSISTANCE FOR MEMBERS OF THE NATIONAL GUARD AND RESERVES.

(a) REPORT.—Not later than 30 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees report on the status of the review of, and actions taken to implement, the recommendations of the Comptroller General of the United States in the report of the Comptroller General entitled ''Military and Veterans Benefits: Enhanced Services Could Improve Transition Assistance for Reserves and National Guard'' (GAO 05–544).

(b) PARTICULAR INFORMATION.—If the Secretary has determined in the course of the review described in subsection (a) not to implement any recommendation of the Comptroller General described in that subsection, the report under that subsection shall include a justification of such determination.

AMENDMENT NO. 1948

(Purpose: To require that any limitation, directive, or earmarking contained in either the House of Representatives or Senate report accompanying this bill be included in the conference report or joint statement accompanying the bill in order to be considered as having been approved by both Houses of Congress)

At the appropriate place, insert the following:

SEC. ___. Any limitation, directive, or earmarking contained in either the House of Representatives or Senate report accompanying H.R. 2863 shall also be included in the conference report or joint statement accompanying H.R. 2863 in order to be considered as having been approved by both Houses of Congress.

AMENDMENT NO. 2029 AS MODIFIED

(Purpose: To require a report on the use of ground source heat pumps at Department of Defense facilities)

On page 220, after line 25, insert the following:

SEC. 8116. (a) Not later than 180 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 use of ground source heat pumps at Department of Defense facilities.

(b) The report required under subsection (a) shall include—

(1) a description of the types of Department of Defense facilities that use ground source heat pumps;

(2) an assessment of the applicability and cost-effectiveness of the use of ground source heat pumps at Department of Defense facilities in different geographic regions of the United States;

(3) a description of the relative applicability of ground source heat pumps for purposes of new construction at, and retrofitting of, Department of Defense facilities; and

AMENDMENT NO. 1927 AS MODIFIED

(Purpose: To make available up to $1,500,000 for the Navy for research, development, test, and evaluation, to be available for research within the High-Brightness Electron Source program)

In the appropriate place, insert the following:

SEC. 8116. (a) Of the amount appropriated by title IV under the heading ''RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY'' up to $1,500,000 may be available for research within the High-Brightness Electron Source program.

AMENDMENT NO. 1991

Mr. KENNEDY. Mr. President, our military is first in the world, because of the quality and training of our personnel and because of the technological sophistication of our equipment and weaponry. A large portion of the best civilian scientific minds in the Defense Department are nearing retirement age.

I rise to thank my colleagues for their support and adoption of the amendment Senator COLLINS and I offered to ensure that the Department maintains the workforce that it needs to stay globally competitive and invests in crucial research and development efforts.

Our amendment includes $10 million to double the committee's funding for the Department's current SMART Scholars program, which is essentially an ROTC program for the agency's civilian scientists. This represents a $17.8 million increase over the $2.5 million funding level provided last year—the program's first year in existence.

It increases by $30 million the Department's funding of basic research in science and technology, to ensure that its investment in this field is maintained and our military technology remains the best in the world.

Our amendment provides sufficient funding for the full cost of college scholarships and graduate fellowships for approximately 100 science, technology, engineering, and math students. It increases basic research in the Army, Navy, Air Force, DARPA, and National Defense Education Program. It is supported by more than 60 of the most prestigious institutions of higher education in America.

Defense Department-sponsored research has resulted in stunningly sophisticated spy satellites, precision-guided munitions, stealth equipment, and advanced radar. The research has also generated new applications in the civilian economy. The best known example is the Internet, originally a DARPA project.

Advances in military technology often have their source in the work of civilian scientists in Department of Defense laboratories. Unfortunately, a large percentage of these scientists are nearing retirement. Today, nearly one in three DOD civilian science, technical, engineering, and mathematical employee is eligible to retire. In 7 years, 70 percent will be of retirement age.

Another distressing fact is that the number of new scientists being produced by our major universities at the doctoral level each year has declined by 4 percent over the last decade. Many of those who do graduate are ineligible to work on sensitive defense matters, since more than a third of all science and engineering doctorate degrees awarded at American universities go to foreign students.

It is unlikely that retiring DOD scientists will be replaced by current private industry employees. According to the National Defense Industrial Association, over 5,000 science and engineering positions are unfilled in private industry in defense-related fields.

The Nation confronts a major math and science challenge in elementary and secondary education and in higher education as well. We are tied with Latvia for 28th in the industrialized world today in math math education, and that is far from good enough. We have fallen from 3rd in the world to 15th in producing scientists and engineers. Clearly, we need a new National Defense Education Act of the size and scope passed nearly 50 years ago.

At the very least, however, the legislation before us needs to do more to maintain our military's technological advantage. Last year, over 100 ''highly rated'' SMART Scholar applications were turned down because of insufficient funding. Our amendment has sufficient funds to support every one of those talented young people who want to learn and serve.

It also increases the investment in basic research in science and technology. Investments by DOD in science and technology through the 1980s helped the United States win the cold war. But funding for basic research in the physical sciences, math and engineering has not kept pace with research in other areas. Federal funding for life sciences has risen fourfold since the 1980s. Over the same period, appropriations for the physical sciences, engineering, and mathematics have remained essentially flat. Funding for basic research fell from fiscal year 1993 to fiscal year 2004 by more than 10 percent in real terms.

The Defense Science Board has recommended that funding for Science and Technology reach 3 percent of total defense spending, and the administration and Congress have adopted this goal in the past. The board also recommended that 2 percent of that amount be dedicated to basic research. We must do better, and our amendment makes progress on this issue.

I thank my colleagues for recognizing the importance of this amendment and for their support in its adoption. I hope that we will continue to see similar increases in these programs in the future.

AMENDMENT NO. 1955

Mr. STEVENS. Mr. President, it is my understanding that we have 6 minutes equally divided before the Senate's consideration of the Warner amendment. Senator WARNER seeks a Senate vote on whether his amendment is germane to the bill. But before that occurs, it is my understanding the leaders may want to use some of their leadership time.

The PRESIDING OFFICER. There is now 6 minutes of debate divided on the

germaneness of the Warner amendment.

The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, I shall divide my time equally with my colleague Senator LEVIN, ranking member of the committee.

Mr. President, the question of germaneness has already been, in a sense, ruled on by the Parliamentarians who said in their judgment it is germane. The question is simply do we or do we not at this time, when our Nation is at war, bring up on the appropriations bill section A of the authorization bill?

I simply say to my colleagues, I trust you—I trust you to look at this extraordinary circumstance in which we are a nation at war, needing this bill to send a message. And I trust you that the amendment process will not be abused and that we can in a reasonable period of time accommodate those amendments that might be offered as second-degree amendments, and that your bill can go forward with the vitally needed appropriations funds.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, the only way we are going to be able to consider the Defense authorization bill, apparently, this year is if we offer this as an amendment and then amend it. You heard from the Senator from Alaska earlier today that this would open up the bill, the appropriations bill, to amendments, that they would be unlimited. We heard the opposite argument from our dear friend from West Virginia that this would restrict amendments on the authorization. The only way we are going to be able to have debate on amendments on the authorization bill is if we consider the authorization bill now.

The leader, in his wisdom, pulled down the authorization bill when it was pending. As far as I know, there is not a decision on his part to bring that authorization bill back to the floor. How I dearly wish we could have a separate authorization bill. But we are not going to get it, except in this process.

It is amendable. I assure my friend from West Virginia that the only way we are going to debate the authorization bill on the floor of the Senate and offer amendments is if we follow this process. It is amendable. It is debatable. It is free speech at its utmost. The alternative is the absence of debate on the authorization bill.

We have been able to clear about 100 amendments, plus. We do that in the ordinary process. We do that every year on the authorization bill. We try to accommodate our colleagues. We have gone through that process. There are another dozen or so amendments which we would have to consider that we know about.

Let us follow that process. There is so much in this bill that is needed. There is a health provision in this bill and a lot of other provisions.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, let me begin by saying, very succinctly, a vote against this issue of germaneness is not a vote against defense. This is the Defense appropriations bill. It is meant to carry the money to the Department of Defense and all of those involved in defense. It is not meant to carry the authorization. That is what rule XVI is all about. What we are looking at now is the Defense authorization bill being brought to this bill in part. This is not the whole bill. This is just part A; B and C were left out.

This is not going to finish debate on the authorization bill. It will only take up a part of it. There are a whole series of amendments that have been offered to the authorization bill, and, as a matter of fact, Senator WARNER has offered now two packages of amendments that have been approved by himself and Senator LEVIN. But they have not been considered, as far as we are concerned, as amendments to the appropriations bill. But that is what they want. They want us to accept their portion of the bill plus their amendments to the bill without any consideration for anybody. This is 108 amendments en bloc, not agreed to by the managers of this bill but agreed to by the would-be managers of the Defense authorization bill.

Offering the authorization bill to this bill without an agreement is an enormous precedent. I have been involved now 38 years, almost. It has never happened in my career, that a bill was brought to the appropriations bill and offered and then subject to amendment.

Often, we have taken whole bills at times and taken them to conference. Even that has been objected to by some. But normally we have taken omnibus bills. The authorizers are trying to make this an omnibus bill.

There are also other bills waiting in the wings that haven't been heard. What are we going to do with them if this process is to be followed?

But again, I want to note that a vote to find that this is germane—and I think I understand the question of what Senator WARNER said about what the Parliamentarians have done.

I make a parliamentary inquiry: Has the Parliamentarian ruled that this amendment is germane or just that it is subject to being found germane by the Senate?

The PRESIDING OFFICER. The Parliamentarian has advised that the Senator may raise a defense of germaneness.

Mr. STEVENS. Defense of germaneness is available to the Senator?

The PRESIDING OFFICER. The question is then submitted to the Senate.

Mr. STEVENS. A vote against this position of the Senator from Virginia would not be overturning the Chair, would it?

The PRESIDING OFFICER. It would not.

Mr. STEVENS. What we have here is a situation where it is critical that we finish this bill this week. Let me tell you why.

This bill is the supplemental appropriations bill for Defense for activities in Iraq and Afghanistan and the war on terror. We are in a continuing resolution period. There is no money in the continuing resolution for that part. I hope the Senate will understand that this authorization bill has no place in this bill as a bill to become amended by the processes of the Senate in the future.

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. Mr. President, I ask to speak on leader time.

We will in a very few minutes be coming to a vote on the question of germaneness on the Warner amendment. I want to take a few minutes to comment on two issues. One is what we have been talking about over the last 30 or 45 minutes; that is, the Defense authorization bill. And secondly, I want to make a quick comment on the germaneness issue.

We heard the distinguished Senator from West Virginia argue very strongly to have a freestanding Defense authorization bill come to the floor, and that is the most appropriate way to handle that bill. I agree to that. In fact, we have tried to do that in the past. We spent about 4 days on the floor, and at that time, because we had well over 100 amendments, took it off the floor to be addressed at some point in the future.

We heard from the Senator from Michigan saying the only way that we believe we can deal with this is by offering it as an amendment, which has been done to the appropriations bill. I want to make it very clear I disagree with that.

First, Defense appropriations: I think the appropriate way of dealing with this very important bill is to have it as a freestanding piece of legislation. As I mentioned, we have attempted to do that in the past, and I have been trying very hard to do that over the last couple of weeks. We had an offer on the floor that both the Democratic leader and the chairman and ranking member are well aware of, as most Members in our caucus are; that is, we would bring the Defense authorization bill to the floor as a freestanding bill, with 12 amendments to either side with second-degree amendments allowed under a time agreement.

Those amendments we have asked to be related or within the jurisdiction of that particular committee. That is what we have been working with. We have been waiting and working all day. We have for the last about 8 or 9 days been waiting for a response from the other side of the aisle. I understand the other side of the aisle cannot agree with that unanimous consent request. I do propound it, in large part, to let all of our colleagues know we have been working on it, and we feel strongly

there is a way to bring this Defense authorization bill up freestanding with appropriate amendments.

With that, I will, at this point in time, propound that unanimous consent to make this clear. I ask consent, when the Senate resumes consideration of S. 1042, the Defense authorization bill, it be considered under the following limitations. All of the pending amendments be withdrawn and the bill be considered as follows: The only first-degree amendments in order be up to 12 amendments to be offered by the two leaders or their designees; provided further that the amendments be within the jurisdiction of the Committee on Armed Services and that these amendments be subject to second degrees, which are to be relevant to the amendment to which they have offered; provided further that the first-degree amendments be limited to 1 hour of debate equally divided in the usual form, with any second degrees limited to 30 minutes of debate equally divided.

I further ask that there then be 2 hours of general debate on the bill divided between the two managers; provided further that the amendments be offered on a rotating basis, and if an amendment is not available at the conclusion of the previous amendment, then the amendment no longer be in order.

Finally, I ask consent, at the expiration of that time and the disposition of the above amendments, the bill be read the third time and the Senate proceed to a vote on the passage of the bill as amended, if amended, with no intervening action or debate.

Mr. REID. Of course, I am going to object, but I want to use some of my leader time to talk about the travesty before the Senate at this time.

The Committee on Armed Services completed their work on this bill around the 1st of May, give or take a day or two. For 5 months, we have been trying to get this bill to the floor. For Members to cry crocodile tears that this might take an extra day or 2 or 3 or 4 or 5, we need only look at the history of the Senate.

I heard the remarks of the Senator from West Virginia. I agree with him. Can anyone imagine the Senate not having time to do the Defense authorization bill? We have men and women, as we speak, being shot at driving down roads and darkened streets in Iraq not knowing if they will make it home—because of a roadside bomb—home to their billet for that evening.

We have almost 2,000 men and women who have been killed in Iraq. We have had 15 to 20,000 wounded. Shouldn't we take a little time to talk about the work done by the duly constituted committee of the Senate, the Committee on Armed Services, take a look at what we need to do on a policy basis?

I am a proud member of the Committee on Appropriations. I have been on this committee since the day I got here. I am proud of it. It is the best committee in the Senate. But the Senate Committee on Appropriations does not run everything around here. Other committees work as hard as we do and have the right to have the matters they work on in committee heard.

We have devoted basically one day to this bill. It was pulled because of gun liability.

Now, in years past, we have worked our way through this. It has not been easy, but we have done it. The 10-year average: in the last 10 years, we have averaged 133 amendments, and we have averaged 14 rollcalls per bill. Why? Because we have had the same managers for a long time. They know how to work through these amendments. There is some give-and-take and some unhappy people, but we respect these two men. We work our way through it. That is the way it has been for 10 years.

The average for hours of debate on this bill is 47¼ hours. We have spent as much as 88 hours. When did we do that? Last year. We spent 88 hours on this bill last year. We had 196 amendments.

The point I make is that the real issue here—my two dear friends, the senior Senator from Virginia and the senior Senator from Michigan, think it is defense matters. It is not. It is Katrina. That is what it is about. We want to have a vote on an independent bipartisan commission to figure out what went wrong down in the gulf coast. We have not been allowed to have a vote on that. All we want is a vote. The only way we can do it is have a bill of substance, not one on an appropriations bill, so we can offer the amendment.

So this is a system that works just fine. The Senate was not set up to be convenient. It was not set up to have short periods of time to work. It was set up to do the business of this country. It has worked pretty well for more than 200 years.

One of the things we have traditionally done in time of war or peace is the Defense authorization bill.

So here it is, I have been to this floor I don't know how many times, but many, many times since last May, saying, Let's do a defense authorization bill. I can remember talking about one of my trips to the hospital and seeing the people in bed and how I felt I owed them something to come here and ask for time to hear their views. And they have views as to what is good and bad in Iraq. I have been here many times. I have added up weeks with the ranking member trying to get some way to the floor. And here at this time of night, as we are winding things down, we get a unanimous consent request that everyone knows is going to be objected to.

The Senator from West Virginia pretty well knows how to express himself. He may come from coal-mining families. He may have been an orphan. But he knows how to talk. He explained in very good detail why we cannot have the Senate run similar to the House of Representatives.

I want the record to reflect that the Defense authorization bill should have been debated a long time ago. We are ready to debate it any time. We are willing to enter into time agreements on amendments, but to come here tonight and say we are going to do 12 amendments, does anybody object—what I should have done is not object and have that side of the aisle watch them go to the ceiling. They would not like it either.

I am standing here and saying, I not only object, I object 1,000 times, until we get back to being Senators and doing things the way we have done.

The number of amendments, 196 last year. We spent 16 days on it; in 2003, 5 days, 75 amendments; back in 1997, 8 days, 120 amendments, 44 hours. Couldn't we spend a little bit of time on this bill?

The answer is, no, we are going to do the appropriations bill.

I know appropriations. As I have said, I have been on the committee for a long time. But as much as I love my committee assignment—it is the only committee I have anymore; I gave them all up with this job, but I love the Committee on Appropriations. I repeat, there are other committees that are as important as the Committee on Appropriations. The problem is, we have strict rules of how appropriations bills are handled, for obvious reasons.

I want the record to reflect I do my best, and sometimes that is not good enough, to be a partner with my friend, the majority leader. I don't want this statement I make to reflect on him personally. I am talking about the process that comes about as a result of him being a leader. I don't like the process. I think we could have done it better. I think we should have done this bill. I could be wrong, but I say to my chair and my distinguished friend, I think the only amendment we have had in this is one dealing with Boy Scouts—four others—and that was offered by the distinguished majority leader. I know it is well-intentioned, but I don't think it had much to do with the Defense authorization bill.

Let's let the record reflect I object. I object. I object.

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. Mr. President, the objection we heard was to a unanimous consent.

Mr. REID. I have a unanimous consent request that I should have made, that we resume consideration of Defense authorization upon disposition of the Defense appropriations bill.

Mr. FRIST. I object.

The PRESIDING OFFICER. The objection is heard.

Mr. FRIST. Mr. President, the unanimous consent I propounded that was objected to by the other side is exactly what we have been working on the last couple of weeks. It did say we would have a freestanding bill to bring a very important bill to the floor. We have spent several days, I believe 4 days, on

that bill in the past. I had 24 amendments, 12 to either side, plus second-degree amendments, of which there is no limit for. But it was objected to.

We will continue to work in that regard because I believe at some point we will be able to address that bill. What we will vote on, in hopefully a couple of minutes, is the germaneness of the Warner amendment, the authorization bill. The real challenge is if this bill is ruled germane, it will bog down what we are trying to do. There can be an endless number of amendments that are attached if it is germane; 130 have been filed. There would be unlimited second-degree amendments that could be applied toward the Warner amendment if that is found to be germane.

The appropriate way to deal with the Warner amendment is as a freestanding authorization bill. I agree with Senator WARNER. We need to do that, and we will work toward that in the future. I am disappointed the other side will not allow us to do it as a freestanding bill. Institutionally, if we start taking the huge authorization bills and start dumping them into the appropriations bill, the appropriations process, which is already difficult enough, is going do come to a grinding halt.

Therefore, I ask my colleagues to vote that the Warner amendment be not germane, joining the chairman and the ranking Member of the bill as well as Senator BYRD, that this is not germane, and if it is not germane, it will allow us to continue on with the Defense appropriations bill in a disciplined way to complete, hopefully, by the end of Friday.

Mr. WARNER. Have the yeas and nays been ordered?

The PRESIDING OFFICER. They have not.

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

Mr. THUNE. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Chair, under Senate rule XVI, now submits to the Senate the question raised by the Senator from Virginia, Mr. WARNER: Namely, is his amendment No. 1955 germane or relevant to any legislative language already in the House-passed bill?

The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from New Jersey (Mr. CORZINE) is necessarily absent.

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

The result was announced—yeas 49, nays 50, as follows:

[Rollcall Vote No. 247 Leg.]

YEAS—49

Akaka	Bingaman	Chambliss
Allen	Boxer	Clinton
Baucus	Cantwell	Collins
Bayh	Carper	Cornyn
Biden	Chafee	Dayton
Dodd	Lautenberg	Rockefeller
Dole	Levin	Salazar
Durbin	Lieberman	Sarbanes
Ensign	Lincoln	Schumer
Feingold	Lugar	Sessions
Graham	McCain	Snowe
Hagel	Nelson (FL)	Stabenow
Inhofe	Nelson (NE)	Talent
Jeffords	Obama	Thune
Johnson	Pryor	Warner
Kennedy	Reed	
Kerry	Reid	

NAYS—50

Alexander	Domenici	Martinez
Allard	Dorgan	McConnell
Bennett	Enzi	Mikulski
Bond	Feinstein	Murkowski
Brownback	Frist	Murray
Bunning	Grassley	Roberts
Burns	Gregg	Santorum
Burr	Harkin	Shelby
Byrd	Hatch	Smith
Coburn	Hutchison	Specter
Cochran	Inouye	Stevens
Coleman	Isakson	Sununu
Conrad	Kohl	Thomas
Craig	Kyl	Vitter
Crapo	Landrieu	Voinovich
DeMint	Leahy	Wyden
DeWine	Lott	

NOT VOTING—1

Corzine

The PRESIDING OFFICER. On this vote, the yeas are 49, the nays are 50. The Senate has voted the amendment not germane, and it falls for that reason.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 1933

The PRESIDING OFFICER. There are now 6 minutes evenly divided on the vote with respect to the Bayh amendment. Who yields time?

Mr. STEVENS. What is the pending business?

The PRESIDING OFFICER. Amendment No. 1933 offered by the Senator from Indiana. There will be 6 minutes evenly divided.

The Senator from Alaska.

Mr. STEVENS. Mr. President, I make a point of order under section 302(f) of the Congressional Budget Act that the amendment provides spending in excess of the subcommittee's 302(b) allocation under the fiscal year 2006 concurrent resolution on the budget.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. BAYH. Mr. President, pursuant to section 904 of the Congressional Budget Act of 1974, I move to waive the applicable sections of that act for purposes of the pending amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. STEVENS. Mr. President, under the previous order, this is a 10-minute vote; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Is all time yielded back?

The Senator from Indiana.

Mr. BAYH. Mr. President, I thank our colleague, Senator KENNEDY, for his steadfast support of this amendment. I thank our colleague, Senator STEVENS, both for his courtesy at this moment and also because while we may have a substantive disagreement about this amendment, I know his heart is in the right place.

This amendment ensures that our troops in Iraq and Afghanistan will have the equipment they need to accomplish their mission while keeping them out of harm's way. In deciding how to vote, I ask my colleagues to consider three things. First, the lesson of Katrina and regrettably the lesson of Iraq is that our Nation, when lives are at stake, must always plan for the worst, even as we hope for the best. Unfortunately, this has not happened in Iraq. On the contrary, our Armed Forces have consistently underestimated the need for armored vehicles in that theater of war. Nine times they have underestimated the need. They are no longer entitled to the benefit of the doubt. Regrettably, Walter Reed Army Hospital and other military hospitals are filled with the consequences of these errors. Let us not make that mistake again.

I ask my colleagues to recall the image of that brave soldier who stood up in a conversation with our Secretary of Defense, complaining about what he referred to as ''hillbilly'' armor, talking about our brave troops having to search through garbage dumps for the ability to defend themselves from hostile attack. We owe them better than that. Better than that is exactly what this amendment will provide. I ask for Senators' favorable consideration.

Mr. KENNEDY. Mr. President, I am delighted to join my colleague once again, Senator BAYH, in sponsoring this amendment, No. 1933, which increases funding for the procurement of armored Tactical Wheeled Vehicles for the Army.

Together, Senator BAYH and I have worked very hard together to make sure our soldiers have what they need. In April of this year, the Senate added $150 million for additional armored vehicles in the Iraq Supplemental.

Now we want to work together to keep our troops in the field properly equipped and also make sure they have the proper equipment on hand at home to train with prior to going overseas. The money in this amendment will make sure that the Army's pre-positioned stocks are re-constituted after over 2½ years at war.

There are also funds for the Joint Readiness Training Center at Fort Polk, LA. The Joint Readiness Training Center provides advance level joint training for the Army's Active and Reserve Component, Air Force and Navy forces. The training they receive simulates what they will face when deployed to Iraq and Afghanistan.

This issue has been divisive for far too long. All of us support our troops. We obviously want to do all we can to see that they have proper equipment,

vehicles, and everything else they need to protect their lives and carry out their missions.

It's scandalous that the administration has kept sending them into battle year after year in Iraq without adequate equipment. It's scandalous that desperate parents and wives here at home have had to resort to Wal-Mart to try to buy armor and mail it to their loved ones in Iraq to protect them on the front lines. Secretary Rumsfeld has rarely been more humiliated than on his visit to Iraq last December, when a soldier had the courage to ask him why the troops had to scavenge scrap metal on the streets to protect themselves. The cheer that roared out from troops when he asked question said it all.

More than 400 troops have already died in military vehicles vulnerable to roadside bombs, grenades, and other notorious improvised explosive devices.

Many of us have visited soldiers at Walter Reed and Bethesda and seen the tragic consequences of inadequate armor. We want to ensure that parents grieving at Arlington National Cemetery no longer ask, ''Why weren't more armored humvees available?''

It's taken far too long to solve this problem. We have to make sure we solve it now, once and for all. We can't keep hoping the problem will somehow go away.

In a letter last October 20, General Abizaid said, ''The FY 2004 Supplemental Request will permit the services to rapidly resolve many of the equipment issues you mentioned to include the procurement of . . . Humvees.''

We have been told for months that the Army's shortage of Up-Armored Humvees was a thing of the past. The Army could have, and should have, moved much more quickly to correct the problem. As retired General Paul Kern, who headed the Army Materiel Command until last November, said, ''. . . It took too long to materialize.'' He said, ''In retrospect, if I had it to do all over, I would have just started building up-armored Humvees. The most efficient way would have been to build a single production line and feed everything into it.''

In April, GAO released a report that clearly identifies the struggles the Pentagon has faced. In August 2003, only fifty-one Up-Armored Humvees were being produced a month. It took the industrial base a year and a half to work up to making 400 a month. Now the Army says they can now get delivery of 550 a month. The question is, why did it take so long? Why did we go to war without the proper equipment? Why didn't we fix it sooner, before so many troops have died?

According to GAO, there are two primary causes for the shortage of up-armored vehicles and add-on-armor kits.

First, a decision was made to ramp-up production gradually rather than use the maximum available capacity.

Second, funding allocations did not keep up with rapidly increasing requirements. Obviously, the Pentagon was still being influenced by its cakewalk mentality.

The GAO report specifically states that Pentagon decision-makers set the rate at which both up-armored Humvees and armor kits would be produced, and did not tell Congress about the total available production capacity. GAO was unable to determine what criteria were used to set the rate of production. In both cases, additional production capacity was available, particularly for the kits.

The delay was unconscionable. Without this amendment, the production rate of Up-armored humvees could drop off again later this year. We need to guarantee that we are doing everything possible to get the protection to our troops as soon as possible. We owe it to them, to their families here at home and to the American people.

We need to make sure our troops overseas have the best equipment available to protect them in combat. They also need to have the same equipment to train with at the Joint Readiness Center and the money in this amendment will ensure that happens.

The amendment contributes significantly to this goal, and I urge my colleagues to support it.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, on a recent trip to Iraq, we saw the up-armoring taking place in country. They are doing it now in specially created circumstances there. But beyond that, we have funded the total capacity of the plants in the United States to produce up-armor. We have done everything we can. If we can find additional capacity, we have another supplemental coming in the spring, we will join the Senator in urging more money. But we have used every dollar we can for up-armoring in the plants and in facilities. You should see the Oshkosh plant over there. They are up-armoring trucks and all sorts of vehicles now in country.

I urge the Senate to understand this amendment is duplicative. We already provided the maximum amount before us that we can possibly spend with the existing capacity of the system now, $240 million for humvees, $150 million for the Army tactical wheeled vehicle. In addition to that, we are sending strikers now. We visited strikers in the Mosul area. They are enormous systems, and they are already armored. They don't have to be up-armored. We need more strikers, more armored vehicles, but we are doing the best we can. And we are using every bit of capacity the system has. This amendment will be duplicative of that funding.

I oppose the Senator's amendment despite my admiration for him and insistence that we do the maximum possible in armoring our vehicles.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I ask unanimous consent that my name be added as a cosponsor of the amendment offered by Senator BAYH.

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

Mr. BYRD. I thank my colleague.

Mr. BAYH. I thank my colleague from West Virginia.

The PRESIDING OFFICER. Is all time yielded back?

Mr. STEVENS. I yield back my time.

Mr. BAYH. I yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the motion to waive the Budget Act with respect to amendment No. 1933.

Mr. STEVENS. Mr. President, have the yeas and nays been ordered?

The PRESIDING OFFICER. They have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from New Jersey (Mr. CORZINE) is necessarily absent.

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

The yeas and nays resulted—yeas 56, nays 43, as follows:

[Rollcall Vote No. 248 Leg.]

YEAS—56

Akaka	Dorgan	Nelson (FL)
Alexander	Durbin	Nelson (NE)
Allen	Feingold	Obama
Baucus	Feinstein	Pryor
Bayh	Harkin	Reed
Biden	Jeffords	Reid
Bingaman	Johnson	Rockefeller
Boxer	Kennedy	Salazar
Byrd	Kerry	Sarbanes
Cantwell	Kohl	Schumer
Carper	Landrieu	Snowe
Chafee	Lautenberg	Specter
Clinton	Leahy	Stabenow
Coleman	Levin	Talent
Collins	Lieberman	Thune
Conrad	Lincoln	Voinovich
Dayton	Lugar	Warner
DeWine	Mikulski	Wyden
Dodd	Murray	

NAYS—43

Allard	Domenici	Martinez
Bennett	Ensign	McCain
Bond	Enzi	McConnell
Brownback	Frist	Murkowski
Bunning	Graham	Roberts
Burns	Grassley	Santorum
Burr	Gregg	Sessions
Chambliss	Hagel	Shelby
Coburn	Hatch	Smith
Cochran	Hutchison	Stevens
Cornyn	Inhofe	Sununu
Craig	Inouye	Thomas
Crapo	Isakson	Vitter
DeMint	Kyl	
Dole	Lott	

NOT VOTING—1

Corzine

The PRESIDING OFFICER. On this vote, the yeas are 56, the nays are 43. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained and the amendment falls.

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

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. What is now the pending business?

AMENDMENT NO. 1977

The PRESIDING OFFICER. There are now 6 minutes evenly divided before a vote with respect to the McCain amendment No. 1977.

Who yields time?

The Senator from Arizona.

Mr. MCCAIN. Mr. President, war is an awful enterprise and I know that. I do not think I am naive about how severe are the wages of war and how terrible are the things that must be done to wage it successfully. It is a grim, dark business, and no matter how noble the cause for which it is fought, no matter how valued their service, many veterans spend much of their subsequent lives trying to forget not only what was done to them and their comrades but some of what had to be done by their hand to prevail.

I do not mourn the loss of any terrorist's life, nor do I care if in the course of serving their noble cause they suffered great harm. They have pledged their lives to the intentional destruction of innocent lives, and they have earned their terrible punishment in this life and the next.

What I do regret, what I do mourn, and what I do care very much about is what we lose, what we, the American service man and woman, and the great Nation they defend at the risk of their lives, when by official policy or by official negligence we allow, confuse, or encourage our soldiers to forget that the best sense of ourselves, that which is our greatest strength, that we are different and better than our enemies, that we fight for an idea, not a tribe, not a land, not a king, not a twisted interpretation of an ancient religion but for an idea that all men are created equal and endowed by their Creator with inalienable rights.

I have been asked before where did the brave men I was privileged to serve with in Vietnam draw the strength to resist to the best of their ability the cruelties inflicted on them by our enemies? Well, they drew strength from our faith in each other, from our faith in God, and from our faith in our country.

Our enemies did not adhere to the Geneva Convention. Many of my comrades were subjected to very cruel, very inhumane, and degrading treatment, a few of them even unto death. But every single one of us knew and took great strength from the belief that we were different from our enemies, that we were better than them, that if the roles were reversed, we would not disgrace ourselves by committing or countenancing such mistreatment of them. That faith was indispensable not only to our survival but to our attempts to return home with honor. Many of the men I served with would have preferred death to such dishonor.

The enemies we fight today hold such liberal notions in contempt as they hold in contempt the international conventions that enshrine them, such as the Geneva Conventions and the Treaty on Torture. I know that. But we are better than them, and we are stronger for our faith, and we will prevail.

I submit to my colleagues that it is indispensable to our success in this war that our service men and women know that in the discharge of their dangerous responsibilities to their country they are never expected to forget that they are Americans and the valiant defenders of a sacred idea of how nations should govern their own affairs and their relations with others, even our enemies.

Those who return to us and those who give their lives for us are entitled to that honor. Those of us who have given them this onerous duty are obliged by our history and by the sacrifices, the many terrible sacrifices, that they have made in our defense. We are obliged to make clear to them that they need not risk their honor or their country's honor to prevail; that through the violence, chaos, and heartache of war, through deprivation and cruelty and loss, they are always Americans, and different, better, and stronger than those who would destroy us. God bless them as He has blessed us with their service.

The PRESIDING OFFICER. Who yields time?

The majority leader.

Mr. FRIST. Mr. President, I rise to speak on leader time. I thank Senator MCCAIN for his efforts on this very important issue that we have been debating, talking about, and focusing upon for a long period of time. It is an important matter that affects both our American reputation abroad and the conduct of our military personnel in this global war on terrorism.

It is important to state that the performance of American servicemembers in Iraq, Afghanistan, and elsewhere around the globe has been outstanding, has been inspiring, and truly representative of the best our Nation has to offer. This amendment strives to establish uniform standards for the interrogation of prisoners and detainees as a means for helping ensure our service men and women are well trained, well briefed, knowledgeable of their legal, professional, and moral duties and obligations. Therefore, I fully support the purpose and intent of this amendment, and although I understand it may require some fine-tuning to prevent any unintended consequences, I do intend to vote for it with that in mind.

The PRESIDING OFFICER (Mr. CHAFEE). The Senator from Alaska.

Mr. STEVENS. I am compelled to speak in opposition to this amendment, although I wholeheartedly agree with what the Senator from Arizona has said. It was a marvelous statement made by a man who has every reason to say exactly what he said. I support what the majority leader has said, but there is a classified annex to the Army Field Manual that is not spelled out in this amendment, and there are people who are not in uniform who may not even be citizens of the United States who represent us in very strange and dangerous places, whose lives may be put in jeopardy by the process that is spelled out in part of this amendment. I speak for them.

I honor all service men and women, and I really believe they should absolutely follow the lifestyle of the Senator from Arizona, as well as his statement tonight. But as the leader has said, there are some changes that have to be made if we are to be faithful to those people who live in the classified world and will be covered by the classified annex that, if one reads the amendment, is not covered here.

I have to do my best to make sure that when we get to conference people understand that there is that problem. Therefore, I shall oppose the amendment and try to straighten it out in conference. I know it would pass.

I yield back the remainder of our time.

The PRESIDING OFFICER. All time is yielded back. The yeas and nays have been ordered. The question is on agreeing to amendment No. 1977.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from New Jersey (Mr. CORZINE) is necessarily absent.

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

The result was announced—yeas 90, nays 9, as follows:

[Rollcall Vote No. 249 Leg.]

YEAS—90

Akaka	Dorgan	Martinez
Alexander	Durbin	McCain
Allen	Ensign	McConnell
Baucus	Enzi	Mikulski
Bayh	Feingold	Murkowski
Bennett	Feinstein	Murray
Biden	Frist	Nelson (FL)
Bingaman	Graham	Nelson (NE)
Boxer	Grassley	Obama
Brownback	Gregg	Pryor
Bunning	Hagel	Reed
Burns	Harkin	Reid
Burr	Hatch	Rockefeller
Byrd	Hutchison	Salazar
Cantwell	Inouye	Santorum
Carper	Isakson	Sarbanes
Chafee	Jeffords	Schumer
Chambliss	Johnson	Shelby
Clinton	Kennedy	Smith
Coleman	Kerry	Snowe
Collins	Kohl	Specter
Conrad	Kyl	Stabenow
Craig	Landrieu	Sununu
Crapo	Lautenberg	Talent
Dayton	Leahy	Thomas
DeMint	Levin	Thune
DeWine	Lieberman	Vitter
Dodd	Lincoln	Voinovich
Dole	Lott	Warner
Domenici	Lugar	Wyden

NAYS—9

Allard	Cochran	Roberts
Bond	Cornyn	Sessions
Coburn	Inhofe	Stevens

NOT VOTING—1

Corzine

The amendment (No. 1977) was agreed to.

AMENDMENT NO. 1978

The PRESIDING OFFICER. The time is evenly divided before a vote with respect to amendment No. 1978.

The Senator from Alaska.

Mr. STEVENS. Mr. President, what is the pending business?

The PRESIDING OFFICER. The McCain amendment No. 1978.

Mr. STEVENS. Mr. President, if I could have a minute, I want to warn the Senate that we may be here all night. We may have to have our cloture vote after adjournment at about 11:55. We would vote about 12:55 or 1:05 on cloture. Because if we are to have 30 hours and still finish by the time some people want to leave on Friday, it has to start at that time or else we have to get unanimous consent to shorten the time. If we vote tomorrow morning at 10, we will be here until 6 o'clock or 7 o'clock Friday afternoon. Just a warning—not yet. We are still trying to work it out.

The PRESIDING OFFICER. Who yields time on the amendment? The Senator from Arizona controls the time and the Senator from Alaska controls the opposition.

Mr. McCAIN. Mr. President, this amendment would prohibit for 1 year the transfer.

The PRESIDING OFFICER. The Senator will suspend for a moment. The Senate will be in order.

The Senator from Arizona.

Mr. McCAIN. Mr. President, this amendment would prohibit, for 1 year, the transfer of $23 million in cash to the Government of Uzbekistan.

Just this year, the government of President Islam Karimov has taken a number of actions so alarming, that one would think this body would be considering sanctions, not how to transfer millions of taxpayer dollars to this government.

In May, the government massacred up to 1,000 people, mostly unarmed men, women, and children protesting the government's corruption, lack of opportunity, and continued oppression. The government has rejected all calls for an independent international inquiry and blamed a foreign conspiracy for the protest. It even placed blame on the United States for the events, saying that rebels received money from the U.S. embassy in Tashkent.

The Uzbek government launched a campaign of anti-American propaganda after its massacre, staging rallies to denounce the United States. President Karimov suggested that the U.S. was behind not just the event in Andijan but also served as the ''scriptwriters and directors'' of the ''colored revolutions'' in other countries.

In July, Karimov's government announced that the U.S. will no longer have access to the K2 base in Uzbekistan, and evicted all U.S. troops from the country. In addition, his government has terminated counterterrorism cooperation with the United States.

This week the EU announced that it will impose sanctions against Uzbekistan. But the Pentagon wants to send $23 million to pay past bills. Paying our bills is important. But more important is America standing up for itself; avoiding the misimpression that we overlook massacres; and avoiding cash transfers to the treasury of a dictator just months after he permanently evicts American soldiers from his country.

We should postpone the cash payment to the Government of Uzbekistan for 1 year, at which point the Congress can decide whether to renew the prohibition or make the payment. If it had not been authorization, I would have said until a complete and thorough investigation of the massacre was conducted.

Mr. STEVENS. May I ask the Senator from Arizona, would he allow us to adopt this by voice vote?

Mr. McCAIN. I would be pleased.

Mr. STEVENS. I ask the Senate proceed to consider this by voice vote.

The PRESIDING OFFICER. Is there objection to vitiating the yeas and nays?

Without objection, the yeas and nays are vitiated.

The question is on agreeing to the amendment.

The amendment (No. 1978) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. STEVENS. What is the pending business.

AMENDMENT NO. 2033

The PRESIDING OFFICER. The question is on agreeing to the Kerry amendment No. 2033. A motion to table has been made. Who yields time?

Mr. STEVENS. Mr. President, if the Senator will permit me to do so, section 402 of the House Concurrent Resolution 95 of the 109th Congress, the fiscal year 2006 concurrent resolution budget, created a point of order against an emergency designation on nondefense spending.

The amendment contains nondefense spending with an emergency designation.

Pursuant to that section 402 of S. Con. Res. 95 of the 108th Congress, the fiscal year 2005 concurrent resolution on the budget, I make a point of order against the emergency designation contained in the amendment.

Mr. KERRY. Parliamentary inquiry?

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, wasn't there an order already in place for the motion?

The PRESIDING OFFICER. A motion to table has been made.

Mr. KERRY. Wasn't there an order already in place for the motion?

The PRESIDING OFFICER. That would take precedence over the point of order.

Mr. KERRY. I believe that is accurate. I ask for the yeas and nays, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. STEVENS. Parliamentary inquiry: If the motion is not tabled, it is still subject to a point of order?

The PRESIDING OFFICER. The point of order can be made.

Mr. KERRY. Mr. President, first of all, I ask unanimous consent that Senators COLLINS, BYRD, OBAMA, and SALAZAR be added as cosponsors.

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

Mr. KERRY. Mr. President, this amendment is an emergency response to the natural gas shortage and crisis that has raised prices all across the country. In the South, there has been a 17-percent increase in electricity costs. In the Midwest, there has been a 69-percent natural gas increase. And in New England, the heating oil prices have gone up 29 percent. The industry tells us that there will be an average of a $600 increase per family. For people on fixed incomes, when you add that to the cost of tuition increases, gasoline increases, and health care increases, it is unaffordable.

The National Energy Assistance directorate has told us that 39 percent of those individuals in the country who are low income went without medical care in order to be able to pay those bills. Twenty percent didn't pay their rent or their mortgage.

I ask colleagues to approve this $3.1 billion emergency LIHEAP allocation.

Mr. KENNEDY. Mr. President, sadly, the gap between rich and poor has been widening in our society. The number of persons living in poverty in the Nation has increased from 31 million in 2000 to 37 million today, including 13 million children. Two main parts of the problem are that wages are stagnant, and the long-term unemployment rate is at historic levels. After Hurricane Katrina revealed the plight of minorities, the ''silent slavery of poverty is not so silent any more.''

For many, the American dream has turned into a nightmare. Families stay awake at night worrying how to make ends meet. Parents wonder how they will feed their children and pay their bills.

Significant numbers of Americans live year-round with the constant threat of power shut-offs because they can't pay their energy bills, and there is no relief in sight. According to the Energy Information Administration, energy prices are likely to continue to increase.

The outlook for the coming winter is bleak. Heating oil will probably cost a third more than the already high prices Americans paid last year. Families who use natural gas to heat their homes will also pay more. The average 2005 price for residential natural gas is estimated to be 21 percent higher than it was in 2004.

These are not just abstract numbers. They represent real burdens on real

people. Minorities, the elderly, and the disabled, and many others are forced to make painful choices between heating their homes and paying for food, healthcare, and rent. The good news is that a highly successful Federal program is available to prevent the poorest of poor from making impossible tradeoffs. LIHEAP grants money to low-income families who can't afford the steep cost of energy. The number of American households receiving LIHEAP assistance has increased from over 4 million in 2002 to 5 million this year, the highest level in 10 years.

Ninety-four percent of LIHEAP recipients have at least one member who is elderly, disabled, a child under the age of 18, or is a single parent with a young child. Seventy-seven percent of LIHEAP recipients report an annual income at or below $20,000 and 61 percent of recipients have annual incomes at or below the Federal poverty line.

The bad news is that these fortunate recipients comprise only 18 percent of the eligible population. In Massachusetts, the participation rate is 22 percent, which is still unacceptably low.

Last year in Worcester, the city's Community Action Council provided fuel assistance to 9,660 households, but it processed applications for almost 11,000 households before the funds ran out. Many of the unserved households were made up of the working poor, the elderly, the disabled, and children.

In Franklin and Hampshire counties in Massachusetts, over 6,000 LIHEAP applications were processed. The Franklin Community Action Corporation reported that emergency applications and payment requests increased this past winter. They told me that this was by far their most stressful year.

Across the United States, families are suffering from high energy prices. There are far too many stories of families that were eligible to receive LIHEAP, but didn't because the money just wasn't there. Here are just a few examples.

A single father just lost his job on June 15 and has three children. His electric bill was $117.33, but he is unable to pay it because he isn't receiving unemployment compensation, or any other income. He is looking for work every day. Even if he is hired soon, his electricity may be turned off before he gets his first paycheck.

A grandmother taking care of three grandchildren, ages 14, 11, 5 had an electric bill for $195. Her monthly income is $904. The house is totally electric, so the bills will probably be going higher. The grandmother also has extra medical expenses, but she too was turned away.

It is wrong to let people like this suffer. So how does the Republican leadership in Congress respond? By cutting or freezing funds for essential low income programs.

Hurricanes Katrina and Rita upended the lives of millions of citizens in the Gulf region, and the administration was right to release emergency energy funds for the areas that were devastated. But, their response to the looming energy crisis is far less.

The administration and the House of Representatives closed their eyes to the needs of the poor. The House sent the Senate a continuing resolution which froze funding for the LIHEAP program. The current funding obviously isn't enough. Nineteen percent of current LIHEAP recipients say they keep their home at a temperature they feel is unsafe or unhealthy. Eight percent of recipients report that their electricity or gas was shut off in the past year for nonpayment.

The continuing resolution also cut the Community Services Block Grant by 50 percent. These funds are used by many community action agencies to administer the LIHEAP program.

According to ABCD, a community action agency in Massachusetts, since the outreach and application process for LIHEAP is handled through the ABCD neighborhood network, funding cuts will mean that access to this critical survival resource will shrink by more than 70 percent. Up to 10,500 households—out of a current total of 15,000 recipients—may not get their benefits.

Those in Congress who care about this issue sent an urgent request to the President to increase the funds, but our request has gone unanswered. In a news conference earlier this week, a reporter asked Energy Secretary Bodman if the administration plans to ask Congress for more funds for assistance for low-income families and seniors. Secretary Bodman replied, ''At least at this point in time, that's not on the agenda.''

The administration may not think the needs of the poor deserve to be on their agenda, but the States do. They are trying to do their part. In Massachusetts, State legislators want to add $20 million in State funds to LIHEAP, to supplement Federal funds.

Governors are stepping forward to acknowledge the problem. A bipartisan group of 28 Governors, led by Jennifer Granholm of Michigan, and Mitt Romney of Massachusetts, recently sent a letter to Congress urging additional emergency funds for LIHEAP. They know the importance of this issue first hand, and so should we.

Congress needs to stand up for the millions of Americans struggling to make ends meet. We have the ability to tell the elderly, and the disabled, and many others that we have heard them, and that we won't leave them shivering in the cold this winter. LIHEAP provides a critical service to desperate families who have nowhere else to turn for basic energy help, and LIHEAP is indispensable in filling that need. I strongly support this amendment to increase these emergency funds. We can't shortchange LIHEAP and all the people who need our help the most. I urge my colleagues to support this amendment.

Mr. STEVENS. Mr. President, because we had a time agreement that gave each side time before a vote, the point of order I made is subject to that time agreement, as I understand it. But now we will be faced with two votes. Does the Senator wish to have two votes on this amendment?

Mr. KERRY. Mr. President, I am happy to change the order to serve the purposes of the Senate.

Pursuant to section 402 of H. Con. Res. 95, which is the concurrent resolution on the budget, I move to waive section 402 for the purposes of the pending amendment, and I ask for the yeas and nays.

Mr. STEVENS. Mr. President, I ask unanimous consent that we vitiate the vote to table and that we proceed on the motion to waive the point of order.

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

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

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

The question is on agreeing to the motion. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from New Jersey (Mr. CORZINE) is necessarily absent.

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

The yeas and nays resulted—yeas 50, nays 49, as follows:

[Rollcall Vote No. 250 Leg.]

YEAS—50

Akaka	Durbin	Murray
Baucus	Feingold	Nelson (FL)
Bayh	Feinstein	Obama
Biden	Harkin	Pryor
Bingaman	Jeffords	Reed
Boxer	Johnson	Reid
Byrd	Kennedy	Rockefeller
Cantwell	Kerry	Salazar
Chafee	Kohl	Santorum
Clinton	Landrieu	Sarbanes
Coleman	Lautenberg	Schumer
Collins	Leahy	Snowe
Conrad	Levin	Specter
Dayton	Lieberman	Stabenow
DeWine	Lincoln	Talent
Dodd	Lugar	Wyden
Dorgan	Mikulski	

NAYS—49

Alexander	Dole	McCain
Allard	Domenici	McConnell
Allen	Ensign	Murkowski
Bennett	Enzi	Nelson (NE)
Bond	Frist	Roberts
Brownback	Graham	Sessions
Bunning	Grassley	Shelby
Burns	Gregg	Smith
Burr	Hagel	Stevens
Carper	Hatch	Sununu
Chambliss	Hutchison	Thomas
Coburn	Inhofe	Thune
Cochran	Inouye	Vitter
Cornyn	Isakson	Voinovich
Craig	Kyl	Warner
Crapo	Lott	
DeMint	Martinez	

NOT VOTING—1

Corzine

The PRESIDING OFFICER. On this question, the yeas are 50, the nays are 49. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained.

Mr. STEVENS. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. FRIST. I ask unanimous consent, notwithstanding rule XXII, the vote on the motion to invoke cloture occur following the last scheduled vote in this sequence, with the mandatory live quorum waived.

Mr. REID. Reserving the right to object, I want the record spread with my appreciation to the Senators from Louisiana for allowing the Senate to move forward. We were going to work through the night and early in the morning to come up with something that would help satisfy their tremendous needs. I appreciate their cooperation so we do not have to be here at 1 o'clock in the morning.

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

Mr. FRIST. For the information of our colleagues, what this means is we will vote on the Stabenow amendment next. Immediately following that, we will go to the cloture vote. Following that, there will be no more rollcall votes tonight.

Throughout tomorrow we will have plenty of opportunity for discussion, for debate. We will be voting throughout tomorrow, as well. There will be no more rollcall votes after the Stabenow vote and cloture vote tonight which will immediately follow the Stabenow vote.

Mr. STEVENS. I announce we will have a managers' package. We will consider amendments that might be taken by voice vote after this last scheduled vote.

I have already made the point of order against the Stabenow amendment. To be sure the record is clear, I make the point of order against the Kerry amendment and I ask it be agreed to.

The PRESIDING OFFICER. The emergency designation has been stricken from the amendment.

Mr. STEVENS. Is the record clear I made the point of order on the Stabenow amendment?

The PRESIDING OFFICER. The Chair would inform the Senator an emergency point of order has been stricken from—we are still on the Kerry amendment.

Mr. STEVENS. And I asked it be dropped, now.

The PRESIDING OFFICER. The point of order is sustained under the Budget Act.

AMENDMENT NO. 1937

Mr. STEVENS. Now, is the record clear about my making a point of order to the Stabenow amendment? If not, I renew the point of order under 302(f) of the Congressional Budget Act. The amendment requires spending in excess of the committee's 302(b) allocation for the fiscal year concurrent resolution of the Budget, and I ask for the yeas and nays.

Ms. STABENOW. Pursuant to section 904 of the Congressional Budget Act of 1974, I move to waive the applicable sections of that act for the purpose of the pending amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Ms. STABENOW. Mr. President, I ask colleagues to support the Stabenow-Johnson-Thune amendment that guarantees funding for our veterans for health care. It takes it out of the annual appropriations process where every year we are wrestling with whether the funding is available. This year alone already we have had one emergency designation of $1.5 billion because the veterans health care budget was underfunded this year. We know there are concerns about next year.

This amendment would do two things. First, the legislation provides an annual discretionary amount that would be locked in for future years at the 2005 funding level. Then in the future, the VA would receive a sum of mandatory funding that would be adjusted year to year based on changes in demand from the VA health care system as well as rate of inflation.

This is incredibly important. We should not be arbitrarily picking numbers in terms of funding veterans health care. It should be based on the brave men and women who have served who come on home and put on a veteran's cap. We have more and more coming home from Afghanistan and Iraq every day. Each and every one of them has been promised health care. The way to guarantee we keep our promise is to pass this amendment.

I urge agreement.

Mr. CRAIG. Mr. President, our veterans deserve all a grateful nation can give them. Over the last 6 years we have increased the Veterans budget by over $3 billion a year. Although the Senator from Michigan is right about the dustup this year, we still did it because America is grateful for those who serve in harm's way.

While all veterans are entitled, should we start a new entitlement program, one that is now out of control, that we cannot monitor on a yearly basis as we do through the appropriating process and the authorizing process? The Senator is proposing a new entitlement program. But she is also saying something else. She is not saying those who served is the baseline of the formula. She is saying those who are entitled. And there is a very real difference between those who are entitled and eligible versus those who seek service because of need. We pay for those who seek service based on their eligibility. We do not create a new entitlement program.

Ask yourselves, do you want to create a new entitlement program or do you want to do what we are doing now, providing the necessary resources on an annual basis to meet the needs of America's veterans?

I ask Members to vote no. Do not waive the Budget Act. Do not create a new entitlement program and basically take it out of the hands of the Congress and put it in the hands of the VA. That is not what I think our veterans would want us to do.

The PRESIDING OFFICER. The question is on agreeing to the motion to waive the Budget Act. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from New Jersey (Mr. CORZINE) is necessarily absent.

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

The result was announced—yeas 48, nays 51, as follows:

[Rollcall Vote No. 251 Leg.]

YEAS—48

Akaka	Durbin	Murray
Baucus	Feingold	Nelson (FL)
Bayh	Feinstein	Nelson (NE)
Biden	Harkin	Obama
Bingaman	Jeffords	Pryor
Boxer	Johnson	Reed
Byrd	Kennedy	Reid
Cantwell	Kerry	Rockefeller
Carper	Kohl	Salazar
Chafee	Landrieu	Sarbanes
Clinton	Lautenberg	Schumer
Collins	Leahy	Snowe
Conrad	Levin	Specter
Dayton	Lieberman	Stabenow
Dodd	Lincoln	Thune
Dorgan	Mikulski	Wyden

NAYS—51

Alexander	DeWine	Lugar
Allard	Dole	Martinez
Allen	Domenici	McCain
Bennett	Ensign	McConnell
Bond	Enzi	Murkowski
Brownback	Frist	Roberts
Bunning	Graham	Santorum
Burns	Grassley	Sessions
Burr	Gregg	Shelby
Chambliss	Hagel	Smith
Coburn	Hatch	Stevens
Cochran	Hutchison	Sununu
Coleman	Inhofe	Talent
Cornyn	Inouye	Thomas
Craig	Isakson	Vitter
Crapo	Kyl	Voinovich
DeMint	Lott	Warner

NOT VOTING—1

Corzine

The PRESIDING OFFICER. On this vote, the yeas are 48, the nays are 51. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected, the point of order is sustained, and the amendment falls.

Mr. STEVENS. Mr. President, I did not hear the last ruling of the Chair.

The PRESIDING OFFICER. The amendment falls on the point of order.

Mr. STEVENS. Now, the next pending business is the cloture vote?

The PRESIDING OFFICER. That is correct.

Mr. STEVENS. Mr. President, it is my understanding we will convene about 9:30 in the morning. We will be prepared to stay tonight if any Senators wish to discuss amendments following the cloture vote.

Mr. LEVIN. Parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Could the Presiding Officer tell us how many amendments have

been filed and how many of them would fall as nongermane? Could the Chair just give us some idea, some estimate?

The PRESIDING OFFICER. The Chair will note that the Parliamentarian does not have that information at this time.

Mr. LEVIN. Can we have an idea as to how many are filed? Can we get that information?

The PRESIDING OFFICER. There are approximately 140 amendments filed.

Mr. LEVIN. I thank the Chair.

I cannot vote for cloture on this bill because it would make it impossible to consider highly important amendments for our troops and their families and amendments to enhance our Nation's security.

One hundred twenty amendments are filled. The Parliamentarian can't tell us even how many are relevant but, because they are not technically germane, will not be permitted to come to a vote if cloture is invoked.

The stakes for our security in the middle of war are too great not to take an extra few days to consider important relevant amendments.

I vote to take those extra few days rather than to prematurely end debate. I will vote against cloture.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, the Chair lays before the Senate the pending cloture motion, which the clerk will report.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on H.R. 2863: the Department of Defense appropriations bill.

Bill Frist, Ted Stevens, Daniel Inouye, Mel Martinez, Mitch McConnell, Bob Bennett, George Allen, Chuck Hagel, Tom Coburn, Richard Burr, Lisa Murkowski, John Thune, Lamar Alexander, Richard Shelby, Jon Kyl, Jeff Sessions, Saxby Chambliss.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on H.R. 2863, the Department of Defense Appropriations Act of 2006, shall be brought to a close? The yeas and nays are mandatory under the rule. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. MCCONNELL. Mr. President, I announce that the Senator from Pennsylvania (Mr. SANTORUM) is necessarily absent.

Mr. DURBIN. I announce that the Senator from New Jersey (Mr. CORZINE) is necessarily absent.

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

The yeas and nays resulted—yeas 94, nays 4, as follows:

[Rollcall Vote No. 252 Leg.]

YEAS—94

Akaka	Domenici	McCain
Alexander	Dorgan	McConnell
Allard	Durbin	Mikulski
Allen	Ensign	Murkowski
Baucus	Enzi	Murray
Bayh	Feingold	Nelson (FL)
Bennett	Feinstein	Nelson (NE)
Biden	Frist	Obama
Bond	Graham	Pryor
Brownback	Grassley	Reed
Bunning	Gregg	Roberts
Burns	Hagel	Rockefeller
Burr	Harkin	Salazar
Byrd	Hatch	Sarbanes
Cantwell	Hutchison	Schumer
Carper	Inhofe	Sessions
Chafee	Inouye	Shelby
Chambliss	Isakson	Smith
Clinton	Jeffords	Snowe
Coburn	Johnson	Specter
Cochran	Kennedy	Stabenow
Coleman	Kerry	Stevens
Collins	Kohl	Sununu
Conrad	Kyl	Talent
Cornyn	Landrieu	Thomas
Craig	Lautenberg	Thune
Crapo	Leahy	Vitter
Dayton	Lieberman	Voinovich
DeMint	Lincoln	Warner
DeWine	Lott	Wyden
Dodd	Lugar	
Dole	Martinez	

NAYS—4

Bingaman	Levin
Boxer	Reid

NOT VOTING—2

Corzine	Santorum

The PRESIDING OFFICER. On this vote, the yeas are 94, the nays are 4. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

The Senator from Alaska.

AMENDMENTS NOS. 1882, AS MODIFIED; 1923, 1942, AS MODIFIED; 1969, AS MODIFIED; 2001, 2004, AS MODIFIED; 2038, AS MODIFIED; AND 2042

Mr. STEVENS. Mr. President, we have a managers' package, which is No. 6, that I send to the desk. I ask unanimous consent that they be considered en bloc. I state for the record that this includes a Bingaman-Domenici colloquy on the F–117; for Senator HATCH and others, an amendment on the Air Force Depot Maintenance Program, as modified. This is amendment No. 2001; for Senator SCHUMER and Senator CLINTON, amendment No. 2038 on the arsenal program support, which is modified; for Senator HAGEL, a colloquy on supplemental security income; for Senator BOND, amendment No. 1923, for oral anthrax vaccine; for Senator SARBANES, amendment No. 1969, as modified, for the Naval Academy; for Senator MCCONNELL, amendment No. 2042, recognizing U.S. military personnel; for Senator LANDRIEU, amendment No. 1942, as modified, for Northern Command; for Senator GRAHAM, amendment No. 2004, as modified, on combatant status review tribunals; for Senator CONRAD, amendment No. 1882, as modified, on Predator aircraft.

The PRESIDING OFFICER. The Chair notes that amendment No. 2001 is not modified.

Mr. STEVENS. Air Force Depot Maintenance, is it not modified? I stand corrected. That is not a modified amendment.

I ask that these amendments be considered en bloc, and I ask for their further consideration.

The PRESIDING OFFICER. Is there further debate on the amendments? If not, without objection, the amendments are agreed to en bloc.

The amendments were agreed to en bloc, as follows:

AMENDMENT NO. 1882, AS MODIFIED

(Purpose: To increase, with an offset, amounts available for the procurement of Predator unmanned aerial vehicles)

At the appropriate place in title IX, insert the following:

SEC. ____.(a) ADDITIONAL AMOUNT FOR AIRCRAFT PROCUREMENT, AIR FORCE.—The amount appropriated by this title under the heading ''AIRCRAFT PROCUREMENT, AIR FORCE'' is hereby increased by $130,000,000.

(b) AVAILABILITY OF AMOUNT.—Of the amount appropriated by this title under the heading ''AIRCRAFT PROCUREMENT, AIR FORCE'', as increased by subsection (a), $130,000,000 shall be available for purposes as follows:

(1) Procurement of Predator 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 Ground Control Stations, spares, and signals intelligence packages.

(c) OFFSET.—(1) The amount appropriated by title II for Operation and Maintenance, Air Force is hereby reduced by $130,000,000.

AMENDMENT NO. 1923

(Purpose: To make available $4,000,000 from Research, Development, Test, and Evaluation, Defense-Wide, for Oral Anthrax/Plague Vaccine Development)

At the appropriate place, insert the following:

SEC. ____. Of the amount appropriated by title IV under the heading ''RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, DEFENSE-WIDE'', up to $4,000,000 may be used for Oral Anthrax/Plague Vaccine Development.

AMENDMENT NO. 1942, AS MODIFIED

(Purpose: To make available $10,000,000 for Operation and Maintenance, Air Force, and $20,000,000 for Other Procurement, Air Force, for the implementation of IMT–2000 3G Standards Based Communications Information Extension capability for the Gulf States and key entities within the Northern Command Area of Responsibility)

At the appropriate place, insert the following:

SEC. ____. (a) IMPLEMENTATION OF LONG-RANGE WIRELESS CAPABILITIES.—Of the amount appropriated by title II under the heading ''OPERATION AND MAINTENANCE, AIR FORCE'', up to $10,000,000 may be used by the United States Northern Command for the purposes of implementing Long-range wireless telecommunications capabilities for the Gulf States and key entities within the Northern Command Area of Responsibility (AOR).

(b) IMPLEMENTATION OF LONG-RANGE WIRELESS CAPABILITIES.—Of the amount appropriated or otherwise made available by title III under the heading ''OTHER PROCUREMENT, AIR FORCE'', up to $20,000,000 may be used by the United States Northern Command for the purposes of implementing IMT–2000 3G Standards Based Communications Information Extension capabilities for the Gulf States and key entities within the Northern Command Area of Responsibility (AOR).

AMENDMENT NO. 1969, AS MODIFIED

(Purpose: To authorize the Secretary of the Navy to donate the World War II-era marine railway located at the United States Naval Academy to the Richardson Maritime Heritage Center, Cambridge, Maryland, for non-commercial purposes)

On page 220, after line 25, insert the following:

SEC. 8116. (a) The Secretary of the Navy may, subject to the terms and conditions of the Secretary, donate the World War II-era marine railway located at the United States Naval Academy, Annapolis, Maryland, to the Richardson Maritime Heritage Center, Cambridge, Maryland.

(b) The marine railway donated under subsection (a) may not be used for commercial purposes.

AMENDMENT NO. 2001

(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)

In an appropriate place insert the following:

SEC. . 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 had 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) 1 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 dramatically 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.

AMENDMENT NO. 2004, AS MODIFIED

(Purpose: To require the President to submit the procedures for Status Review Tribunals and Administrative Review Boards to determine the status of detainees held at Guantanamo Bay, Cuba)

At the appropriate place, insert the following:

SEC. ____. (a) SUBMISSION OF PROCEDURES FOR COMBATANT STATUS REVIEW TRIBUNALS AND ADMINISTRATIVE REVIEW BOARDS TO DETERMINE STATUS OF DETAINEES AT GUANTANAMO BAY, CUBA.—Not later than 180 days after the date of enactment of this Act the President shall submit to the congressional defense committees and committees on Judiciary in the House and Senate the procedures for the Combatant Status Review Tribunals and noticed Administrative Review Boards, in operation at Guantanamo Bay, Cuba, for determining 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.—The procedures submitted to Congress pursuant to subsection (a) shall ensure that—

(1) in making a determination of status under such procedures, the Combatant Status Review Tribunal and Annual Review Boards may not consider statements derived from persons that, as determined by the Tribunals or Boards, by the preponderance of the evidence, were obtained with undue coercion.

(2) 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.

(c) MODIFICATION OF PROCEDURES.—The President shall submit to Congress any modification to the procedures submitted under subsection (a) no less than 30 days before the date on which such modifications go into effect.

(Purpose: To make available $5,000,000 from Procurement of Weapons and Tracked Combat Vehicles for the Army for the Arsenal Support Program Initiative and to allocate such amounts)

At the appropriate place, insert the following:

SEC. ____. Of the amount appropriated by title III under the heading ''PROCUREMENT OF WEAPONS AND TRACKED COMBAT VEHICLES, ARMY,'' up to $5,000,000 may be used for the Arsenal Support Program Initiative for Watervliet Arsenal, New York.

AMENDMENT NO. 2042

(Purpose: To recognize U.S. military personnel serving in Afghanistan and Iraq)

At the appropriate place, insert the following:

''SEC. ____. The Secretary of Defense may present promotional materials, including a United States flag, to any member of an Active or Reserve component under the Secretary's jurisdiction who, as determined by the Secretary, participates in Operation Enduring Freedom or Operation Iraqi Freedom, along with other recognition items in conjunction with any week-long national observation and day of national celebration, if established by Presidential proclamation, for any such members returning from such operations.''

Mr. STEVENS. I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PROHIBITION ON RETIREMENT OF F–117 AIRCRAFT

Mr. DOMENICI. Mr. President, let me begin by complimenting my friend from Alaska, the chairman of the Senate Appropriations Subcommittee on Defense, for producing a terrific bill. H.R. 2863, the fiscal year 2006 Defense appropriations bill, is a strong piece of legislation that supports the men and women of the Armed Forces and strengthens our security. I would also like to recognize my colleague, the junior Senator from New Mexico, who joins us today.

I want to raise the issue of the F–117 Stealth Nighthawk aircraft. Report 109–69 to S. 1042, the National Defense Authorization Act for fiscal year 2006, recommends a provision prohibiting retirement of F–117 aircraft in fiscal year 2006. I know that my colleague from New Mexico is aware of this recommendation as well.

Mr. BINGAMAN. I am aware of this recommendation and note that it further describes the F–117 as the only stealthy tactical aircraft capable of delivering certain precision munitions currently in the inventory. Clearly, this is a very important capability for national security.

Mr. DOMENICI. I agree with my colleague's assessment about the strategic value of the F–117 and note that this recommendation is further validated by the House-passed H.R. 2863 which retains the President's budget request for F–117 upgrades and adds $11.1 million in operations and maintenance funding to retain the 10 aircraft scheduled for retirement. I would like to ask the distinguished chairman for his views concerning the Air Force's recommendation to retire 10 F–117s in fiscal year 2006.

Mr. STEVENS. I concur with the Senators from New Mexico that the F–117 is of critical importance to the Nation's precision strike capability. Furthermore, I agree with the Senate Armed Services Committee recommendation that it is premature to retire any F–117s at this time.

Mr. DOMENICI. I thank the distinguished chairman for his views on this important matter.

Mr. BINGAMAN. I thank the chairman as well, and look forward to working with him; the ranking member, Senator INOUYE and Senator DOMENICI on this issue in the future.

SSI ELIGIBILITY

Mr. HAGEL. Mr. President, currently there are service members in our Armed Forces with disabled dependents who have lost or are in danger of losing Supplemental Security Income, SSI, eligibility or benefits. This issue not only affects our regular active duty service members, but our mobilized National Guard and Reserve service members as well.

Supplemental Security Income is a Federal income supplement program, funded by tax revenues, designed to provide cash to meet basic needs for food, clothing, and shelter for aged, blind, and disabled people.

Under current law, section 1612(a) of the Social Security Act, only military basic pay is counted as earned income for the purposes of determining SSI eligibility and benefit amount. Special pay and allowances are counted as unearned income. As a result, a disabled child or spouse of a service member can lose SSI eligibility or have a benefit reduction due to the way military compensation is presently counted.

Because a significant portion of a service member's compensation includes special pay and allowances,

military compensation generally results in more countable income for SSI purposes than comparable wages earned by a civilian. Accordingly, a child or spouse of a service member could be ineligible for SSI while the child or spouse of a civilian worker could be eligible for SSI based on comparable gross wages.

The problem is particularly acute when a member of the National Guard or Reserves is called to active duty and begins to receive full military pay, including special pay and allowances. In some cases, the military pay alone is sufficient to cause a reduction of SSI benefits or a loss of eligibility for the disabled dependent. This means that at the critical point when the service member is called away from his or her family in the service of our country, SSI benefits may be reduced or stopped.

In consideration of the special hardships facing military families in a time of war and to provide more financial security for these families, I have offered an amendment that proposes a statutory exclusion for all types of special pay and allowances received by service members serving on active duty regardless of duty station. At a time when military service members and their families are making such a huge sacrifice for our country, it is vital that this step be taken to protect SSI eligibility for these families.

Under this proposed statutory change, only basic pay, earned income, would be used to determine SSI eligibility for a disabled child or spouse of the service member. All compensation provided by special pay and allowances, including the basic allowance for housing, BAH, would be excluded. Excluding all special pay and allowances would eliminate the disadvantageous income counting that results from treating a substantial portion of military compensation as unearned income.

Mr. STEVENS. I agree with the Senator from Nebraska. The provisions of the Social Security Act need to be addressed in order to ensure Supplemental Security Income eligibility and benefits are not inadvertently taken away from those in the armed services when they need them most.

Mr. STEVENS. Mr. President, for the information of Senators, we will resume consideration of this bill tomorrow following the opening of the Senate at 9:30 a.m. as soon as possible. It will be my intention to ask that any votes that are to be taken on this bill be stacked until approximately noon or 12:30 in order that the committees may meet in the morning. There has been a specific request for that to happen. It is my understanding that there will be a request later that the time consumed for cloture be consumed during the period of temporary recess this evening on into tomorrow morning; is that the understanding?

The PRESIDING OFFICER. That unanimous consent request has not yet been propounded or agreed to.

Mr. STEVENS. I am assured that will be the case.

NOTICE OF INTENT

Mrs. CLINTON. Mr. President, in accordance with rule V of the Standing Rules of the Senate, I hereby give notice in writing that it is my intention to move to suspend paragraph 4 of rule XVI for the purpose of proposing to the bill, H.R. 2863, a bill making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes: amendment No. 2040.

(The amendment is printed in the RECORD of Tuesday, October 4, 2005 under ''Text of Amendments.'')

CROWS

Mr. SALAZAR. Mr. President, I wish to bring up an important subject involving our soldiers in harm's way. In my State of Colorado and across the country, our fighting men and women have suffered casualties while on patrol in armored vehicles. Typically, the gunner sitting on top of the vehicle is at more risk from being hit both because he or she is visible to the enemy and because he or she is not as protected as those troops inside the armored vehicle.

I recently received an e-mail from a Colorado soldier serving in Iraq. This brave young man wrote me concerning the combat death of his friend. His friend was riding in the gunner's seat when his Humvee was subjected to an improvised explosive device attack. He feels that his friend might still be alive if that Humvee had a Common Remotely Operated Weapons Station—CROWS—and he wanted me to know about it and see if anyone here in Washington could do something about it.

I think we can do something about it, and with the help of my colleagues from Hawaii and Alaska, we will do something about it.

The CROWS can be mounted on a variety of vehicles, including Humvees. It allows the operator to acquire and engage targets while protected inside the armored vehicle from enemy fire and IED attacks. It works with a variety of machine guns. The sensor suite allows both day and night time operation.

This appropriations bill, as it stands now, allocates $75 million out of the emergency supplemental for the military to purchase CROWS. The House Defense appropriations bill provides no funding for CROWS, which is disheartening. The DOD's program manager has advised me that the Pentagon supports spending $206 million for the CROWS system over the next year.

My goal is for the military to be able to purchase thousands of these systems, but at the moment our production capability is only on the order of 10 systems per month. We have to do better. I ask my colleagues, the chairman and ranking member of the Defense Subcommittee on Appropriations, for their leadership and assistance in sustaining the Senate's position when they get to conference on this matter with the House.

Mr. INOUYE. Mr. President, like all proud Americans, I share my colleague's concern for the safety and well being of our troops. IED attacks are a very real threat to our troops and it is our responsibility as Members of Congress to help protect our brave men and women fighting overseas. I will work in conference to ensure that we can maintain the Senate's funding level to purchase CROWS for our troops.

Mr. STEVENS. Mr. President, I thank my colleagues from Colorado and Hawaii for their work on this issue. They are right. We will continue to support these systems that provide our service members with the force protection they need.

Mr. SALAZAR. Mr. President, I thank the chairman and the ranking member for their leadership on this issue—and for their careers of service to and sacrifice for this country.

MORNING BUSINESS

Mr. STEVENS. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business, with Senators allowed to speak therein.

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

RETIREMENT OF SENATE FINANCIAL CLERK, TIM WINEMAN

Mr. BYRD. Mr. President, I have often spoken of the importance of the Senate staff and the Senate's various support services for the effective workings of this great institution. These are the people and the offices that are rarely mentioned in the newspapers or the history books but who are essential to the effective workings of this institution. They are the people and the offices who make the jobs of the 100 Members of this Chamber more pleasant and more productive.

I cannot even imagine how this institution could function without the Senate Disbursing Office. In addition to serving as the finance office of the Senate, this office maintains our retirement, health insurance, life insurance, and other human resource programs. For the past 7 years, this most important Senate office has been headed by the Senate's highly capable Financial Officer, Mr. Tim Wineman.

Unfortunately, Mr. Wineman will soon be leaving us. He is retiring on October 14. Therefore, I want to take a few minutes of the Senate's time to thank Mr. Wineman for his service, to express my appreciation for his outstanding work, and to say that we will miss him.

Mr. Wineman was born and raised in the Washington, DC, metropolitan area, graduating from Bethesda-Chevy Chase High School. On October 19, 1970, he started work as a payroll clerk in the Senate Disbursing Office; he remained in this office for the next 35 years. In September, 1976, Mr.

Wineman was promoted to payroll supervisor. Four years later, in August, 1980, he was promoted to the position of assistant financial clerk. On May 1, 1998, he became the Financial Clerk of the U.S. Senate Disbursing Office, that is, the Senate's Financial Officer.

His has been an extraordinary career, during which he has earned the praise of those who work under and with him in the Disbursing Office, and the respect of other Senate staffers and Members of this Chamber. During his service in Senate financial leadership positions for the past two decades, Mr. Wineman has overseen the technological renovation of the Senate's financial affairs and has had a hand both in the Senate budget process and the Senate appropriation's process. And he proved himself to be an invaluable resource to Senate leadership on both sides of the aisle. He will be missed and will be very difficult to replace.

I want to congratulate and thank Mr. Wineman for his extraordinary dedication to the work and traditions of the Senate. And I want extend to him and Pat, his wife of 36 years, my fondest wishes, and ask the Lord's blessings as they embark upon this new phase of their lives.

I understand that after relaxing and enjoying a stress-free environment for the next 6 months, Tim plans to spend his retirement playing golf and traveling. I urge him to do it. He deserves it. He has earned it.

''IT MAKES NO DIFFERENCE''

It makes no difference who sang the song,
If only the song was sung;
It makes no difference who did the deed,
Be they old in years or young;

If the song was sweet and helped a soul,
What matters the singer's name?
The worth was in the song itself,
And not in the world's acclaim.

The song and the deed are one,
If each be done for love;
Love of the work, not love of self,
And the ''score'' is kept above.
It makes no difference who did the deed,
Be they old in years or young;

If the song was sweet and helped a soul,
What matters the singer's name?
The worth was in the song itself,
And not in the world's acclaim.

The song and the deed are one,
If each be done for love;
Love of the work, not love of self,
And the ''score'' is kept above.

—Author Unknown.

THE PASSING OF COLONEL CLARENCE LEE TURNIPSEED, JR.

Mr. BYRD. Mr. President, last month, COL Clarence Lee Turnipseed, Jr., passed away. He was the father of my good friend, and one of the Senate's best and most indispensable workers, Mrs. Dot Svendson, who works in the Office of the Secretary of the Senate. With the death of Colonel Turnipseed, the State of Alabama has lost an outstanding citizen and our Nation has lost a true patriot.

Born September 18, 1914, in Union Springs, AL, Clarence Turnipseed graduated from Auburn University in 1935. That same year he was commissioned as a second lieutenant in the U.S. Army and began a remarkable and important military career. During World War II, he served as a battery commander and battalion staff officer of the 42nd Field Artillery Battalion of the Fourth Infantry. On June 6, 1944, Captain Turnipseed participated in the momentous D-Day landing on Utah Beach in Normandy. A few months later, he participated in the Battle of the Bulge. He was eventually promoted to the rank of colonel, served as commander of the 87th Maneuver Area Detachment in Birmingham, AL, and was an instructor at the Command and General Staff College in Fort Leavenworth, KS.

A grateful Nation recognized Colonel Turnipseed's long and productive military career by presenting him with a number of awards and honors. Those included the Bronze Star, the Army Commendation Medal, the American Defense Service Medal, the American Campaign Medal, and the European-African-Middle Eastern Campaign Medal.

Colonel Turnipseed also had an important and productive civilian career in banking and business. He worked in a number of banks and financial institutions in Alabama. In 1968, he became president and chief executive officer of the First National Bank in Brewton. He eventually held a number of offices in the Alabama and American Bankers Associations, including president of the Alabama Bankers Association and vice president of the American Bankers Association. In 1973, he became director of the Birmingham Branch of the Federal Reserve Bank in Atlanta, and 3 years later was named Alabama's Small Business Advocate.

I extend Erma's and my most heartfelt condolences to Mrs. Svendson and to her brother, Clarence Lee, and to her sisters, Rebecca and Margaret.

FIRST CHRISTIAN CHURCH OF WEIRTON, WEST VIRGINIA

Mr. BYRD. Mr. President, on July 30 and 31, the First Christian Church of Weirton, WV celebrated its 175th anniversary. I wish to take a few minutes of the Senate's time to extend to this house of worship, which came into existence in 1830, 33 years before West Virginia was even a State, my belated but sincere and heartfelt congratulations.

For 175 years, the First Christian Church of Weirton has served our Lord and ministered to the needs of the region by providing comfort and support to those in need. It has provided aid and assistance to unemployed steel workers, to flood victims, and to those in need. It has provided a place of faith and hope for all.

I regret that I was not able to participate in what I am sure was a most glorious celebration, but I do want to recognize and thank the First Christian Church of Weirton for its wonderful service to our Lord, and to our beloved State.

LOCAL LAW ENFORCEMENT ENHANCEMENT ACT OF 2005

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. Each Congress, Senator KENNEDY and I introduce hate crimes legislation that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society. Likewise, each Congress I have come to the floor to highlight a separate hate crime that has occurred in our country.

On August 18, 2003, in Washington, DC, Elviv Augusto Perez Morales who lived and dressed as a woman, was allegedly killed. According to police, he was allegedly killed by Antonie Jacobs who had paid for sex under the impression he was dealing with a woman. Upon learning that the prostitute was really a man, the customer returned and allegedly shot the prostitute.

I believe that the Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

VIOLENCE AGAINST WOMEN ACT, S. 1197

Mr. LEAHY. Mr. President, I am pleased that the full Senate has finally taken up, considered and passed the reauthorization of the Violence Against Women Act, S. 1197, bipartisan legislation that will further our goal of ending domestic violence, dating violence, sexual assault, and stalking. The enactment of the Violence Against Women Act over a decade ago marked an important national commitment to survivors of domestic violence and sexual assault. I am proud to join Senators BIDEN, HATCH, SPECTER, and others as an original cosponsor of this important measure, which currently has 58 cosponsors in total. I want to especially recognize Senator BIDEN for his commitment to ending violence against women and children.

Earlier in my career as a prosecutor in Vermont, I witnessed the devastating effects of domestic violence. Violence and abuse affect people of all walks of life every day and regardless of gender, race, culture, age, class or sexuality. Such violence is a crime and it is always wrong, whether the abuser is a family member, someone the victim is dating, a current or past spouse, boyfriend, or girlfriend, an acquaintance or a stranger.

The National Crime Victimization Survey estimates there were 691,710 nonfatal, violent incidents committed against victims by current and former spouses, boyfriends or girlfriends—also

known as intimate partners—during 2001. Of those incidents, 85 percent were against women. The rate of nonfatal intimate partner violence against women has fallen steadily since 1993, when the rate was 9.8 incidents per 1,000 people. In 2001, the number fell to 5.0 incidents per 1,000 people, nearly a 50-percent reduction but still unacceptably high. Tragically, however, the survey found that 1,600 women were killed in 1976 by a current or former spouse or boyfriend, while in 2000 some 1,247 women were killed by their intimate partners.

According to the annual Vermont Crime Report, the number of forcible rapes reported in Vermont increased in 2004 to the highest level in 7 years, while the amount of violent crime remained unchanged and overall crime fell by about 5 percent from 2003. Reported incidents of rape rose by 58 percent, from 117 in 2003 to 185 in 2004. The average age of the victim was 21, 47 percent of victims were younger than 18 years old, in 74 percent of the cases the perpetrator was an acquaintance of the victim, and in a quarter of the cases the defendant was a family member or intimate partner of the victim. In only 1 percent of the cases was the perpetrator a stranger. These figures cause me great concern because violent crime has declined nationwide during that same time period. Numbers like these are why reauthorizing VAWA is so vital.

Our Nation has made remarkable progress over the past 25 years in recognizing that domestic violence and sexual assault are crimes. We have responded with better laws, social support, and coordinated community responses. Millions of women, men, children and families, however, continue to be traumatized by abuse, leading to increased rates of crime, violence and suffering.

The Violence Against Women Act has provided aid to law enforcement officers and prosecutors, helped stem domestic violence and child abuse, established training programs for victim advocates and counselors, and trained probation and parole officers who work with released sex offenders. Now we on the Judiciary Committee and then the rest of our colleagues in Congress have the opportunity to reauthorize VAWA and make improvements to vital core programs, tighten criminal penalties against domestic abusers, and create new solutions to other crucial aspects of domestic violence and sexual assault. This is an opportunity to help treat children victims of violence, augment health care for rape victims, hold repeat offenders and Internet stalkers accountable, and help domestic violence victims keep their jobs.

Included in VAWA 2005 are reauthorizations of two programs that I initially sponsored that are vital to helping rural communities battle domestic violence in a setting in which isolation can make it more difficult for both victims and law enforcement. In a small, rural State such as Vermont, our county and local law enforcement agencies rely heavily on cooperative, interagency efforts to combat and solve significant problems. That is why I sought to include the rural domestic violence and child victimization enforcement grant program as part of the original VAWA. This program helps make services available to rural victims and children by encouraging community involvement in developing a coordinated response to combat domestic violence, dating violence and child abuse. Adequate resources combined with sustained commitment will bring about significant improvements in rural areas to the lives of those victimized by domestic and sexual violence.

The rural grants program section of VAWA 2005 reauthorizes and expands the existing education, training and services grant programs that address violence against women in rural areas. This provision renews the rural VAWA program, extends direct grants to State and local governments for services in rural areas and expands areas to include community collaboration projects in rural areas and the creation or expansion of additional victim services. This provision includes new language that expands the program coverage to sexual assault, child sexual assault and stalking. It also expands eligibility from rural States to rural communities, increasing access to rural sections of otherwise highly populated States. This section authorizes $55,000,000 annually for 2006 through 2010, which is an increase of $15 million per year.

The second grant program initiative on which I have focused is the transitional housing assistance grants for victims of domestic violence, dating violence, sexual assault or stalking. This program, which became law as part of the PROTECT Act of 2003, authorizes grants for transitional housing and related services for people fleeing domestic violence, sexual assault or stalkers. At a time when the availability of affordable housing has sunk to record lows, transitional housing for victims is especially needed. Today more than 50 percent of homeless individuals are women and children fleeing domestic violence. We have a clear problem that is in dire need of a solution. This program is part of the solution.

Transitional housing allows women to bridge the gap between leaving violence in their homes and becoming self-sufficient. Our bill, VAWA 2005, amends the existing transitional housing program by expanding the current direct-assistance grants to include funds for operational, capital and renovation costs. Other changes include providing services to victims of dating violence, sexual assault and stalking; extending the length of time for receipt of benefits to match that used by Housing and Urban Development transitional housing programs; and updating the existing program to reflect the concerns of the service provision community. The provision would increase the authorized funding for the grant from $30,000,000 to $40,000,000.

Regrettably, this important bill was saddled in committee with an extraneous and ill-considered amendment, offered by Senator KYL, relating to the national DNA database. Current law permits States to collect DNA samples from arrested individuals and to include arrestee information in State DNA databases. In addition, States may use arrestee information to search the national DNA database for a possible ''hit.'' The only thing that States may not do is upload arrestee information into the national database before a person has been formally charged with a crime.

Under the Kyl amendment, arrestee information can go into the national database immediately upon arrest, before formal charges are filed, and even if no charges are ever brought. This adds little or no value for law enforcement, while intruding on the privacy rights of people who are, in our system, presumed innocent. It could also provide an incentive for pretextual and race-based stops and arrests for the purpose of DNA sampling. Congress rejected this very proposal less than a year ago, after extended negotiations and consultation with the Department of Justice.

The Kyl amendment would also make it harder for innocent people to have their DNA expunged from a state database. Under current law, if a State chooses to enter a person's DNA profile into its database before the person is convicted of a crime, then the State must automatically expunge that information in the event that no conviction is obtained. Under the new language, even a person who is arrested in error and released without charge would need to obtain a court order before his DNA information could be removed from the database.

Databases are important tools to solving crime, but there are limits to what should be included in databases. The Kyl amendment raises serious privacy concerns that cannot be justified by any legitimate law enforcement need. I opposed it in committee, I continue to oppose it in its current form, and I will press for its exclusion in conference.

VAWA 2005 is an important part of our efforts to increase awareness of the problem of violence, to save the lives of battered women, rape victims, and children who grow up with violence and to continue progress against the devastating tragedy of domestic violence. I look forward to working with Senators SPECTER and BIDEN, Congressmen SENSENBRENNER and CONYERS and other members of the upcoming conference to reauthorize the Violence Against Women Act and thus strengthen the prevention of violence against women and children and its devastating costs and consequences.

Mr. BIDEN. Mr. President, last night, the Senate passed by unanimous consent the Biden-Hatch—Specter Violence Against Women Act of 2005, S. 1197. It is a testament to the underlying goals of this legislation that this legislation was unanimously passed and garnered 57 cosponsors from both sides of the aisle. I would like to thank Chairman SPECTER for his unyielding efforts to get this bill passed, and I would like to thank Senator HATCH for his longstanding support for this effort. The act expired on September 30. The House has passed its legislation, so it is imperative that we get the Violence Against Women Act of 2005 to conference and to the President's desk immediately.

The Violence Against Women Act of 2005 makes many critical improvements to the original act that we passed over 10 years ago. Many in this Chamber are well aware that I consider the Violence. Against Women Act the single most significant legislation that I have crafted during my 32-year tenure in the Senate. Indeed, the enactment of the Violence Against Women Act in 1994 was the beginning of a historic commitment to women and children victimized by domestic violence and sexual assault. Our Nation has been rewarded for this commitment. Since the act's passage in 1994, domestic violence has dropped by almost 50 percent, incidents of rape are down by 60 percent, and the number of wowen killed by an abusive husband or boyfriend is down by 22 percent. Today, more than half of all rape victims are stepping forward to report the crime. And since we passed the act in 1994 over a million women have found justice in our courtrooms and obtained domestic violence protective orders.

''This is a dramatic change from 10 years ago. Back then, violence in the household was treated as a ''family matter'' rather than a criminal justice issue. Because we took action, the criminal justice system is much better equipped to handle domestic violence, and it is treated for what it is, criminal. The goal of the legislation passed is to usher the Violence Against Women Act into the 21st century. With this legislation we attempt to look beyond the immediate crisis and takes steps to not only punish offenders, but to also do more to help victims get their lives back on track, and prevent domestic violence and sexual assault from occurring in the first place.

This bill is truly a cooperative effort. As Senator HATCH, Senator SPECTER and I drafted this bill, we listened closely to suggestions from both sides of the aisle, and we listened carefully to the input from those with wide ranging opinions on how to combat this problem. In particular, we listened to those who are on the front lines fighting to end violence, such as police officers, emergency room nurses, victim advocates, shelter directors, and prosecutors. Based upon these discussions, we made targeted improvements to existing grant programs and we tightened up the criminal laws.

The groups that assisted with drafting this bill included the National Coalition Against Domestic Violence, the National Network to End Domestic Violence, the Family Violence Prevention Fund, Legal Momentum, the National Alliance to End Sexual Violence, the National Center for Victims for Crime, the American Bar Association, the National District Attorneys Association, the National Council on Family and Juvenile Court Judges, the National Association of Chiefs of Police, the National Sheriffs' Association and many others. I would personally like to thank them for the work that they do each and every day to make our Nation a better, safer place for its citizens.

No doubt, the bill that we have passed today is ambitious. We have made tremendous strides in treating domestic violence and sexual assaults as public crimes over the past 10 years. We have helped ensure that offenders were held accountable, and we created coordinated community responses to help victims. The Violence Against Women Act of 2005 will help us look beyond the immediate crisis and provide long-term solutions for victims, and we will redouble our prevention efforts. This is why we included important efforts to ease the housing crisis for victims fleeing their homes, included efforts to engage boys and men to prevent domestic violence from occurring in the first place, enlisted the healthcare community in identifying and treating victims, and to help stop the cycle of abuse suffered by immigrant women and provided tough new regulations for international marriage brokers to ensure that they provide foreign brides with information related to the background of their potential husband and their rights if they are abused.

Despite all of the strong points of this legislation, it could be made better. In particular, I had hoped that provisions from Senator MURRAY's Security and Financial Empowerment Act, SAFE, would have remained in the bill. This amendment would provide some fundamental economic protections for victims of domestic violence and sexual assault. Just as the Family Medical Leave Act protects individuals caring for a sick loved one, the SAFE Act would allow domestic violence victims to take time off from work to appear in court cases and other judicial proceedings without jeopardizing their employment at a time they need it the most. The SAFE Act is important legislation, and I believe that there is bipartisan support for it. Unfortunately, we were not able to reach a consensus on this amendment and, as a result, it is not part of this final bill. It is my hope that the Senate will revisit this issue soon, and I look forward to working with Senator MURRAY in this effort.

One of the primary concerns expressed about the bill is that it simply costs too much. This is certainly understandable given our Nation's financial situation right now, but I have always said that the safety of the American people is the single most important responsibility for Federal, State, and local governments. And, while money doesn't solve every problem, there are very few, if any, efforts related to preventing violence and fighting crime that can be solved without money. As such, it is simply a fact that this effort will continue to cost money. I would argue that the results over the past 10 years show that this has been money well spent, and I hope that the Congress will continue to fund these efforts. In fact, there is evidence that we have received a net return on this investment. A 2002 university study found that money spent to reduce domestic violence saved nearly ten times the potential costs through the years of 1995 and 2000. During that time, the Federal Government spent $1.6 billion for the act's programs and, as a result, we avoided spending an estimated $14.8 billion on medical, legal and other victimization costs that arise from domestic violence. On an individual level, the bill costs roughly $15.50 per woman in the United States and saves an estimated $159 per woman. This evidence suggests that our success in ending family violence cannot be signal to reduce funding, rather, it is a call to continue to do more. We simply can't afford to lose the gains that we have made. We have found a winning combination, and we need to stick with it.

The Senate's action today demonstrates that eradicating violence against women is truly a shared goals, one that is held by Democrats and Republicans, one that is upheld by men and women, and one that is desired by both Government and by the private sector. I would like to thank my colleagues of the Senate for their support of this important legislation. In particular, I want to thank Senator HATCH, a long-standing champion on this issue. Since 1990, Senator HATCH and I have worked together to end family violence in this country, so it is no great surprise that once again he worked side-by-side with us to craft today's bill. I am also deeply indebted to Senator KENNEDY for his unwavering commitment to battered immigrant women and his work on the bill's immigration provisions. I also thank Senator LEAHY who has long-supported the Violence Against Women Act and, in particular, has worked on the rural programs and transitional housing provisions. Finally, I want to thank my very good friend from Pennsylvania for his commitment and leadership on this bill. It is a pleasure to work with Senator SPECTER, and I want to thank him for expeditiously moving this legislation through the Judiciary Committee and through today's action by the Senate. I look forward to working in the future with all of my colleagues to ensure that we continue to strive to the important goals of the Violence

Against Women Act of 2005. This effort will require a bi-partisan commitment.

Again, I am thankful to Senators REID and FRIST for their work on seeing that bill is passed and to all of my colleagues who unanimously supported the Violence Against Women Act of 2005.

Mr. MCCAIN. Mr. President, last evening, S. 1197, ;the Violence Against Women Act, was passed out of the Senate. I commend the Judiciary Committee for including Title 9, Safety for Indian Women, in its bill to reauthorize the act. Title 9 focuses on the needs of Indian tribes to enable them to reduce and treat incidents of domestic violence in Indian country. Among other things, it would authorize the creation of tribal criminal history databases to document domestic violence convictions and protection orders and it creates a new Federal criminal offense authorizing Federal prosecutors to charge repeat domestic violence offenders before they seriously injure or kill someone. S. 1197 also would authorize the Bureau of Indian Affairs police and certain tribal officers to make arrests for domestic violence assaults committed outside of their presence.

Since 1999, the Department of Justice has issued various studies showing that Indian women experience the highest rates of domestic violence compared to all other groups in the United States. These reports state that one out of every three Indian women are victims of sexual assault; that from 1979 to 1992, homicide was the third leading cause of death of Indian females between the ages of 15 to 34; and that 75 percent of those deaths were committed by a family member or acquaintance. What we don't know, however, is the impact of these violent acts on law enforcement, judicial, mental or medical services in Indian country. I am, therefore, pleased to see that this bill would authorize a comprehensive study of domestic violence in Indian Country to gauge the impact of these acts to Indian tribes and their resources. The findings of such a study will help the Congress and the administration to better focus resources to areas with the greatest need.

Earlier this Congress, Senator DORGAN and I introduced the Restoring Safety to Indian Women Act. We worked closely with the Senate Judiciary Committee to ensure that the provisions of this bill, some of which I mention here, were given due consideration. Throughout the more comprehensive S. 1197, Indian tribes would be eligible for various grants to enhance their victim services, judicial function, and law enforcement service capacity to the same extent as State and local governments are eligible.

Domestic violence is a national problem and not one that is unique to Indian country. Yet, due to the unique status of Indian tribes, there are obstacles faced by Indian tribal police, Federal investigators, tribal and Federal prosecutors and courts that impede their ability to respond to domestic violence in Indian country. Title 9 of this bill goes a long way toward removing these obstacles at all levels and to enhance the ability of each agency to respond to acts of domestic violence when they occur. These critical changes to the current law will greatly curb violence against Indian women, and perhaps even save lives.

Again, I thank the members of the Senate Judiciary Committee for their thoughtful consideration in drafting a bill that includes an often forgotten segment of our population, the Nation's Indian tribes.

ADDITIONAL STATEMENTS

CONGRATULATING ASHLEY JEFFERS

• Mr. BUNNING. Mr. President, today I wish to congratulate Ashley Jeffers of Alvaton, KY. Ashley was recently awarded a $15,000 college scholarship as part of the Girls Incorporated National Scholars Program.

Ashley experience at Girls Inc. of Bowling Green, KY is a testament to her impressive work ethic, initiative, and leadership skills. She joined Girls Inc. at the age of 14, and was hired shortly after to help teach classes. Eager to expand the center, Ashley learned about other Girls Inc. national programs and incorporated new classes into the existing program at Bowling Green. Inspired by her experience working with other young women at Girls Inc., Ashley has decided to pursue a career in social work following her studies at Western Kentucky University.

The Girls Inc. National Scholars Program was created in 1992 by a $6.1 million gift from Lucille Miller Wright, a volunteer pilot during World War II, who wanted to help young women overcome financial barriers to attending college. Since 1992, the National Scholars Program has awarded over $1.8 million to 304 girls.

By inspiring other young women to become strong, smart, and bold, Ashley Jeffers does justice to the legacy of Lucille Miller Wright. She is an example of how young Americans can have a positive influence on their communities by participating in mentorship activities such as Girls Inc.

I congratulate Ashley on this achievement. She is an inspiration to the citizens of Kentucky. I look forward to seeing all that she will accomplish in the future.•

TRIBUTE TO AUGUST WILSON

• Mr. COLEMAN. Mr. President, I want to pause in the Senate's business today to recognize the passing of a great American who we in Minnesota are proud to call our own: Pulitzer Prize winning poet and playwright August Wilson. He died yesterday at the age of 60.

August Wilson spent a good part of his adult life in Saint Paul, MN, which is my home. He worked for a time at the Science Museum of Minnesota, writing educational scripts. As his work became recognized and his fame spread, he continued to be seen around Saint Paul, working in coffee shops and other such places, sketching out ideas on the backs of napkins.

In his many plays, Mr. Wilson brought his audiences back time and again to the neighborhood where he grew up, in the Hill District of Pittsburgh, PA. Through a series of 10 plays, he traced the African-American experience through the ten decades of the 20th century. The first, ''Jitney,'' about a city taxi station, was written in Saint Paul.

Decades ago, the poet T.S. Elliot wrote that, ''Poetry is not an assertion of the truth, but making that truth more fully real to us.'' America struggles with deep divisions on matters of race. The tragic events in the gulf coast have brought that home to us. How desperately we need the kind of expression of the truth that August Wilson brought to a large audience.

Facts are important, but we have all experienced the frustration of not seeing our set of facts ''carry the day.'' Psychologists have even determined that we use one part of our brain to process the ideas of political candidates we support and a different part of our brain when we are listening to the views of one we don't. Jerry Garcia of the Grateful Dead wrote a line I like: ''People ain't gonna learn what they don't wanna know.''

But we hold out the hope the art can find a way through our defenses and make truth fully real to us. When Abraham Lincoln met Harriet Beecher Stowe, author of ''Uncle Tom's Cabin,'' legend has it that he said, ''So this is the little woman who started this big war.''

It is a special honor that August Wilson will have a theater on New York's Broadway named in his honor. The Minnesota connection in that is the theater has previously born the name of Virginia Binger, the late wife of Jim Binger, one of Minnesota's great citizens. The eight Wilson plays that made it to Broadway were nominated for more than 50 Tony awards.

Talking about the blues in a way that could just as well have been applied to his own writing, he said: ''You don't sing to feel better. You sing 'cause that's a way of understanding life.''

We recognize the history and forces which shaped the life of August Wilson and we honor his life long effort to make the truth real.•

A FRIEND TO IDAHO ARTS

• Mr. CRAPO. Mr. President, I would like to recognize an Idahoan, who through his lifelong love and support of the arts, has gained national recognition. Dan Harpole, executive director

of the Idaho Commission on the Arts, ICA, since 2002, has recently been named board director of the National Assembly of States Arts Agencies, NASAA.

Dan's years of energetic and committed arts leadership in Idaho and the Northwest made his appointment to this position very fitting. He understands the intrinsic and overt value to society of a thriving arts community at all levels. In the course of Dan's leadership of the Idaho Commission on the Arts, the ICA has developed a new strategic plan for its mission and vision in Idaho. By reaching out to all parts of the community, including nonprofits, cultural organizations, schools, art professionals, and State and local government officials, the ICA under Dan's direction has created a plan that aims to successfully integrate art into communities across Idaho for the greater benefit of all. Dan's seminal vision was demonstrated to his colleagues in other States when Idaho hosted the NASAA National Convention this year.

I want to publicly recognize Dan for his continued efforts and accomplishments as well as the commissioners and staff for their support. His children, Hunter and Fiona, are his inspiration and joy and we are pleased that they chose to make Idaho their home. What Idaho has gained by Dan's expertise and enthusiasm will now be shared throughout other States as he takes the helm of NASAA.●

HONORING SOUTH DAKOTA'S BLUE RIBBON SCHOOLS

● Mr. JOHNSON. Mr. President, it is with great pleasure that I rise today to publicly honor and congratulate O'Gorman High School of Sioux Falls, Alcester-Hudson Elementary, and Corsica Elementary on achieving blue ribbon status under the Federal No Child Left Behind Act. All three schools earned the prestigious blue ribbon designation based on strong test scores and a myriad of other successes.

These three schools are among only 295 recognized nationwide this year, and O'Gorman is 1 of only 40 high schools to receive this distinction. In fact, O'Gorman is the only high school in the entire Denver region, which includes South Dakota, North Dakota, Wyoming, Montana, Colorado, and Utah, to earn this honor.

For public schools such as Alcester-Hudson Elementary and Corsica Elementary to qualify for blue ribbon status, they must meet State testing levels or have a student body comprised of a high percentage of economically disadvantaged students, yet demonstrate improvement. Achieving this goal is a wonderful accomplishment and Alcester-Hudson and Corsica elementary schools ought to be commended.

Although all South Dakota public schools are required to take part in Dakota STEP, the State's test for tracking progress under the No Child Left Behind Act, private schools, on the other hand, are under no such obligation. Nonetheless, O'Gorman administers the Dakota STEP exam to provide parents and supporters a comparison between O'Gorman students and those of other schools. Unlike the criteria used to rate public schools, the standards private schools are required to meet in order to achieve blue ribbon status are more rigorous, as students must place in the top 10 percent on both the State test and on the national level for reading and math. As noted by Kyle Groos, principal of O'Gorman High School, the junior class scored in the top 10 percent of schools on the State test, with more than 90 percent of students considered proficient or advanced in reading and math.

While test scores play a significant role in determining whether a school fits the blue ribbon standard, O'Gorman also submitted in its application a 24-page report detailing the school's various attributes. The statement highlighted students' high participation in the performing arts, the school's many sports championships, the 13,000 hours students devoted to volunteering and community service last year, as well as O'Gorman's emphasis on foreign language, math and theology studies.

Earning this distinction under No Child Left Behind is certainly an achievement for all these outstanding schools; however, O'Gorman was also a blue ribbon school under the Federal Government's former recognition program that began in 1982. Like the previous Blue Ribbon Schools Program, this distinction is one that never expires unless the program is replaced.

I am proud to have this opportunity to honor these three exceptional schools. It is a privilege for me to share with my colleagues the exemplary leadership and tireless commitment to education O'Gorman High School, Alcester-Hudson Elementary, and Corsica Elementary provide to their students. I strongly commend the hard work and dedication all the faculty, administrators, and staff devote to these three institutions, and I am very pleased that their dedication and the students' substantial efforts are being publicly honored and celebrated. On behalf of all South Dakotans, I would like to congratulate these three extraordinary schools and wish them all the best.●

HONORING FATHER BRIAN SHANLEY

● Mr. REED. Mr. President, on July 1, 2005, we welcomed home a son of Providence College to assume the presidency of that great institution. Father Brian Shanley is a man of great intellect, great enthusiasm, and a man of deep and abiding faith.

He is superbly prepared to continue the extraordinary progress of Providence College as a distinguished community of scholars serving to educate the talented young men and women who proudly claim PC as their own.

Generations of students and graduates of Providence College have enriched our Nation and our State not only with their knowledge but just as importantly with their character.

Father Shanley understands this great legacy of Providence College and, through his effort and his energy, he will sustain and enhance this extraordinary place.

St. Thomas Aquinas, a theologian who Father Shanley is acquainted with, wrote ''If the highest aim of a captain were to preserve his ship, he would keep it in port forever.''

Under Father Shanley, I do not think Providence College will get many ''port calls.'' He will sail forward with determination, faith, and good humor to inspire faculty and students to think seriously, to face the challenges of our times, and to live a life of character and concern that has always been the hallmark of Providence College.

I wish him good luck and Godspeed.●

BLACK HILLS POW-WOW

● Mr. THUNE. Mr. President, it is my distinct pleasure to take this opportunity to inform my colleagues in the U.S. Senate about a special event taking place in the beautiful Black Hills of South Dakota. In Rapid City, on October 7 through October 9, the 19th Annual He Sapa Wacipi and Fine Art Show, otherwise known as the Black Hills Pow-Wow, will be held. Hundreds of dancers from throughout the Northern Plains and Canada will celebrate, compete, and engage in fellowship.

It is also a time of coming together and enjoying the fine art and authentic handmade crafts of many gifted artisans. There will also be contemporary indigenous music and handgame tournaments, which have become quite popular with the Native youth in our State. This year, for the first time, educators and officials with the National Aeronautics and Space Administration, NASA, will be in attendance with exhibits and presentations that will help foster the possibilities of careers in space and technology for South Dakota youth.

The Tribes of the Great Sioux Nation are a uniquely family-oriented culture that has always placed great emphasis and importance on relationships with family and friends. Worthy of note, is the Indian way of life that means when you walk into their home, you never leave hungry. Their hospitality is legendary. They are kind and generous and will give from the bottom of their hearts. They embrace their spirituality as a part of who they are and they respect and honor their Creator.

Their desire to continue their language and traditions is very dear to their hearts. For many years, the language of the Lakota, Dakota and Nakota was in danger of being lost. But in the last 30 to 40 years, it has begun to flourish and is being restored,

thanks to those educators, elders and all who recognize its beauty and significance in our time. The coming generations will be a testimony of the importance of this legacy.

I would like to take this opportunity to give special recognition to the He Sapa Wacipi Pow-Wow Association and all the volunteers who selflessly give of their time and effort to bring this event together every year. It is a lot of work, but the end result is a spectacle of beauty and pageantry every year. They can be very proud of all their efforts and I officially acknowledge and honor them for their dedication.●

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–4107. A communication from the Under Secretary of Defense for Personnel and Readiness, transmitting, authorization of the following officers to wear the insignia of the next highest grade in accordance with title 10, United States Code, section 777: David S. Gray, Irving L. Halter Jr., John C. Koziol, Richard Newton III, Allen G. Peck, Eric J. Roseborg, Mark K. Hertog and Frank J. Kisner; to the Committee on Armed Services.

EC–4108. A communication from the Under Secretary of Defense for Personnel and Readiness, transmitting, a report on the approved retirement of Major General Roger C. Schultz, United States Army, and his advancement to the grade of lieutenant general on the retired list; to the Committee on Armed Services.

EC–4109. A communication from the Under Secretary of Defense for Acquisition, Technology and Logistics, transmitting, pursuant to law, a report on the amount of Department of Defense purchases from foreign entities in fiscal year 2004; to the Committee on Armed Services.

EC–4110. A communication from the Under Secretary of Defense (Comptroller), transmitting, pursuant to law, a report of a violation of the Antideficiency Act by the Department of the Navy case number 04–06; to the Committee on Appropriations.

EC–4111. A communication from the Under Secretary of Defense (Comptroller), transmitting, pursuant to law, a report of a violation of the Antideficiency Act by the Department of the Navy case number 04–05; to the Committee on Appropriations.

EC–4112. A communication from the Under Secretary of Defense (Comptroller), transmitting, pursuant to law, a report of a violation of the Antideficiency Act by the Department of the Navy case number 04–02; to the Committee on Appropriations.

EC–4113. A communication from the Trial Attorney, National Highway Traffic Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Civil Penalties'' (RIN2127–AJ62) received on September 26, 2005; to the Committee on Commerce, Science, and Transportation.

EC–4114. A communication from the Attorney-Advisor, Maritime Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Maritime Security Program'' (RIN2133–AB62) received on September 26, 2005; to the Committee on Commerce, Science, and Transportation.

EC–4115. A communication from the Attorney-Advisor, Pipeline and Hazardous Materials Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Hazardous Materials Regulations: Minor Editorial Corrections and Clarifications'' (RIN2137–AE08) received on September 26, 2005; to the Committee on Commerce, Science, and Transportation.

EC–4116. A communication from the Attorney-Advisor, National Highway Traffic Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Make Inoperative Provisions; Vehicle Modifications to Accommodate People With Disabilities'' (RIN2127–AJ07) received on September 26, 2005; to the Committee on Commerce, Science, and Transportation.

EC–4117. A communication from the Attorney-Advisor, National Highway Traffic Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Motorcycle Controls and Displays'' (RIN2127–AI67) received on September 26, 2005; to the Committee on Commerce, Science, and Transportation.

EC–4118. A communication from the Attorney-Advisor, National Highway Traffic Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Occupant Protection in Interior Impact'' (RIN2127–AJ60) received on September 26, 2005; to the Committee on Commerce, Science, and Transportation.

EC–4119. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Security Zones; San Francisco Bay, San Pablo Bay, Carquinez Strait, Suisun Bay, California'' (RIN1625–AA87) received on September 26, 2005; to the Committee on Commerce, Science, and Transportation.

EC–4120. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Operations (including 5 regulations): [CGD01–05–082], [CGD05–05–108], [CGD01–05–081], [CGD05–05–117], [CGD01–05–088]'' (RIN1625–AA09) received on September 26, 2005; to the Committee on Commerce, Science, and Transportation.

EC–4121. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Safety Zone; New York Super Boat Race, Hudson River, New York'' (RIN1625–AA00) received on September 26, 2005; to the Committee on Commerce, Science, and Transportation.

EC–4122. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Safety Zones (including 7 regulations): [CGD13–05–027], [COTP Lower Mississippi River–05–008], [CGD05–05–113], [CGD09–05–123], [CGD01–05–085], [CGD09–05–126], [USCG–2005–22429]'' (RIN1625–AA00) received on September 26, 2005; to the Committee on Commerce, Science, and Transportation.

EC–4123. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Special Local Regulations for Marine Event; Labor Day Fireworks Display, South Lake Tahoe, CA'' (RIN1625–AA08) received on September 26, 2005; to the Committee on Commerce, Science, and Transportation.

EC–4124. A communication from the Chief, Regulations and Administrative Law, United States Coast Guard, Department of Homeland Security, transmitting, pursuant to law, the report of a rule entitled ''Special Local Regulations for Marine Events (including 4 regulations): [CGD05–05–005], [CGD05–05–076], [CGD05–05–075], [CGD05–05—097]'' (RIN1625–AA08) received on September 26, 2005; to the Committee on Commerce, Science, and Transportation.

EC–4125. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace; Washington, MO'' ((RIN2120–AA66)(2005–0206)) received on September 26, 2005; to the Committee on Commerce, Science, and Transportation.

EC–4126. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace; Newton, KS'' ((RIN2120–AA66)(2005–0210)) received on September 26, 2005; to the Committee on Commerce, Science, and Transportation.

EC–4127. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace; Abilene Municipal Airport, KS'' ((RIN2120–AA66)(2005–0208)) received on September 26, 2005; to the Committee on Commerce, Science, and Transportation.

EC–4128. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class E Airspace; Meade Municipal Airport, KS'' ((RIN2120–AA66)(2005–0207)) received on September 26, 2005; to the Committee on Commerce, Science, and Transportation.

EC–4129. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class D Airspace; Eau Claire, WI'' ((RIN2120–AA66)(2005–0205)) received on September 26, 2005; to the Committee on Commerce, Science, and Transportation.

EC–4130. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Modification of Class D and Class E Airspace; Salina Municipal Airport, KS'' ((RIN2120–AA66)(2005–0211)) received on September 26 2005; to the Committee on Commerce, Science, and Transportation.

EC–4131. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airspace Designations; Incorporation by Reference'' (RIN2120–ZZ76) received on September 26, 2005; to the Committee on Commerce, Science, and Transportation.

EC–4132. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''IFR Altitudes; Miscellaneous Amendments (7)'' ((RIN2120–AA63)(2005–0006)) received on September 26, 2005; to the Committee on Commerce, Science, and Transportation.

EC–4133. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures, Weather Takeoff Minimums;

Miscellaneous Amendments (142)'' ((RIN2120–AA65)(2005–0025)) received on September 26, 2005; to the Committee on Commerce, Science, and Transportation.

EC–4134. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment to VOR Federal Airway V–536; MT'' ((RIN2120–AA66)(2005–0209)) received on September 26, 2005; to the Committee on Commerce, Science, and Transportation.

EC–4135. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Second-in-Command Pilot Type Rating'' ((RIN2120–AI38)(2005–0002)) received on September 26, 2005; to the Committee on Commerce, Science, and Transportation.

EC–4136. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Boeing Model 737–100, –200, –200C, and –300 Series Airplanes'' ((RIN2120–AA64)(2005–0423)) received on September 26, 2005; to the Committee on Commerce, Science, and Transportation.

EC–4137. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Bombardier Model CL–600–2B19 Airplanes'' ((RIN2120–AA64)(2005–0424)) received on September 26, 2005; to the Committee on Commerce, Science, and Transportation.

EC–4138. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Pilatus Aircraft Ltd. PC–6, PC–6H1, PC–6H2, PC–6/350, PC–6/350–H1, PC–6/350–H2, PC–6/A, PC–6/A–H1, PC–6/A–H2, PC–6/B–H2, PC–6/B1–H2, PC–6/B2–H2, PC–6/B2–H4, PC–6/C–H2, and PC–6/C1–H2 Airplanes'' ((RIN2120–AA64)(2005–0422)) received on September 26, 2005; to the Committee on Commerce, Science, and Transportation.

EC–4139. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Cirrus Design Corporation Models SR20 and SR22 Airplanes'' ((RIN2120–AA64)(2005–0421)) received on September 26, 2005; to the Committee on Commerce, Science, and Transportation.

EC–4140. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: AvCraft Dornier Model 328–300 Airplanes'' ((RIN2120–AA64)(2005–0420)) received on September 26, 2005; to the Committee on Commerce, Science, and Transportation.

EC–4141. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Bombardier Model DHC–8–400 Series Airplanes'' ((RIN2120–AA64)(2005–0428)) received on September 26, 2005; to the Committee on Commerce, Science, and Transportation.

EC–4142. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Goodrich De-icing and Specialty Systems 'FASTprop' Propeller De-icers'' ((RIN2120–AA64)(2005–0429)) received on September 26, 2005; to the Committee on Commerce, Science, and Transportation.

EC–4143. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Boeing Model 777 Airplanes'' ((RIN2120–AA64)(2005–0427)) received on September 26, 2005; to the Committee on Commerce, Science, and Transportation.

EC–4144. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Boeing Model 757 Airplanes'' ((RIN2120–AA64)(2005–0426)) received on September 26, 2005; to the Committee on Commerce, Science, and Transportation.

EC–4145. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Turbomeca Arrius 2F Turboshaft Engines'' ((RIN2120–AA64)(2005–0425)) received on September 26, 2005; to the Committee on Commerce, Science, and Transportation.

EC–4146. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Boeing Model 757–200 and –300 Series Airplanes and Model 767 Series Airplanes'' ((RIN2120–AA64)(2005–0434)) received on September 26, 2005; to the Committee on Commerce, Science, and Transportation.

EC–4147. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Bombardier Model CL–215–1A10 (Water Bomber), CL–215–6B11 (CL215T Variant), and CL–215–6B11 (CL415 Variant) Airplanes'' ((RIN2120–AA64)(2005–0435)) received on September 26, 2005; to the Committee on Commerce, Science, and Transportation.

EC–4148. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Avions Marcel Dassault-Breguet Model Falcon 10 Airplanes'' ((RIN2120–AA64)(2005–0432)) received on September 26, 2005; to the Committee on Commerce, Science, and Transportation.

EC–4149. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Hartzell Propeller Inc. Propellers'' ((RIN2120–AA64)(2005–0431)) received on September 26, 2005; to the Committee on Commerce, Science, and Transportation.

EC–4150. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Fokker Model F27 Mark 200, 400, 500, and 600 Airplanes'' ((RIN2120–AA64)(2005–0430)) received on September 26, 2005; to the Committee on Commerce, Science, and Transportation.

EC–4151. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Dassault Model Falcon 2000EX Airplanes'' ((RIN2120–AA64)(2005–0438)) received on September 26, 2005; to the Committee on Commerce, Science, and Transportation.

EC–4152. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Israel Aircraft Industries, Ltd., Model 1124 and 1124A Airplanes'' ((RIN2120–AA64)(2005–0439)) received on September 26, 2005; to the Committee on Commerce, Science, and Transportation.

EC–4153. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Airbus Model A340–200 and A340–300 Series Airplanes'' ((RIN2120–AA64)(2005–0437)) received on September 26, 2005; to the Committee on Commerce, Science, and Transportation.

EC–4154. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Bombardier Model CL–600–2B19 Airplanes'' ((RIN2120–AA64)(2005–0436)) received on September 26, 2005; to the Committee on Commerce, Science, and Transportation.

EC–4155. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Pratt and Whitney JT8D–209, –217, –217A, –217C, and –219 Turbofan Engines'' ((RIN2120–AA64)(2005–0441)) received on September 26, 2005; to the Committee on Commerce, Science, and Transportation.

EC–4156. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Pratt and Whitney PW2000 Series Turbofan Engines'' ((RIN2120–AA64)(2005–0440)) received on September 26, 2005; to the Committee on Commerce, Science, and Transportation.

EC–4157. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: Pratt and Whitney JT8D–1, –1A, –1B, –7, –7A, –7B, –9, –9A, –11, –15, –15A, –17, –17A, –17R, –17AR, –209, –217, –217A, –217C, and –219 Turbofan Engines'' ((RIN2120–AA64)(2005–0442)) received on September 26, 2005; to the Committee on Commerce, Science, and Transportation.

EC–4158. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives: McDonnell Douglas Model DC–8–11, DC–8–12, DC–8–21, DC–8–31, DC–8–32, DC–8–33, DC–8–41, DC–8–42, and DC–8–43 Airplanes; DC–8–50 Series Airplanes; DC–8F–54 and DC–8F–55 Airplanes; DC–8–60 Series Airplanes; DC–8–60F Series Airplanes; DC–8–70 Series Airplanes; and DC–8–70F Series Airplanes'' ((RIN2120–AA64)(2005–0443)) received on September 26, 2005; to the Committee on Commerce, Science, and Transportation.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. LUGAR for the Committee on Foreign Relations.

*Thomas A. Shannon, Jr., of Virginia, to be an Assistant Secretary of State (Western Hemisphere Affairs).

*Jan E. Boyer, of Texas, to be United States Alternate Executive Director of the Inter-American Development Bank.

*Robert A. Mosbacher, of Texas, to be President of the Overseas Private Investment Corporation.

*John J. Danilovich, of California, to be Chief Executive Officer, Millennium Challenge Corporation.

*Josette Sheeran Shiner, of Virginia, to be United States Alternate Governor of the International Bank for Reconstruction and Development for a term of five years; United States Alternate Governor of the Inter-American Development Bank for a term of five years; United States Alternate Governor of the African Development Bank for a term of five years; United States Alternate Governor of the African Development Fund; United States Alternate Governor of the Asian Development Bank; and United States Alternate Governor of the European Bank for Reconstruction and Development.

*Kent R. Hill, of Virginia, to be an Assistant Administrator ofthe United States Agency for International Development.

*Jacqueline Ellen Schafer, of the District of Columbia, to be an Assistant Administrator of the United States Agency for International Development.

*John Hillen, of Virginia, to be an Assistant Secretary of State (Political-Military Affairs).

*Barry F. Lowenkron, of Virginia, to be Assistant Secretary of State for Democracy, Human Rights, and Labor.

*Jendayi Elizabeth Frazer, Assistant Secretary of State (African Affairs), to be a Member of the Board of Directors of the African Development Foundation for the remainder of the term expiring September 27, 2009.

*Francis Rooney, of Florida, to be Ambassador to the Holy See.

Nominee: Francis Rooney (Preferred); Laurence Francis Rooney, III; L.F. Rooney, III; L. Francis Rooney, III.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, amount, date, and donee:

1. Self $500, 3/21/05, Republican Party of Florida; (this contribution was improperly considered a federal contribution and transfer to the state party is pending); $1,000, 3/16/05, Fitzpatrick for Congress; $1,000, 3/16/05, Northrup for Congress; $1,000, 3/16/05, Friends of Dave Reichert; $1,000, 3/16/05, Rick Renzi for Congress; $1,000, 3/16/05, Friends of Mike Sodrel; $500, 3/16/05, Norm Coleman for Senate; $2,000, 3/15/05, Connie Mack for Congress; $25,000, 2/21/05, RNC Regents; $500, 8/20/04, Republican Party of Florida; $32,500, 5/5/04, 2004 Jt. St. Victory Committee; $24,500, 3/22/04, Jt. Candidate Committee; $1,000, 3/22/04, Bill McCollum for Senate; $2,000, 3/22/04, Connie Mack for Congress; $1,000, 2/19/04, Bill McCollum for Senate; $1,000, 2/21/04, Klein for Congress; $25,000, 2/11/04, RNC Regents; $2,000, 12/19/03, Connie Mack for Congress; $2,000, 12/19/03, Dan Boren for Congress; $2,000, 11/12/03, Bush-Cheney '04, $2,000, 11/11/03, Kirk Humphreys for Senate; $1,500, 7/23/02, Scott Pruitt for Senate; ($1,000), 6/18/02, Refund—Jim Inhofe; $2,000, 4/12/02, Friends of Jim Inhofe; $2,000, 1/31/02, Peter Wareing for Congress; $1,000, 12/18/01, John Sullivan for Congress; ($1,000), 11/26/01, Refund -Keating for Congress; $1,000, 11/26/01, Cathy Keating for Congress; $1,000, 7/12/01, Senate; Campaign Committee; $1,000, 7/3/01, Presidents Dinner Committee; $1,000, 4/9/01, Cathy Keating for Congress; $1,000, 4/5/01, Cathy Keating for Congress; $2,000, 1/9/01, Bush-Cheney Transition.

2. Spouse: Kathleen Rooney, $2,000, 3/15/05, Connie Mack for Congress; $25,000, 2/21/05, RNC Regents; $32,500, 5/5/04, 2004 Jt. State Victory Committee; $4,000, 5/4/04, Jt. Candidate Committee; $25,500, 4/13/04, Joint Candidate Committee; $2,000, 3/29/04, Connie Mack for Congress; $2,000, 2/24/04, Connie Mack for Congress; $25,000, 2/13/04, RNC Regents; $2,000, 11/13/03, Humphreys for Senate; $2,000, 11/15/03, Bush Cheney 04; $1,000, 2/4/02, Peter Wareing for Congress; ($1,000), 11/23/01, Refund—Keating for Congress; $1,000, 11/23/01, Cathy Keating for Congress; $1,000, 4/18/01, Cathy Keating for Congress; $1,000, 4/10/01, Cathy Keating for Congress.

2. Children and Spouses: L.F. Rooney, IV (Larry), $2,000, 3/25/05, Connie Mack for Congress; $12,500, 4/8/04, Republican National Committee; $2,000, 12/3/03, Bush Cheney 04.

Michael Collins Rooney: $2,000, 3/15/05, Connie Mack for Congress; $12,500, 4/8/04, Republican National Committee; $2,000, 12/3/03, Bush Cheney 04.

Kathleen Daly Rooney: $2,000, 3/15/05, Connie Mack for Congress.

3. Parents: Laurence Francis Rooney, Jr. (Deceased)

Lucy Turner Rooney: $200, 9/30/04, John Sullivan for Congress; $500, 9/15/04, Coburn for Senate; $200, 7/15/04, Coburn for Senate; $200, 1/13/04, John Sullivan for Congress; $250, 6/4/99, Ewing for Congress; $200, 10/7/02, John Sullivan for Congress.

4. Grandparents: Laurence Francis Rooney (Deceased); Marguerite R. Rooney (Deceased).

5. Brothers and Spouses: Patrick T. Rooney: $500, 10/28/04, Boren for Congress; $1,000, 10/4/04, Coburn for Senate; ($2,000), 9/2/04, Refund—Humphreys for Senate; $250, 6/11/04, Boren for Congress; $2,000, 11/14/03, Humphreys for Senate; ($2,000), 11/14/03, Refund—Humphreys for Senate; $4,000, 10/30/03, Humphreys for Senate; $1,000, 9/30/03, Bush Cheney 04.

Marianne B. Rooney: $2,000, 9/2/04, Coburn for Senate; ($2,000), 9/2/04, Refund—Humphreys for Senate; $2,000, 2/18/04, Bush Cheney 04; $2,000, 11/14/03, Humphreys for Senate; ($2,000), 11/14/03, Refund—Humphreys for Senate; $4,000, 10/30/03, Humphreys for Senate; $1,000, 5/10/01, Cathy Keating for Congress.

Timothy P. Rooney: $1,000, 2/25/02, Ron Kirk for Senate.

Mary M. Rooney: None.

James H. Rooney: $12,500, 9/15/04, Republican National Committee; $2,000, 12/4/03, Bush Cheney 04.

Jennifer Rooney: $12,500, 9/15/04, Republican National Committee.

Sisters and Spouses: Lucy Rooney Kapples: None.

John W. (Jack) Kapples: $500, 6/8/04, Raytheon Company PAC.

Rebecca Rooney: None.

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*Alfred Hoffman, of Florida, to be Ambassador to the Republic of Portugal.

Nominee: Alfred Hoffman, Jr.

Post: Ambassador to Portugal

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, amount, date, and donee:

1. Self: $75,000, 3/28/00, Republican National State Elections Committee;

$1,850, 7/8/00, Republican National State Elections Committee; $1,500, 7/17/00, Republican National State Elections Committee; $1,750, 7/17/00, Republican National State Elections Committee; $1,000, 8/23/00, Lazio 2000; $25,000, 3/20/01, Republican National State Elections Committee; $125,000, 4/30/01, Republican National State Elections Committee; $(1,000), 10/1/01, Friends of Phil Gramm refund; $1,000, 2/18/02, Norm Coleman for U.S. Senate; $125,000, 5/14/02, Republican National State Elections Committee; $1,000, 7/16/02, Texans for Senator John Cornyn; $1,000, 8/12/02, The Wish List; $1,000, 10/11/02, Team Sununu; $1,000, 10/16/02, John Thune for South Dakota; $25,000, 3/19/03, Republican National Committee; $272, 6/30/03, Bush-Cheney '04 (Primary); $2,000, 11/7/03, Daniel Webster for U.S. Senate; $25,000, 4/8/04, Republican National Committee; $33,000, 5/27/04, 2004 Joint Candidate Committee; $7,500, 5/27/04, 2004 Joint State Victory Committee; $1,727, 6/30/04, Bush-Cheney '04 (Primary); $4,000, 8/31/04, Martinez for Senate; $(4,000), 9/12/04, 2004 Joint Candidate Committee refund; $2,000, 9/15/04, Martinez for Senate; $(2,000), 9/17/04, 2004 Joint Candidate Committee refund; $2,000, 9/24/04, Friends of Connie Mack; $2,000, 9/30/04, Congressman Bill Young Campaign Committee; $100,000, 12/2/04, Presidential Inaugural Committee.2. Spouse: Dawn Hoffman, $250, 12/4/00, Republican Party of Florida Federal Campaign Account; $25,000, 3/19/03, Republican National Committee; $2,000, 6/30/03, Bush-Cheney '04 (Primary); $2,000, 11/7/03, Daniel Webster for U.S. Senate; $500, 11/20/03, Carole Green for Congress; $25,000, 4/8/04, Republican National Committee; $33,501, 5/27/04, 2004 Joint Candidate Committee; $7,500, 5/27/04, 2004 Joint State Victory Committee; $4,000, 8/26/04, Martinez for Senate; $(4,000), 9/12/04, 2004 Joint Candidate Committee refund; $2,000, 9/16/04, Martinez for Senate; $(2,000), 9/17/04, 2004 Joint Candidate Committee refund; $$2,000, 9/24/04, Friends of Connie Mack.

3. Children and Spouses: Matthew Hoffman, $2,000, 7/3/03, Bush-Cheney '04 (Primary); $25,000, 6/24/04, Republican National Committee.

Kimberly Hoffman, $2,000, 7/3/03, Bush-Cheney '04 (Primary).

Melissa Hoffman, $200, 9/1/03, John Kerry for President.

Elisabeth Hoffman-Johnson: none.

Seth Johnson, none.

Sophie Hoffman, none.

Ava Hoffman, none.

4. Parents: Nettie Kelton—deceased.

Alfred Hoffman—deceased.

5. Grandparents: Jules Kelton—deceased.

Gerhardt Hoffman deceased.

6. Brothers and Spouses: none.

7. Sisters and Spouses: Beth Gray, none; Jack Gray, none; Joy K. Atwood, none; Newell Atwood, deceased, none; Emilie Anderson, none; Jerry Anderson, deceased, none; Mary Jane Rothermel, deceased, none; Ted Rothermel, deceased; Mitzie Ellis, deceased; Earl Ellis; Rose Shacklett, deceased, Chet Shucklett, deceased.

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*Charles A. Ford, of Virginia, to be Ambassador to the Republic of Honduras.

Nominee: Charles Ford.

Post: Honduras.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, amount, date, and donee:

1. Self: none.

2. Spouse: Lillian Ford: none.
3. Children and Spouses: Monica, none; Michael, none.
4. Parents: Marvin Ford—deceased; Wanda Ford, none; Tirso Malave—deceased; Ana Malave—deceased.
5. Grandparents: Arthur Wahlman—deceased; Flora Wahlman—deceased.
6. Brothers and Spouses: Mark Ford, none.
7. Sisters and Spouses: none.

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*Mark Langdale, of Texas, to be Ambassador to the Republic of Costa Rica.

Nominee: Mark Langdale.

Post: Ambassador to Costa Rica.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, amount, date, and donee.

1. Self: $1,000, 10/2002, Bill Schuster; $1,000, 10/2002, Texas Victory; $1,000, 6/2003, Bill Schuster; $1,500, 6/2003, Bush/Cheney; $25,000, 12/2003, Republican National Committee.
2. Spouse: $2,000, 6/2003, Bush/Cheney.
3. Children and Spouses: None.
4. Parents: Bedelle Langdale: $2,000, 6/2003, Bush/Cheney.
5. Grandparents: None.
6. Brothers and Spouses: None.
7. Sisters and Spouses: John T. Brewer: $1,000, 6/2003, Bush/Cheney.

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*Brenda LaGrange Johnson, of New York, to be Ambassador to Jamaica.

Nominee: Branda LaGrange Johnson.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, amount, date, and donee.

1. Self: $1,565.00, 01/31/01, RNC Republican National State Elections Committee; $250.00, 02/16/01, The Wish List; $1,000.00, 12/07/01, Elizabeth Dole Committee, Inc.; $500.00, 02/21/02, Susan Collins (Collins for Senator); $1,000.00, 09/12/02, Gov. George Pataki event; $1,000.00, 12/06/02, Suzanne Haik Terrell (Terrell for Senate); $2,000.00, 06/17/03, Bush-Cheney; $1,000.00, 09/16/03, Arnold Schwarzenneger event; $500.00, 12/26/03, Arlen Specter (Citizens for Arlen Specter); $1,000.00, 08/13/04, Fed Political Action Committee (AKA FED PAC); $12,500.00, 10/12/04, 2004 Joint State VIC, Alexandria, VA; $500.00, 10/27/04, Friends of Howard Mills; $1,562.00, 11/05/04, Republican Federal Committee of Pennsylvania; $521.00, 10/24/04, Republican Party of Iowa; $1,000.00, 02/21/04, Driscoll for Congress; $1,000.00, 09/30/02, Collins for Senator; $3,000.00, 04/01/05, Republican National Committee; $297.00, 10/27/04, New Hampshire Republican State Committee; $250.00, 04/01/02, Wish List.
2. Spouse: J. Howard Johnson: $1,000.00, 06/10/03, George W. Bush (Bush for President, Inc.); $2,000.00, 10/03, Bush/Cheney kickoff event.
3. Children and Spouses: Frank La Grange Johnson: $2,000.00, 10/03, Bush/Cheney Kickoff event; $500.00, 02/23/04, William Manger (Bill Manger for Congress, Inc.); $1,500.00, 07/07/04, William Manger (Bill Manger for Congress, Inc.); $1,000.00, 10/30/04, John S. McCain (Friends of John McCain).

Susan Ely Johnson: $2,000.00, 10/03, Bush/Cheney kickoff event.

Brett Matthew Johnson: $2000.00, 07/03/03, George W. Bush (Bush-Cheney '04 Primary Inc.).

Grant Douglas Johnson: $2000.00, 07/03/03, George W. Bush (Bush-Cheney '04 Primary Inc.).

Heather Johnson-Sargent: $1000.00, 9/30/02, Susan M. Collins (Collins for Senator); $2000.00, 07/08/02, George W. Bush (Bush-Cheney '04 Primary, Inc.).

John Harrison Sargent: $250.00, 11/19/03, William Manger (Bill Manger for Congress, Inc.); $2000.00, 07/08/03, George W. Bush (Bush-Cheney '04 Primary, Inc.).

4. Parents: Frank Crawford La Grange—Deceased; Eileen Morgan La Grange—Deceased.
5. Grandparents: Amelia Webster La Grange—Deceased; Frank C. La Grange—Deceased.
6. Brothers and Spouses: Frank C. La Grange, Jr.—Deceased; Darlene La Grange: None; Charles Evans La Grange: None.
7. Sisters and Spouses: Mimi La Grange—Deceased; Louise La Grange Hitt—Deceased; Buman Hitt, None.

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*Alexander R. Vershbow, of the District of Columbia, to be Ambassador to the Republic of Korea.

Nominee: Vershbow, Alexander R.

Post: Seoul, Republic of Korea.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, amount, date, and donee.

1. Self: None.
2. Spouse: None.
3. Children and Spouses: Benjamin Vershbow; $100, 2004, John Kerry; $50, 2004, Wesley Clark; $25, 2003, Howard Dean.

Gregory Vershbow: $40, 2004, John Kerry.

4. Parents: Arthur: None.
5. Grandparents: N/A.
6. Brothers and Spouses: N/A.
7. Sisters and Spouses: Ann Vershbow: None; Charles Beitz: $200, 2004, John Kerry.

*Patricia Louise Herbold, of Washington, to be Ambassador to the Republic of Singapore.

Nominee: Patricia Louise Herbold.

Post: Ambassador to Singapore.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, amount, date, and donee:

1. Self: $1000, 08/09/2001, Friends of Jennifer Dunn; $250, 06/20/2001, Richard Keller for Congress; $250, 06/16/2001, Randy Forbes for Congress; $500, 01/29/2002, Jim Patterson for Congress; $500, 01/30/2002, Garrett for Congress 2002; $1000, 02/11/2002, Washington State Republican party; $250, 02/16/2002, John Thune for South Dakota; $500, 02/24/2002, Trent Matson for Congress; $250, 03/31/2002, Friends of Jennifer Dunn; $250, 04/01/2002, Scott Armey for Congress; $250, 06/28/2002, Sydney Hay for Congress; $250, 06/29/2002, Friends of Jeb Hensarling; $250, 08/23/2002, David Fisher for Congress; $1500, 10/17/2002, Club for Growth PAC; $750, 10/29/2002, Friends of Jennifer Dunn; $250, 11/01/2002, Norma Smith for Congress; $250, 04/16/2003, Carl Isett Campaign; $250, 06/30/2003, Pat Toomey for Congress; $500, 09/30/2003, Pat Toomey for Congress; $1000, 07/11/2003, Friends of Jennifer Dunn; $2000, 07/23/2003, Bush-Cheney '04 Primary; $2000, 12/15/2003, Nethercutt for Senate; $2000, 12/15/2003, Nethercutt for Senate; $250, 12/18/2003, Jane Hague for Congress; $500, 01/14/2004, Cathy McMorris for Congress; $250, 03/22/2004, Arlene Wohlgemuth for Congress; $250, 03/30/2004, John Swallow for Congress; $250, 03/31/2004, Pat Toomey for Congress; $500, 04/15/2004, Pat Toomey for Congress; $250, 08/16/2004, Tom Coburn for Senate; $5000, 07/27/2004, Club for Growth PAC; $250, 08/02/2004, Connie Mack for Congress; $4017, 09/28/2004, Republican Party of FL; $3125, 09/30/2004, Republican Federal Committee of PA; $1638, 10/01/2004, MO Republican State Committee; $1265, 10/01/2004, Republican Party of MN; $1042, 10/01/2004, OR Republican Party; $893, 10/04/2004, Republican Party of WA; $1487, 10/04/2004, Republican Party of WI; $745, 10/04/2004, WV Republican State Executive Committee; $2975, 10/04/2004, Republican Party of OH; $2530, 10/04/2004, AR Leadership Committee 2003 FCRC; $595, 10/06/2004, Republican Party of ME; $595, 10/06/2004, NH Republican State Committee; $595, 10/06/2004, NH Republican State Committee; $595, 10/06/2004, ME Republican Party; $745, 10/07/2004, Republican Central Committee of NV; $1000, 10/19/2004, Jim DeMint for Senate; $1000, 10/20/2004, Pete Coors for Senate; $2000, 10/25/2004, Friends of Dave Reichert; $1000, 10/25/2004, John Thune for Senate; $1000, 10/28/2004, Tom Coburn for Senate; $1000, 10/29/2004, Cathy McMorris for Congress; $1000, 03/26/2005, Friends of Dave Reichert.

2. Spouse: Robert J. Herbold: $7900, 01/30/2001, RNC Republican National State Elections Committee; $5000, 09/29/2001, TechNet Federal PAC; $5000, 08/28/2002, Microsoft PAC; $1000, 07/11/2003, Friends of Jennifer Dunn; $2000, 07/23/2003, Bush-Cheney 2004 Primary; $2000, 12/15/2003, Nethercutt for Senate; $2000, 12/15/2003, Nethercutt for Senate; $1000, 03/26/2005, Friends of Dave Reichert.

3. Children and Spouses: Donna M. Herbold, $0; James & Lisa Herbold: $25, 2004, John Kerry; Gregory & Alexa Herbold: $25, 2004, John Kerry.

4. Parents: William J. Kruse—(deceased); Mary Louise Kruse—(deceased).

5. Grandparents: Edward A. Winter—(deceased); Stella M. Winter—(deceased).

6. Brothers and Spouses: Bill & Mona Kruse: $0.

7. Sisters and Spouses: Clare & Dick Kulp, $0; Judith & Joseph Murray, $100, 7/2002, Harland Hale; $75, 6/2004, Pat McGrath; Jayne & Frank Simms, $0.

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*William Paul McCormick, of Oregon, to be Ambassador to New Zealand, and serve concurrently and without additional compensation as Ambassador to Samoa.

Nominee: William P. McCormick.

Post: Ambassador to New Zealand.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, donee, date, and amount:

1. Self: National Restaurant Assoc. PAC, 2001, $5000.00; Ed Tinsley for Congress, 2002, $1000.00; National Restaurant Assoc. PAC, 2002, $5000.00; Gordon Smith Victory Committee, 2002, $2000.00; Oregon Republican Party Federal Account (Gordon Smith Victory Committee), 2002, $5000.00; Oregon Republican Party Non-Federal (Gordon Smith Victory Committee), 2002, $13,000.00; Republican Eagles RNC, 2002, $15,000.000; The 2002 President's Dinner (RNC), 2002, $12,500.00; National Restaurant Assoc. PAC, 2003, $5000.00; Bush/Cheney 04, 2003, $2000.00; Greg Walden for Congress, 2003, $1560.01; Republican National Committee, 2003, $15,000.000; Gordon Smith U.S. Senate, 2003, $1029.06; Republican National Committee, 2004, $10,000.00; Rogers for Congress, 2004, $2000.00; GO PAC, 2004, $1000.00; Jim Feldkamp for Congress, 2004, $2000.00; Coleman for Senate, 2004, $1000.00; Herman Cain for US Senate, 2004, $1000.00;

National Restaurant Assoc. PAC, 2004, $5000.00; Zupanzic for Congress, 2004, $2000.00; Bush/Cheney 04, 2004, 25.82.

2. Spouse: Gail McCormick: National Restaurant Association, 2002, $2500.00; Bush/Cheney 04, 2003, $2000.00; Oregon Republican Party, 2004, $10,000.00.

3. Children and Spouses: Megan Clingham & Gavin Clingham—None; Andrew C. McCormick & Merilee McCormick—None; Alexander McCormick—None; Sarah Marie McCormick—None; Mary Alice McCormick—None; Thomas Callaghan McCormick—None.

4. Parents: Mathew Murtaugh McCormick—Deceased; Mary Elizabeth Callaghan McCormick—Deceased.

5. Grandparents: Mathew James McCormick—Deceased; Anne McCormick—Deceased; Edward Callaghan—Deceased; Mary Maher Callaghan—Deceased.

6. Brothers and Spouses: Edward James McCormick—None; Mathew Murtaugh McCormick and Patricia McCormick—None.

7. Sisters and Spouses: Mary Jane Gervais and Andres Gervais—None.

Foreign Service nomination of Robert S. Connan.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. INHOFE (for himself and Mr. COBURN):

S. 1820. A bill to designate the facility of the United States Postal Service located at 6110 East 51st Place in Tulsa, Oklahoma, shall be known and designated as the ''Dewey F. Bartlett Post Office''; to the Committee on Homeland Security and Governmental Affairs.

By Mr. REID (for himself, Mr. OBAMA, Mr. BAYH, Mr. KENNEDY, Mr. HARKIN, Mr. DURBIN, Mr. REED, Mr. DODD, Mrs. MURRAY, Ms. MIKULSKI, Mrs. CLINTON, Mr. KOHL, and Mr. DAYTON):

S. 1821. A bill to amend the Public Health Service Act with respect to preparation for an influenza pandemic, including an avian influenza pandemic, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. MURRAY (for herself and Ms. CANTWELL):

S. 1822. A bill to amend titles XVIII and XIX of the Security Act to make improvements to the implementation of the medicare prescription drug benefit; to the Committee on Finance.

By Mrs. HUTCHISON:

S. 1823. A bill to empower States and local governments to prosecute illegal aliens and to authorize the Secretary of Homeland Security to establish a pilot Volunteer Border Marshal Program; to the Committee on the Judiciary.

By Mr. KERRY (for himself and Mr. SCHUMER):

S. 1824. A bill to amend the Internal Revenue Code of 1986 to strengthen the earned income tax credit; to the Committee on Finance.

By Mr. SANTORUM (for himself and Ms. STABENOW):

S. 1825. A bill to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to revise the funding and deduction rules for multiemployer defined benefit plans, and for other purposes; to the Committee on Finance

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. FEINGOLD:

S. Res. 265. A resolution recognizing 2005 as the year of the 50th Anniversary of the Crop Science Society of America; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. HATCH:

S. Res. 266. A resolution designating the month of October 2005, as ''Family History Month''; considered and agreed to.

By Mr. FRIST (for himself and Mr. REID):

S. Res. 267. A resolution to authorize testimony, document production, and legal representation in State of New Hampshire v. Anne Miller, Mary Lee Sargent, Jessica Ellis, Lynn Chong, Donald Booth, Eileen Reardon; considered and agreed to.

ADDITIONAL COSPONSORS

S. 98

At the request of Mr. ALLARD, the name of the Senator from Ohio (Mr. VOINOVICH) was added as a cosponsor of S. 98, a bill to amend the Bank Holding Company Act of 1956 and the Revised Statutes of the United States to prohibit financial holding companies and national banks from engaging, directly or indirectly, in real estate brokerage or real estate management activities, and for other purposes.

S. 241

At the request of Ms. SNOWE, the name of the Senator from Utah (Mr. BENNETT) was added as a cosponsor of S. 241, a bill to amend section 254 of the Communications Act of 1934 to provide that funds received as universal service contributions and the universal service support programs established pursuant to that section are not subject to certain provisions of title 31, United States Code, commonly known as the Antideficiency Act.

S. 246

At the request of Mr. BUNNING, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor 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. 309

At the request of Mr. DEMINT, the name of the Senator from Virginia (Mr. ALLEN) was added as a cosponsor of S. 309, a bill to amend the Internal Revenue Code of 1986 to provide for the disposition of unused health benefits in cafeteria plans and flexible spending arrangements.

S. 381

At the request of Mr. SMITH, the name of the Senator from Idaho (Mr. CRAPO) was added as a cosponsor of S. 381, a bill to amend the Internal Revenue Code of 1986 to encourage guaranteed lifetime income payments from annuities and similar payments of life insurance proceeds at dates later than death by excluding from income a portion of such payments.

S. 407

At the request of Mr. JOHNSON, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 407, a bill to restore health care coverage to retired members of the uniformed services, and for other purposes.

S. 503

At the request of Mr. BOND, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 503, a bill to expand Parents as Teachers programs and other quality programs of early childhood home visitation, and for other purposes.

S. 513

At the request of Mr. GREGG, the name of the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of S. 513, a bill to provide collective bargaining rights for public safety officers employed by States or their political subdivisions.

S. 842

At the request of Mr. NELSON of Florida, his name was added as a cosponsor of S. 842, a bill to amend the National Labor Relations Act to establish an efficient system to enable employees to form, join, or assist labor organizations, to provide for mandatory injunctions for unfair labor practices during organizing efforts, and for other purposes.

S. 914

At the request of Mr. ALLARD, the name of the Senator from Maine (Ms. COLLINS) 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. 969

At the request of Mr. OBAMA, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 969, a bill to amend the Public Health Service Act with respect to preparation for an influenza pandemic, including an avian influenza pandemic, and for other purposes.

S. 1035

At the request of Mr. INHOFE, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 1035, a bill to authorize the presentation of commemorative medals on behalf of Congress to Native Americans who served as Code Talkers during foreign conflicts in which the United States was involved during the 20th century in recognition of the service of those Native Americans to the United States.

S. 1244

At the request of Mr. GRASSLEY, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S. 1244, a bill to amend the Internal Revenue Code of 1986 to allow individuals a deduction for qualified long-term care insurance premiums, use of such insurance under cafeteria plans and flexible spending arrangements, and a credit for individuals with long-term needs.

S. 1343

At the request of Ms. LANDRIEU, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 1343, a bill to support the establishment or expansion and operation of programs using a network of public and private community entities to provide mentoring for children in foster care.

S. 1463

At the request of Mr. KERRY, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of S. 1463, a bill to clarify that the Small Business Administration has authority to provide emergency assistance to non-farm-related small business concerns that have suffered substantial economic harm from drought.

S. 1523

At the request of Ms. SNOWE, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S. 1523, a bill to amend the Internal Revenue Code of 1986 to make permanent increased expensing for small businesses.

S. 1578

At the request of Mr. ALLARD, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 1578, a bill to reauthorize the Upper Colorado and San Juan River Basin endangered fish recovery implementation programs.

S. 1699

At the request of Mr. SPECTER, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 1699, a bill to amend title 18, United States Code, to provide criminal penalties for trafficking in counterfeit marks.

S. 1737

At the request of Mr. SANTORUM, the name of the Senator from Oklahoma (Mr. COBURN) was added as a cosponsor of S. 1737, a bill to prohibit entities that provide nuclear fuel assemblies to Iran from providing such assemblies to the United States, and for other purposes.

S. 1761

At the request of Mr. THUNE, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of S. 1761, a bill to clarify the liability of government contractors assisting in rescue, recovery, repair, and reconstruction work in the Gulf Coast region of the United States affected by Hurricane Katrina or other major disasters.

S. 1772

At the request of Mr. INHOFE, the name of the Senator from North Carolina (Mrs. DOLE) was added as a cosponsor of S. 1772, a bill to streamline the refinery permitting process, and for other purposes.

S. 1786

At the request of Mr. LOTT, the name of the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 1786, a bill to authorize the Secretary of Transportation to make emergency airport improvement project grants-in-aid under title 49, United States Code, for repairs and costs related to damage from Hurricanes Katrina and Rita.

S. 1817

At the request of Mr. DEMINT, the names of the Senator from Kansas (Mr. ROBERTS), the Senator from Idaho (Mr. CRAIG), the Senator from Florida (Mr. MARTINEZ) and the Senator from Virginia (Mr. ALLEN) were added as cosponsors of S. 1817, a bill to suspend the Davis-Bacon Wage rate requirements for Federal contracts in areas declared national disasters.

S.J. RES. 25

At the request of Mr. TALENT, the name of the Senator from Colorado (Mr. ALLARD) was added as a cosponsor of S.J. Res. 25, a joint resolution proposing an amendment to the Constitution of the United States to authorize the President to reduce or disapprove any appropriation in any bill presented by Congress.

S. CON. RES. 56

At the request of Mrs. FEINSTEIN, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. Con. Res. 56, a concurrent resolution expressing appreciation for the contribution of Chinese art and culture and recognizing the Festival of China at the Kennedy Center.

S. RES. 182

At the request of Mr. COLEMAN, the name of the Senator from South Carolina (Mr. GRAHAM) was added as a cosponsor of S. Res. 182, a resolution supporting efforts to increase childhood cancer awareness, treatment, and research.

S. RES. 253

At the request of Mr. SCHUMER, the name of the Senator from Ohio (Mr. VOINOVICH) was added as a cosponsor of S. Res. 253, a resolution designating October 7, 2005, as ''National 'It's Academic' Television Quiz Show Day.''

AMENDMENT NO. 1911

At the request of Ms. SNOWE, the name of the Senator from Vermont (Mr. JEFFORDS) was added as a cosponsor of amendment No. 1911 proposed to H.R. 2863, a bill making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes.

AMENDMENT NO. 1933

At the request of Mr. KENNEDY, his name was added as a cosponsor of amendment No. 1933 proposed to H.R. 2863, a bill making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes.

At the request of Mr. BAYH, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of amendment No. 1933 proposed to H.R. 2863, supra.

At the request of Mr. CORZINE, his name was added as a cosponsor of amendment No. 1933 proposed to H.R. 2863, supra.

At the request of Mr. BYRD, his name was added as a cosponsor of amendment No. 1933 proposed to H.R. 2863, supra.

AMENDMENT NO. 1937

At the request of Ms. STABENOW, the names of the Senator from North Dakota (Mr. DORGAN), the Senator from Massachusetts (Mr. KERRY), the Senator from Massachusetts (Mr. KENNEDY) and the Senator from Delaware (Mr. BIDEN) were added as cosponsors of amendment No. 1937 proposed to H.R. 2863, a bill making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes.

AMENDMENT NO. 1970

At the request of Mr. DODD, the names of the Senator from West Virginia (Mr. BYRD), the Senator from Illinois (Mr. DURBIN) and the Senator from Massachusetts (Mr. KERRY) were added as cosponsors of amendment No. 1970 proposed to H.R. 2863, a bill making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes.

AMENDMENT NO. 1974

At the request of Mr. LOTT, the names of the Senator from Maine (Ms. SNOWE), the Senator from South Carolina (Mr. GRAHAM), the Senator from Maine (Ms. COLLINS) and the Senator from California (Mrs. FEINSTEIN) were added as cosponsors of amendment No. 1974 intended to be proposed to H.R. 2863, a bill making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes.

AMENDMENT NO. 1977

At the request of Mr. ALEXANDER, his name was added as a cosponsor of amendment No. 1977 proposed to H.R. 2863, a bill making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes.

At the request of Mr. MCCAIN, the names of the Senator from Illinois (Mr. DURBIN), the Senator from Rhode Island (Mr. CHAFEE) and the Senator from New Hampshire (Mr. SUNUNU) were added as cosponsors of amendment No. 1977 proposed to H.R. 2863, supra.

At the request of Mr. LEVIN, his name was added as a cosponsor of amendment No. 1977 proposed to H.R. 2863, supra.

At the request of Mr. WARNER, his name was added as a cosponsor of amendment No. 1977 proposed to H.R. 2863, supra.

At the request of Mr. SALAZAR, his name was added as a cosponsor of amendment No. 1977 proposed to H.R. 2863, supra.

AMENDMENT NO. 1978

At the request of Mr. MCCAIN, the name of the Senator from New Hampshire (Mr. SUNUNU) was added as a cosponsor of amendment No. 1978 proposed to H.R. 2863, a bill making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes.

AMENDMENT NO. 1991

At the request of Mr. KENNEDY, the name of the Senator from Tennessee (Mr. ALEXANDER) was added as a cosponsor of amendment No. 1991 proposed to H.R. 2863, a bill making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes.

AMENDMENT NO. 1992

At the request of Mr. BYRD, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of amendment No. 1992 proposed to H.R. 2863, a bill making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes.

AMENDMENT NO. 2003

At the request of Mr. GRAHAM, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of amendment No. 2003 intended to be proposed to H.R. 2863, a bill making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes.

AMENDMENT NO. 2022

At the request of Ms. LANDRIEU, her name was added as a cosponsor of amendment No. 2022 intended to be proposed to H.R. 2863, a bill making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes.

AMENDMENT NO. 2023

At the request of Mr. SALAZAR, his name was added as a cosponsor of amendment No. 2023 intended to be proposed to H.R. 2863, a bill making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes.

AMENDMENT NO. 2033

At the request of Mr. KERRY, the names of the Senator from Vermont (Mr. LEAHY), the Senator from Minnesota (Mr. DAYTON), the Senator from Michigan (Ms. STABENOW), the Senator from Iowa (Mr. HARKIN), the Senator from Minnesota (Mr. COLEMAN), the Senator from Maine (Ms. SNOWE), the Senator from Connecticut (Mr. DODD), the Senator from Michigan (Mr. LEVIN), the Senator from New Mexico (Mr. BINGAMAN), the Senator from Maine (Ms. COLLINS), the Senator from West Virginia (Mr. BYRD), the Senator from Illinois (Mr. OBAMA) and the Senator from Colorado (Mr. SALAZAR) were added as cosponsors of amendment No. 2033 proposed to H.R. 2863, a bill making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes.

AMENDMENT NO. 2038

At the request of Mr. SCHUMER, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of amendment No. 2038 proposed to H.R. 2863, a bill making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes.

AMENDMENT NO. 2043

At the request of Mr. LOTT, the name of the Senator from Texas (Mr. CORNYN) was added as a cosponsor of amendment No. 2043 intended to be proposed to H.R. 2863, a bill making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. INHOFE (for himself and Mr. COBURN):

S. 1820. A bill to designate the facility of the United States Postal Service located at 6110 East 51st Place in Tulsa, Oklahoma, as the ''Dewey F. Bartlett Post Office''; to the Committee on Homeland Security and Governmental Affairs.

Mr. INHOFE. Mr. President, I rise today along with my colleague, TOM COBURN, to proudly introduce legislation to designate the facility of the United States Postal Service located at 6110 East 51st Place in Tulsa, OK as the ''Dewey F. Bartlett Post Office''.

Dewey Follett Bartlett, former Governor and distinguished alumnus of this Senate body, emulated the Oklahoma spirit of innovative leadership, hard work, and public service. In his honor, I proudly seek to name a post office in his hometown of Tulsa, OK. We commemorate an outstanding public servant so that posterity will be challenged by his example, just as we have been.

Although he was not actually born in Oklahoma, Dewey Bartlett naturalized as fast as he could. While studying at Princeton University, he came home during summers to work in Oklahoma oil fields just as I did. He moved to my hometown, Tulsa, in 1945 to assume a managing role in his family's business after his military service during World War II.

Dewey Bartlett shared my dedication to a strong national defense. As a member of the Senate Armed Services Committee and a pilot myself, I appreciate Mr. Bartlett for his military service to our country. He was awarded the Air Medal for his distinguished efforts in the Pacific Theater during World War II. Not only did he serve in the U.S. Marine Corps as a combat dive-bomber pilot, he championed the military during his service in the Senate.

During his tenure in the Senate, Bartlett was more than once deemed the most conservative member of the Senate. It is an Oklahoma distinction that I have sought to uphold. Last year, the American Conservative Union ranked me as the most conservative member of the Senate. I share his vision of advocating common sense Oklahoma values including less government bureaucracy, less regulation, lower taxes and fiscal responsibility.

Dewey Bartlett's political philosophy was consistent with the Constitutional intention to not encumber Americans with layers of bureaucracy, but to promote individual liberty, freedom and justice. I am pleased that we can honor albeit in a small way, his service to our country by naming a post office in Tulsa, OK after him.

I encourage my colleagues to join me in support of this legislation as we commemorate an outstanding citizen so that future generations will be challenged by his example.

By Mr. REID (for himself, Mr. OBAMA, Mr. BAYH, Mr. KENNEDY, Mr. HARKIN, Mr. DURBIN, Mr. REED, Mr. DODD, Mrs. MURRAY, Ms. MIKULSKI, Mrs. CLINTON, Mr. KOHL, and Mr. DAYTON):

S. 1821. A bill to amend the Public Health Service Act with respect to preparation for an influenza pandemic, including an avian influenza pandemic, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. REID. Mr. President, four years after 9/11, the government was supposed to be prepared for a crisis like Hurricane Katrina. Yet as we all saw, the government was not. We owe it to the American people to do better in the future.

Once again, the experts are warning us. This time, it's not about levees or terrorists. It's about another pandemic flu.

According to the experts, another pandemic flu is not a matter of if but a question of when. As Dr. Julie Gerberding of the Centers for Disease Control put it: ''. . . many influenza experts, including those at CDC, consider the threat of a serious influenza pandemic to the United States to be high. Although the timing and impact of an influenza pandemic is unpredictable, the occurrence is inevitable and potentially devastating.''

The devastation caused by Hurricane Katrina would pale in comparison to the potential consequences of a global pandemic. A respected U.S. health expert has concluded that 1.7 million Americans would die in the first year alone of an outbreak. A pandemic flu outbreak in the Untied States today could cost our economy hundreds of billions of dollars due to death, lost productivity and disruptions to commerce and society.

Perhaps the only thing more troubling than contemplating the possible consequences of an avian flu pandemic is recognizing that neither this Nation nor the world are prepared to deal with it.

Our National Pandemic Plan is still in draft stages. We lack the capacity to rapidly manufacture vaccines in mass

quantities. We barely have enough antiviral medication for 2 percent of our population. Our health care infrastructure is not prepared to handle a pandemic. And the medical community, businesses, and general public need to be better prepared.

These are just a few ways we are not as prepared as we should be.

America can do better. An avian flu pandemic may be inevitable, but the devastating consequences are not. We need to heed the warnings and take action immediately.

Last week, the Senate unanimously approved an amendment offered by Senators HARKIN, OBAMA, KENNEDY, DURBIN and me that will begin to provide the resources necessary to protect Americans against this looming threat.

Today, I am proud to introduce, along with Senators OBAMA, BAYH, KENNEDY, HARKIN and DURBIN, the Pandemic Preparedness and Response Act of 2005. This legislation builds on our commitment to protecting Americans by preparing for the possibility of a pandemic.

Specifically, the Pandemic Preparedness and Response Act will ensure that we have a national plan to address a flu pandemic. Under our bill, a new Director of Pandemic Preparedness and Response within the Executive Office of the President will be responsible for finalizing and carrying out the National Pandemic Influenza Preparedness Plan. There should be no question about who is in charge of preparing our nation for this looming threat. This new position will also ensure that, in the event of a pandemic, we will have a single senior official whose primary responsibility is to coordinate the federal government's response and ensure coordination between local governments and the private sector. This is serious responsibility, and our bill will ensure that the new Director is held accountable for preparing and protecting Americans against the threat of a pandemic.

Our bill will improve surveillance and international partnerships so we may detect the emergence of a flu strain with pandemic potential immediately. Specifically, our bill establishes and implements a comprehensive diplomatic strategy targeted at nations most at risk for an epidemic of avian influenza. It also provides assistance for international surveillance and medical care, and creates an International Fund to support pre-pandemic influenza control and relief activities in countries affected by avian influenza.

Domestic surveillance efforts will also be bolstered by our legislation. Our bill improves state surveillance capacity, and expands efforts by the Department of Agriculture to prevent pandemic avian influenza.

The Pandemic Preparedness and Response Act will improve our capacity to develop, produce and distribute a vaccine that will be effective against a pandemic flu. It will expand research at the National Institutes of Health so we may develop more efficient methods of producing vaccines. Our bill would enhance our vaccine production capacity by creating a guaranteed market for seasonal flu vaccine through a federal buyback program for a portion of unsold doses. And among other provisions, our bill will improve access to vaccinations during a pandemic by enhancing annual flu vaccination coverage for uninsured and underinsured adults and children.

Our legislation will ensure that we have enough antivirals, vaccines and other essential medications and supplies in the Strategic National Stockpile. Specifically, our bill requires that we procure enough antiviral medication to cover a minimum of 50 percent of the population for the Strategic National Stockpile. This legislation will protect Americans from the price-gouging of medications during a pandemic, and establishes a mass tracking and distribution system for vaccines and antiviral medications so we can direct medications and vaccines to where they are needed the most.

The Pandemic Preparedness and Response Act will also improve our surge capacity so that the American people can be assured there will be an adequate supply of health care providers and institutions to care for them in the event of a pandemic. Our bill will also ensure that public education and awareness campaigns targeted to businesses, health care providers and the American public related to pandemic preparedness are conducted.

And finally, the Pandemic Preparedness and Response Act will ensure that adequate resources are available to address this looming threat.

I hope that my colleagues will join me in supporting this legislation so we may ensure that we do everything possible to prepare and protect Americans from the threat of a global flu pandemic.

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. 1821

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 ''Pandemic Preparedness and Response Act''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) The Department of Health and Human Services reports that an influenza pandemic has a greater potential to cause rapid increases in death and illness than virtually any other natural health threat.

(2) Three pandemics occurred during the 20th century: the Spanish flu pandemic in 1918, the Asian flu pandemic in 1957, and the Hong Kong flu pandemic in 1968. The Spanish flu pandemic was the most severe, causing over 500,000 deaths in the United States and more than 20,000,000 deaths worldwide.

(3) The Centers for Disease Control and Prevention has estimated conservatively that up to 207,000 Americans would die, and up to 734,000 would be hospitalized, during the next pandemic. The costs of the pandemic, including the total direct costs associated with medical care and indirect costs of lost productivity and death, are estimated at between $71,000,000,000 and $166,500,000,000. These costs do not include the economic effects of pandemic on commerce and society.

(4) Recent studies suggest that avian influenza strains, which are endemic in wild birds and poultry populations in some countries, are becoming increasingly capable of causing severe disease in humans and are likely to cause the next pandemic flu.

(5) In 2004, 8 nations—Thailand, Vietnam, Indonesia, Japan, Laos, China, Cambodia, and the Republic of Korea—experienced outbreaks of avian flu (H5N1) among poultry flocks. Cases of human infections were confirmed in Thailand, Cambodia, Indonesia, and Vietnam (including a possible human-to-human infection in Thailand).

(6) As of September 29, 2005, 116 confirmed human cases of avian influenza (H5N1) have been reported, 60 of which resulted in death. Of these cases, 91 were in Vietnam, 17 in Thailand, 4 in Cambodia, and 4 in Indonesia.

(7) On February 21, 2005, Dr. Julie Gerberding, Director of the Centers for Disease Control and Prevention, stated that ''this is a very ominous situation for the globe ... the most important threat we are facing right now.''.

(8) On February 23, 2005, Dr. Shigeru Omi, Asia regional director of the World Health Organization (WHO), stated with respect to the avian flu, ''We at WHO believe that the world is now in the gravest possible danger of a pandemic.''.

(9) The best defense against influenza pandemics is a heightened global surveillance system. In many of the nations where avian flu (H5N1) has become endemic the early detection capabilities are severely lacking, as is the transparency in the health systems.

(10) In addition to surveillance, pandemic preparedness requires domestic and international coordination and cooperation to ensure an adequate medical response, including communication and information networks, public health measures to prevent spread, use of vaccination and antivirals, provision of health outpatient and inpatient services, and maintenance of core public functions.

SEC. 3. AMENDMENTS TO THE PUBLIC HEALTH SERVICE ACT.

Title XXI of the Public Health Service Act (42 U.S.C. 300aa–1 et seq.) is amended by adding at the end the following:

"Subtitle 3—Pandemic Influenza Preparedness

"SEC. 2141. DEFINITION.

''For purposes of this subtitle, the term 'State' shall have the meaning given such term in section 2(f) and shall include Indian tribes and tribal organizations (as defined in section 4(b) and 4(c) of the Indian Self-Determination and Education Assistance Act).

"SEC. 2142. NATIONAL DIRECTOR OF PANDEMIC PREPAREDNESS AND RESPONSE.

''(a) APPOINTMENT.—The President shall appoint an individual to serve as the National Director of Pandemic Preparedness and Response (referred to in this section as the 'Director') within the Executive Office of the President.

''(b) RESPONSIBILITIES.—The Director shall—

''(1) serve as the chairperson of the Pandemic Influenza Preparedness Policy Coordinating Committee (as described in section 2143);

''(2) coordinate the Federal interagency preparation for a pandemic;

''(3) coordinate the Federal interagency response to a pandemic;

''(4) oversee approval of State pandemic plans to ensure nationwide preparedness standards and regional coordination as provided for under section 2144(b)(3);

''(5) ensure coordination between the governmental and non-governmental economic and finance infrastructure as it relates to pandemic preparedness and response;

''(6) as soon as practicable, finalize a National Pandemic Influenza Preparedness Plan that describes programs and activities to decrease the burden of disease, minimize social disruption, and reduce economic impact from an influenza pandemic;

''(7) implement the National Pandemic Influenza Preparedness Plan;

''(8) make the National Pandemic Influenza Preparedness Plan available to Congress, and the public as appropriate;

''(9) submit to Congress an annual budget request related to the National Pandemic Influenza Preparedness Plan;

''(10) report to Congress on a biannual basis progress regarding the implementation of the National Pandemic Influenza Preparedness Plan;

''(11) address any deficiencies in the National Pandemic Influenza Preparedness Plan as determined by the Government Accountability Office report under subsection (c);

''(12) coordinate the provision of technical assistance related to pandemic preparedness across Federal agencies, States, and local governments;

''(13) ensure outreach and education campaigns are conducted related to preparedness for businesses, health care providers, and the public;

''(14) address supply chain issues related to a pandemic;

''(15) ensure that the National Pandemic Influenza Preparedness Plan includes a specific focus on traditionally underserved populations, including low-income, racial and ethnic minorities, immigrants, and uninsured populations; and

''(16) hire staff, request information, assistance, or detailees from other Federal agencies, and carry out other activities related to staffing and administration.

''(c) GAO REPORT.—

''(1) IN GENERAL.—Not later than 60 days after the Director has finalized the National Pandemic Influenza Preparedness Plan under subsection (b)(5), the Government Accountability Office shall submit to the Director and Congress a report concerning the National Pandemic Influenza Preparedness Plan.

''(2) REQUIREMENTS.—At a minimum, the report under paragraph (1) shall evaluate the ability of the National Pandemic Influenza Preparedness Plan to—

''(A) address the organizational structure and chain of command, both in the Federal government and at the State level;

''(B) ensure adequate laboratory surveillance of influenza, including the ability to isolate and subtype influenza viruses year round;

''(C) improve vaccine research, development, and production;

''(D) procure adequate doses of antivirals for treatment.

''(E) develop systems for tracking and distributing antiviral medication and vaccines;

''(F) prioritize who would receive antivirals and vaccines based on limited supplies;

''(G) stockpile medical and safety equipment for health care workers and first responders;

''(H) assure surge capacity capabilities for health care providers and institutions;

''(I) secure a backup health care workforce in the event of a pandemic;

''(J) ensure the availability of food, water, and other essential items during a pandemic;

''(K) provide guidance on needed State and local authority to implement public health measures such as isolation or quarantine;

''(L) maintain core public functions, including public utilities, refuse disposal, mortuary services, transportation, police and firefighter services, and other critical services

''(M) establish networks that provide alerts and other information for health care providers;

''(N) communicate with the public with respect to prevention and obtaining care during a pandemic;

''(O) provide security for first responders and other medical personnel and volunteers, hospitals, treatment centers, isolation and quarantine areas, and transportation and delivery of resources

''SEC. 2143. POLICY COORDINATING COMMITTEE ON PANDEMIC INFLUENZA PREPAREDNESS.

''(a) IN GENERAL.—There is established the Pandemic Influenza Preparedness Policy Coordinating Committee (referred to in this section as the 'Committee').

''(b) MEMBERSHIP.—

''(1) IN GENERAL.—The Committee shall be composed of—

''(A) the Secretary;

''(B) the Secretary of Homeland Security;

''(C) the Secretary of Agriculture;

''(D) the Secretary of State;

''(E) the Secretary of Defense;

''(F) the Secretary of Commerce;

''(G) the Administrator of the Environmental Protection Agency;

''(H) the Secretary of Transportation;

''(I) the Secretary of Veterans Affairs; and

''(J) other representatives as determined appropriate by the Chair of the Committee.

''(2) CHAIR.—The Director of Pandemic Preparedness and Response shall serve as the Chair of the Committee.

''(3) TERM.—The members of the Committee shall serve for the life of the Committee.

''(c) MEETINGS.—

''(1) IN GENERAL.—The Committee shall meet not less often than 2 times per year at the call of the Chair or as determined necessary by the President.

''(2) REPRESENTATION.—A member of the Committee under subsection (b) may designate a representative to participate in Committee meetings, but such representative shall hold the position of at least an assistant secretary or equivalent position.

''(d) DUTIES OF THE COMMITTEE.—

''(1) PREPAREDNESS PLANS.—Each member of the Committee shall submit to the Committee a pandemic influenza preparedness plan for the agency involved that describes—

''(A) initiatives and proposals by such member to address pandemic influenza (including avian influenza) preparedness; and

''(B) any activities and coordination with international entities related to such initiatives and proposals.

''(2) INTERAGENCY PLAN AND RECOMMENDATIONS.—

''(A) IN GENERAL.—

''(i) PREPAREDNESS PLAN.—Based on the preparedness plans described under paragraph (1), and not later than 90 days after the date of enactment of this subtitle, the Committee shall develop an Interagency Preparedness Plan that integrates and coordinates such preparedness plans.

''(ii) CONTENT OF PLAN.—The Interagency Preparedness Plan under clause (i) shall include a description of—

''(I) departmental or agency responsibility and accountability for each component of such plan;

''(II) funding requirements and sources;

''(III) international collaboration and coordination efforts; and

''(IV) recommendations and a timeline for implementation of such plan.

''(B) REPORT.—

''(i) IN GENERAL.—The Committee shall submit to the President and Congress, and make available to the public as appropriate, a report that includes the Interagency Preparedness Plan.

''(ii) UPDATED REPORT.—The Committee shall submit to the President and Congress, and make available to the public as appropriate, on a biannual basis, an update of the report that includes a description of—

''(I) progress made toward plan implementation, as described under clause (i); and

''(II) progress of the domestic preparedness programs under section 2144 and of the international assistance programs under section 2145.

''(C) CONSULTATION WITH INTERNATIONAL ENTITIES.—In developing the preparedness plans described under subparagraph (A) and the report under subparagraph (B), the Committee should consult with representatives from the World Health Organization, the World Organization for Animal Health, and other international bodies, as appropriate.

''(e) APPLICATION OF FACA.—Notwithstanding the Federal Advisory Committee Act, non-government individuals and entities may participate in the activities of the Committee.

''SEC. 2144. DOMESTIC PANDEMIC INFLUENZA PREPAREDNESS ACTIVITIES.

''(a) PANDEMIC PREPAREDNESS ACTIVITIES.—The Director of Pandemic Preparedness and Response shall strengthen, expand, and coordinate domestic pandemic influenza preparedness activities.

''(b) STATE PREPAREDNESS PLAN.—

''(1) IN GENERAL.—As a condition of receiving funds from the Centers for Disease Control and Prevention or the Health Resources and Services Administration related to bioterrorism, a State shall—

''(A) designate an official or office as responsible for pandemic influenza preparedness;

''(B) submit to the Director of the Centers for Disease Control and Prevention a Pandemic Influenza Preparedness Plan described under paragraph (2); and

''(C) have such Preparedness Plan approved in accordance with this subsection.

''(2) PREPAREDNESS PLAN.—

''(A) IN GENERAL.—The Pandemic Influenza Preparedness Plan required under paragraph (1) shall address—

''(i) human and animal surveillance activities, including capacity for epidemiological analysis, isolation and subtyping of influenza viruses year-round, including for avian influenza among domestic poultry, and reporting of information across human and veterinary sectors;

''(ii) methods to ensure surge capacity in hospitals, laboratories, outpatient healthcare provider offices, medical suppliers, and communication networks;

''(iii) assisting the recruitment and coordination of national and State volunteer banks of healthcare professionals;

''(iv) distribution of vaccines, antivirals, and other treatments to priority groups, and monitor effectiveness and adverse events;

''(v) networks that provide alerts and other information for healthcare providers and organizations at the National, State, and regional level;

''(vi) communication with the public with respect to prevention and obtaining care during pandemic influenza;

''(vii) maintenance of core public functions, including public utilities, refuse disposal, mortuary services, transportation, police and firefighter services, and other critical services;

''(viii) provision of security for—

''(I) first responders and other medical personnel and volunteers;

''(II) hospitals, treatment centers, and isolation and quarantine areas;

''(III) transport and delivery of resources, including vaccines, medications and other supplies; and

''(IV) other persons or functions as determined appropriate by the Secretary;

''(ix) the acquisition of necessary legal authority for pandemic activities;

''(x) integration with existing national, State, and regional bioterrorism preparedness activities or infrastructure;

''(xi) coordination among public and private health sectors with respect to healthcare delivery, including mass vaccination and treatment systems, during pandemic influenza; and

''(xii) coordination with Federal pandemic influenza preparedness activities.

''(B) UNDERSERVED POPULATIONS.—The Pandemic Influenza Preparedness Plan required under paragraph (1) shall include a specific focus on surveillance, prevention, and medical care for traditionally underserved populations, including low-income, racial and ethnic minority, immigrant, and uninsured populations.

''(3) APPROVAL OF STATE PLAN.—

''(A) IN GENERAL.—The Director of Pandemic Preparedness and Response, in collaboration with the Pandemic Influenza Preparedness Policy Coordinating Committee, shall develop criteria to rate State Pandemic Influenza Preparedness Plans required under paragraph (1) and determine the minimum rating needed for approval.

''(B) TIMING OF APPROVAL.—Not later than 90 days after a State submits a State Pandemic Influenza Preparedness Plan as required under paragraph (1), the Director of Pandemic Preparedness and Response shall make a determination regarding approval of such Plan.

''(4) REPORTING OF STATE PLAN.—All Pandemic Influenza Preparedness Plans submitted and approved under this section shall be made available to Congress, State officials, and the public as determined appropriate by the Director.

''(5) ASSISTANCE TO STATES.—The Centers for Disease Control and Prevention and the Health Resources and Services Administration may provide assistance to States in carrying out this subsection, or implementing an approved State Pandemic Influenza Preparedness Plan, which may include the detail of an officer to approved domestic pandemic sites or the purchase of equipment and supplies.

''(6) WAIVER.—The Director of Pandemic Preparedness and Response may grant a temporary waiver of 1 or more of the requirements under this subsection.

''(c) DOMESTIC SURVEILLANCE.—

''(1) IN GENERAL.—The Secretary, in coordination with the Secretary of Agriculture, shall establish minimum thresholds for States with respect to adequate surveillance for pandemic influenza, including possible pandemic avian influenza.

''(2) ASSISTANCE TO STATES.—

''(A) IN GENERAL.—The Secretary, in coordination with the Secretary of Agriculture, shall provide assistance to States and regions to meet the minimum thresholds established under paragraph (1).

''(B) TYPES OF ASSISTANCE.—Assistance provided to States under subparagraph (A) may include—

''(i) the establishment or expansion of State surveillance and alert systems, including the Sentinel Physician Surveillance System and 122 Cities Mortalities Report System;

''(ii) the provision of equipment and supplies;

''(iii) support for epidemiological analysis and investigation of novel strains;

''(iv) the sharing of biological specimens and epidemiological and clinical data within and across States; and

''(v) other activities determined appropriate by the Secretary.

''(3) DETAIL OF OFFICERS.—The Secretary may detail officers to States for technical assistance as needed to carry out this subsection.

''(d) PRIVATE SECTOR INVOLVEMENT.—

''(1) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention and the Administrator of the Health Resources and Services Administration, and in coordination with private sector entities, shall integrate and coordinate public and private influenza surveillance activities, as appropriate.

''(2) GRANT PROGRAM.—

''(A) IN GENERAL.—In carrying out the activities under paragraph (1), the Secretary may establish a grant program, or expand existing grant programs, to provide funding to eligible entities to coordinate or integrate as appropriate, pandemic preparedness surveillance activities between States and private health sector entities, including hospitals, health plans, and other health systems.

''(B) ELIGIBILITY.—To be eligible to receive a grant under subparagraph (A), an entity shall submit an application at such time, in such manner, and containing such information as the Secretary may require.

''(C) USE OF FUNDS.—Funds under a grant under subparagraph (A) may be used to—

''(i) develop and implement surveillance protocols for patients in outpatient and hospital settings;

''(ii) establish a communication alert plan for patients for reportable signs and symptoms that may suggest influenza;

''(iii) plan for the vaccination of populations and, if appropriate, dissemination of antiviral drugs;

''(iv) purchase necessary equipment and supplies;

''(v) increase laboratory testing and networking capacity;

''(vi) conduct epidemiological and other analyses; or

''(vii) report and disseminate data.

''(D) DETAIL OF OFFICERS.—The Secretary may detail officers to grantees under subparagraph (A) for technical assistance.

''(E) REQUIREMENT.—As a condition of receiving a grant under subparagraph (A), a State shall have a plan to meet minimum thresholds for State influenza surveillance established by the Director of the Centers for Disease Control and Prevention in coordination with the Secretary of Agriculture under subsection (b).

''(e) PROCUREMENT OF ANTIVIRALS FOR THE STRATEGIC NATIONAL STOCKPILE.—The Secretary shall take immediate action to procure for the Strategic National Stockpile described under section 319F-2 antivirals needed to prevent or treat infection during a pandemic influenza, including possible pandemic avian influenza, for at least 50 percent of the population.

''(f) PROCUREMENT OF VACCINES FOR THE STRATEGIC NATIONAL STOCKPILE.—Subject to development and testing of potential vaccines for pandemic influenza, including possible pandemic avian influenza, the Secretary shall determine the minimum number of doses of vaccines needed to prevent infection during at least the first wave of pandemic influenza for health professionals (including doctors, nurses, mental health professionals, pharmacists, laboratory personnel, epidemiologists, virologists, and public health practitioners), core public utility employees, and those persons expected to be at high risk for serious morbidity and mortality from pandemic influenza, and take immediate steps to procure this minimum number of doses for the Strategic National Stockpile described under section 319F–2.

''(g) PROCUREMENT OF ESSENTIAL MEDICATIONS.—The Secretary shall, as soon as is practicable, take action to procure for the Strategic National Stockpile essential medications and other supplies that may be needed in the event of a pandemic.

''(h) NATIONAL TRACKING AND DISTRIBUTION SYSTEM FOR VACCINES AND ANTIVIRALS.—

''(1) IN GENERAL.—The Secretary shall develop and implement a national system for the tracking and distribution of antiviral medications and vaccines in order to prepare and respond to pandemic influenza.

''(2) SYSTEM.—The system developed under paragraph (1) shall—

''(A) allow for the electronic tracking of all domestically available antiviral medication and vaccines for pandemic influenza;

''(B) anticipate shortages, and alert officials if shortages are expected in such medications and vaccines;

''(C) target distribution to high-risk groups, including health professionals and relief personnel and other individuals determined to be most susceptible to disease or death from pandemic flu;

''(D) ensure equitable distribution, particularly across low-income and other underserved groups; and

''(E) integrate with existing State and local systems as appropriate.

''(i) REIMBURSEMENTS.—The Secretary shall have the authority to reimburse State and local health departments for expenditures related to influenza vaccine purchase and administration during a public health emergency under section 319(a).

''SEC. 2145. PROPOSAL FOR INTERNATIONAL FUND TO SUPPORT PANDEMIC INFLUENZA CONTROL.

''(a) IN GENERAL.—The Director of Pandemic Preparedness and Response should submit to the Director of the World Health Organization a proposal to study the feasibility of establishing a fund, (referred to in this section as the 'Pandemic Fund') to support pre-pandemic influenza control, surveillance, and relief activities conducted in countries affected by avian influenza or other viruses likely to cause pandemic influenza.

''(b) CONTENT OF PROPOSAL.—The proposal submitted under subsection (a) shall describe, with respect to the Pandemic Fund—

''(1) funding sources;

''(2) administration;

''(3) application process by which a country may apply to receive assistance from such Fund;

''(4) factors used to make a determination regarding a submitted application, which may include—

''(A) the gross domestic product of the applicant country;

''(B) the burden of need, as determined by estimated human morbidity and mortality and economic impact related to pandemic influenza and the existing capacity and resources of the applicant country to control the spread of the disease; and

''(C) the willingness of the country to cooperate with other countries with respect to preventing and controlling the spread of the pandemic influenza; and

''(5) any other information the Secretary determines necessary.

''(c) USE OF FUNDS.—Funds from any Pandemic Fund established as provided for in this section shall be used to complement and augment ongoing bilateral programs and activities from the United States and other donor nations, or establish new programs as needed.

''SEC. 2146. INTERNATIONAL DIPLOMATIC AND DEVELOPMENT STRATEGY.

''(a) POLICY.—It is the policy of the United States to develop and implement a comprehensive diplomatic strategy targeted at (but not limited to) nations in Southeast and East Asia that are most at risk for an outbreak of the avian influenza, including Cambodia, China, Laos, Thailand, Indonesia, and Vietnam, in order to strengthen international public health structures to detect, prevent, and effectively respond to an outbreak of the avian flu.

''(b) STRATEGY.—The strategy developed and implemented under subsection (a) shall include—

''(1) supporting information sharing and strengthening surveillance, and rapid response capacities in key nations, including the development of pandemic preparedness and response plans;

''(2) issuing demarches to key nations in the region urging additional cooperation and coordination with the United States, regional governments, and international organizations;

''(3) provide for regular visits by cabinet-level officials of the United States Government, including the Secretary of State, Secretary of Health and Human Services, Secretary of Agriculture, Secretary of Homeland Security, and Secretary of Defense, to key nations in Southeast and East Asia in order to enhance cooperation;

''(4) expanding ongoing technical assistance programs, including training of personnel, procuring laboratory equipment, logistics support, bio-safety procedures, quality control, and case detection investigation techniques;

''(5) exchanges of scientists and medical personnel engaged in significant work on issues related to avian flu;

''(6) encouraging regional governments to implement viable compensation schemes to encourage reporting by poultry farmers of cases of avian influenza in commercial flocks;

''(7) forward deployment of additional United States Government science and medical personnel to embassies and consulates in the region;

''(8) public awareness campaigns in the region, including increased involvement of the Broadcasting Board of Governors and Voice of America, to ensure timely and accurate dissemination of information;

''(9) using the voice and vote of the United States at meeting of appropriate international organizations to support the aforementioned efforts; and

''(10) integrating the private sector, especially those entities with a strong presence in the region, into this effort.

''SEC. 2147. INTERNATIONAL PANDEMIC INFLUENZA ASSISTANCE.

''(a) IN GENERAL.—The Secretary shall assist other countries in preparation for, and response to, pandemic influenza, including possible pandemic avian influenza.

''(b) INTERNATIONAL SURVEILLANCE.—

''(1) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, and in collaboration with the Secretary of Agriculture, in consultation with the World Health Organization and the World Organization for Animal Health, shall establish minimum standards for surveillance capacity for all countries with respect to viral strains with pandemic potential, including avian influenza.

''(2) ASSISTANCE.—The Secretary and the Secretary of Agriculture shall assist other countries to meet the standards established in paragraph (1) through—

''(A) the detail of officers to foreign countries for the provision of technical assistance or training;

''(B) laboratory testing, including testing of specimens for viral isolation or subtype analysis;

''(C) epidemiological analysis and investigation of novel strains;

''(D) provision of equipment or supplies;

''(E) coordination of surveillance activities within and among countries;

''(F) the establishment and maintenance of an Internet database that is accessible to health officials domestically and internationally, for the purpose of reporting new cases or clusters of influenza and other information that may help avert the pandemic spread of influenza; and

''(G) other activities as determined necessary by the Secretary.

''(c) INCREASED INTERNATIONAL MEDICAL CAPACITY DURING PANDEMIC INFLUENZA.—Notwithstanding any other provision of law, the Secretary, in consultation with the Secretary of State, may provide vaccines, antiviral medications, and supplies to foreign countries from the Strategic National Stockpile described under section 319F–2.

''(d) ASSISTANCE TO FOREIGN COUNTRIES.—The Centers for Disease Control and Prevention and the Health Resources and Services Administration may provide assistance to foreign countries in carrying out this section, which may include the detail of an officer to approved international pandemic sites or the purchase of equipment and supplies.

''SEC. 2148. PUBLIC EDUCATION AND AWARENESS CAMPAIGN.

''(a) IN GENERAL.—The Director of the Centers for Disease Control and Prevention, in consultation with the United States Agency for International Development, the World Health Organization, the World Organization for Animal Health, and foreign countries, shall develop an outreach campaign with respect to public education and awareness of influenza and influenza preparedness.

''(b) DETAILS OF CAMPAIGN.—The campaign established under subsection (a) shall—

''(1) be culturally and linguistically appropriate for domestic populations;

''(2) be adaptable for use in foreign countries;

''(3) target high-risk populations (those most likely to contract, transmit, and die from influenza);

''(4) promote personal influenza precautionary measures and knowledge, and the need for general vaccination, as appropriate; and

''(5) describe precautions at the State and local level that could be implemented during pandemic influenza, including quarantine and other measures.

''SEC. 2149. HEALTH PROFESSIONAL TRAINING.

''The Secretary, directly or through contract, and in consultation with professional health and medical societies, shall develop and disseminate pandemic influenza training curricula—

''(1) to educate and train health professionals, including physicians, nurses, public health practitioners, virologists and epidemiologists, veterinarians, mental health providers, allied health professionals, and paramedics and other first responders;

''(2) to educate and train volunteer, non-medical personnel whose assistance may be required during a pandemic influenza outbreak; and

''(3) that address prevention, including use of quarantine and other isolation precautions, pandemic influenza diagnosis, medical guidelines for use of antivirals and vaccines, and professional requirements and responsibilities, as appropriate.

''SEC. 2150. RESEARCH AT THE NATIONAL INSTITUTES OF HEALTH.

''The Director of the National Institutes of Health (referred to in this section as the 'Director of NIH'), in collaboration with the Director of the Centers for Disease Control and Prevention, and other relevant agencies, shall expand and intensify human and animal research, with respect to influenza, on—

''(1) vaccine development and manufacture, including strategies to increase immunological response;

''(2) effectiveness of inducing heterosubtypic immunity;

''(3) antigen-sparing studies;

''(4) antivirals, including minimal dose or course of treatment and timing to achieve prophylactic or therapeutic effect;

''(5) side effects and drug safety of vaccines and antivirals in subpopulations;

''(6) alternative routes of delivery of vaccines, antivirals, and other medications as appropriate;

''(7) more efficient methods for testing and determining virus subtype;

''(8) protective measures;

''(9) modes of influenza transmission;

''(10) effectiveness of masks, hand-washing, and other non-pharmaceutical measures in preventing transmission;

''(11) improved diagnostic tools for influenza; and

''(12) other areas determined appropriate by the Director of NIH.

''SEC. 2151. RESEARCH AT THE CENTERS FOR DISEASE CONTROL AND PREVENTION.

''The Director of the Centers for Disease Control and Prevention, in collaboration with other relevant agencies, shall expand and intensify research, with respect to influenza, on—

''(1) historical research on prior pandemics to better understand pandemic epidemiology, transmission, protective measures, high-risk groups, and other lessons that may be applicable to future pandemic;

''(2) communication strategies for the public during pandemic influenza, taking into consideration age, racial and ethnic background, health literacy, and risk status;

''(3) changing and influencing human behavior as it relates to vaccination;

''(4) development and implementation of a public, non-commercial and non-competitive broadcast system and person-to-person networks;

''(5) population-based surveillance methods to estimate influenza infection rates and rates of outpatient illness;

''(6) vaccine effectiveness;

''(7) systems to monitor vaccination coverage levels and adverse events from vaccination; and

''(8) other areas determined appropriate by the Director of the Centers for Disease Control and Prevention.

''SEC. 2152. INSTITUTE OF MEDICINE STUDY ON THE LEGAL, ETHICAL, AND SOCIAL IMPLICATIONS OF PANDEMIC INFLUENZA.

''(a) IN GENERAL.—The Secretary shall contract with the Institute of Medicine to—

''(1) study the legal, ethical, and social implications of, with respect to pandemic influenza—

''(A) animal/human interchange;

''(B) global surveillance;

''(C) case contact investigations;

''(D) vaccination and medical treatment;

''(E) community hygiene;

''(F) travel and border controls;

''(G) decreased social mixing and increased social distance;

''(H) civil confinement; and

''(I) other topics as determined appropriate by the Secretary.

''(2) not later than 1 year after the date of enactment of the Pandemic Preparedness and Response Act, submit to the Secretary a report that describes recommendations based on the study conducted under paragraph (1).

''(b) IMPLEMENTATION OF RECOMMENDATIONS.—Not later than 90 days after the submission of the report of under subsection (a)(2), the Secretary shall address the recommendations of the Institute of Medicine regarding the domestic and international allocation and distribution of pandemic influenza vaccine and antivirals.

''SEC. 2153. NATIONAL PANDEMIC INFLUENZA ECONOMICS ADVISORY COMMITTEE.

''(a) IN GENERAL.—There is established the National Pandemic Influenza Economics Advisory Committee (referred to in this section as the 'Committee').

''(b) MEMBERSHIP.—

''(1) IN GENERAL.—The members of the Committee shall be appointed by the Comptroller General of the United States and shall include domestic and international experts on pandemic influenza, public health, veterinary science, commerce, economics, finance, and international diplomacy.

''(2) CHAIR.—The Comptroller General of the United States shall select a Chair from among the members of the Committee.

''(c) DUTIES.—The Committee shall study and make recommendations to Congress and the Secretary on the financial and economic impact of pandemic influenza and possible financial structures for domestic and international pandemic response, relating to—

''(1) the development, storage, and distribution of vaccines;

''(2) the development, storage, and distribution of antiviral and other medications and supplies;

''(3) increased surveillance activities;

''(4) provision of preventive and medical care during pandemic;

''(5) reimbursement for health providers and other core public function employees;

''(6) reasonable compensation for farmers and other workers that bear direct or disproportionate loss of revenue; and

''(7) other issues determined appropriate by the Chair.

''(d) COMPENSATION.—

''(1) IN GENERAL.—Each member of the Committee 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 Committee. All members 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.

''(2) TRAVEL EXPENSES.—A member of the Committee shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for an employee of an agency under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in the performance of the duties of the Committee.

''(e) STAFF.—

''(1) IN GENERAL.—The Chair of the Committee shall provide the Committee with such professional and clerical staff, such information, and the services of such consultants as may be necessary to assist the Committee in carrying out the functions under this section.

''(2) DETAIL OF FEDERAL GOVERNMENT EMPLOYEES.—

''(A) IN GENERAL.—An employee of the Federal Government may be detailed to the Committee without reimbursement.

''(B) CIVIL SERVICE STATUS.—The detail of the employee shall be without interruption or loss of civil service status or privilege.

''(3) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chair of the Committee may procure temporary and intermittent services in accordance with section 3109(b) of title 5, United States Code, at rates for individuals that 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 that title.

SEC. 2154. PANDEMIC INFLUENZA AND ANIMAL HEALTH.

''(a) IN GENERAL.—The Secretary of Agriculture shall expand and intensify efforts to prevent pandemic influenza, including possible pandemic avian influenza.

''(b) REPORT.—Not later than 180 days after the date of enactment this Act, the Secretary of Agriculture shall submit to Congress a report that describes the anticipated impact of pandemic influenza on the United States.

''(c) ASSISTANCE.—The Secretary of Agriculture, in consultation with the Secretary of Health and Human Services, the World Health Organization, and the World Organization for Animal Health, shall provide domestic and international assistance with respect to pandemic influenza preparedness to—

''(1) support the eradication of infectious animal diseases and zoonosis;

''(2) increase transparency in animal disease states;

''(3) collect, analyze, and disseminate veterinary data;

''(4) strengthen international coordination and cooperation in the control of animal diseases; and

''(5) promote the safety of world trade in animals and animal products.

''(d) ELECTRONIC DATABASE.—The Secretary of Agriculture, in conjunction with the Secretary of Health and Human Services, shall establish an electronic disease surveillance database in order to trace the incidence of avian influenza in both animals and humans in the United States.

''(e) IMPROVEMENTS IN THE NATIONAL ANIMAL HEALTH LABORATORY NETWORK.—The Secretary of Agriculture shall evaluate the National Animal Health Laboratory Network and make recommendations for improvements to participating laboratories and other State animal health laboratories to rapidly diagnose and research avian influenza outbreaks.

''(f) COMMUNICATIONS LIAISONS.—

''(1) IN GENERAL.—The Secretary of Agriculture jointly with the Secretary of Homeland Security shall designate a liaison in each State to facilitate and coordinate communications among and between States in the event of an agriculture emergency.

''(2) FUNCTIONS.—Each liaison designated under paragraph (1) shall—

''(A) be the central point of contact for animal health in communications with the Department of Agriculture and the Department of Homeland Security;

''(B) communicate Federal preparedness and response plans to State and local agriculture officials and veterinarians; and

''(C) communicate concerns from State and local agriculture officials and veterinarians to the Department of Agriculture and Department of Homeland Security and the Department of Health and Human Services.

''Subtitle 4—Strengthening Public Health Immunization Capacity and Supply

''SEC. 2161. FINDINGS.

''Congress finds that—

''(1) effective pandemic influenza preparedness and response is dependent upon the existence of solid public health infrastructure to combat seasonal flu;

''(2) the domestic surveillance and vaccine production and distribution capabilities needed in a time of crisis should be well established and active in a non-crisis capacity to enable a more efficient response to pandemic influenza; and

''(3) each State receiving Federal funds should have a State Immunization Program Coordinator, who should be responsible for coordinating and implementing activities related to influenza.

''SEC. 2162. VACCINE SUPPLY.

''(a) REQUESTS FOR MORE DOSES.—

''(1) IN GENERAL.—Not later than March 15 of each year, the Secretary shall enter into contracts with manufacturers to produce such additional doses of the influenza vaccine as determined necessary by the Secretary.

''(2) CONTENT OF CONTRACT.—A contract for additional doses shall provide that the manufacturer will be compensated by the Secretary at an equitable rate negotiated by the Secretary and the manufacturer for any doses that—

''(A) were not sold by the manufacturer through routine market mechanisms at the end of the influenza season for that year; and

''(B) were requested by the Secretary to be produced by such manufacturer.

''(3) WHEN SUCH VACCINE PURCHASES SHOULD TAKE PLACE.—The Secretary may purchase from the manufacturer the doses for which it has contracted at any time after which it is determined by the Secretary, in consultation with the manufacturer, that the doses will likely not be absorbed by the private market.

''(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary.

''SEC. 2163. DISCONTINUANCE OF INFLUENZA VACCINE.

''(a) IN GENERAL.—

''(1) NOTICE TO SECRETARY.—A manufacturer of the influenza vaccine shall notify the Secretary of a discontinuance of the manufacture of the vaccine at least 12 months prior to the date of the discontinuance.

''(2) DIRECTOR OF CENTERS FOR DISEASE CONTROL AND PREVENTION.—Promptly after receiving a notice under paragraph (1), the Secretary shall inform the Director of the Centers for Disease Control and Prevention of the notice. Promptly after determining that a reduction under subsection (b) applies with respect to such a notice, the Secretary shall inform such Director of the reduction.

''(3) RELATIONSHIP TO SEPARATE NOTICE PROGRAM.—In the case of influenza vaccine that is approved by the Secretary and is a drug described in section 506C(a), this section applies to the vaccine in lieu of section 506C.

''(b) REDUCTION IN NOTIFICATION PERIOD.—The notification period required under subsection (a) for a manufacturer may be reduced if the manufacturer certifies to the Secretary that good cause exists for the reduction, such as a situation in which—

''(1) a public health problem may result from continuation of the manufacturing for the 12-month period;

''(2) a biomaterials shortage prevents the continuation of the manufacturing for the 12-month period;

''(3) continuation of the manufacturing for the 12-month period may cause substantial economic hardship for the manufacturer;

''(4) the manufacturer has filed for bankruptcy under chapter 7 or 11 of title 11, United States Code; or

''(5) the manufacturer can continue the distribution of the vaccine involved for 12 months.

''(c) DISTRIBUTION.—To the maximum extent practicable, the Secretary shall distribute information on the discontinuation of the manufacture of influenza vaccines to appropriate physician and patient organizations.

''SEC. 2164. SHORTAGE PREPAREDNESS AND RESPONSE.

''(a) EMERGENCY RESPONSE PLANS REGARDING SHORTAGES.—

''(1) NATIONAL EMERGENCY RESPONSE PLAN.—The Secretary shall develop and maintain a national plan for the response to potential shortages in supplies of influenza vaccines that would constitute public health emergencies. The plan shall include provisions with respect to communication among relevant entities, distribution of available supplies of the influenza vaccine involved, the designation of populations to be given priority for immunizations, interactions with State and local governments, the use of the National Stockpile, and special considerations for specific vaccines. The initial plan shall be completed not later than 12 months after the date of the enactment of this section.

''(2) STATE EMERGENCY RESPONSE PLAN.—Each State that receives funds under this Act shall, not later than 6 months after the date on which the National Plan is issued under paragraph (1), develop, through the State Immunization Coordinator, a State Emergency Response Plan that is modeled on the National Plan.

''SEC. 2165. PROVISIONS TO INCREASE VACCINE COVERAGE RATES.

''(a) IN GENERAL.—The Secretary shall develop a plan for the distribution of seasonal flu vaccines to ensure that uninsured and underinsured adults and children have access to annual influenza vaccines and vaccines for conditions potentially exacerbated by exposure to pandemic influenza. Immunizations should be available to such populations as well as children in the VFC program through a wide variety of providers including both Federally qualified health centers and State and local health departments.

''(b) REQUIREMENT.—The Secretary shall—

''(1) conduct an assessment to determine the number of adults in need of vaccinations and the barriers to vaccinating adults; and

''(2) develop and implement strategies to increase the rate of immunizations in populations in which a significant number of individuals have not received immunizations with the federally recommended vaccines (as defined in section 317A(g)) for the populations.

''(c) DEFINITION.—For purposes of this section, the term 'adult' means an individual who is not a child as defined in section 1928 of the Social Security Act.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, such sums as may be necessary.

''SEC. 2166. OUTREACH, COMMUNICATION, EDUCATION.

''(a) EDUCATION PROGRAM REGARDING ADULT IMMUNIZATIONS.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention (in this section referred to as the 'Director'), shall conduct a public awareness campaign and education and outreach efforts each year during the time period preceding the influenza season on each of the following:

''(1) The importance of receiving the influenza vaccine.

''(2) Which populations the Director recommends to receive the influenza vaccine to prevent health complications associated with influenza, including health care workers and their household contacts.

''(3) Professional medical education of physicians, nurses, pharmacists, and other health care providers and such providers' associated organizations.

''(4) Information that emphasizes the safety and benefit of recommended vaccines for the public good.

''(b) OUTREACH TO MEDICARE RECIPIENTS.—

''(1) PROGRAM.—

''(A) IN GENERAL.—The Director, in consultation with the Administrator of the Centers for Medicare & Medicaid Services, shall, at the earliest possible time in the influenza vaccine planning and production process, reach out to providers of medicare services, including managed care providers, nursing homes, hospitals, and physician offices to urge early and full preordering of the influenza vaccine so that production levels can accommodate the needs for the influenza vaccine.

''(B) RATES OF IMMUNIZATION AMONG MEDICARE RECIPIENTS.—The Director shall work with the Administrator of the Centers for Medicare & Medicaid Services to publish the rates of influenza immunization among individuals receiving assistance under the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.).

''(2) STATE AND PUBLIC HEALTH ADULT IMMUNIZATION ACTIVITIES.—The Director shall support the development of State adult immunization programs that place emphasis on improving influenza vaccine delivery to high-risk populations and the general population, including the exploration of improving access to the influenza vaccine.

''(3) EXISTING MODES OF COMMUNICATION.—In carrying out the public awareness campaign and education and outreach efforts under paragraph (1) and (2), the Director may use existing websites or structures for communication.

''(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection $10,000,000 for each of fiscal years 2005 through 2009.

''(c) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2006 through 2010.''.

SEC. 4. UNFAIR OR DECEPTIVE ACTS OR PRACTICES IN COMMERCE RELATED TO TREATMENTS FOR PANDEMIC INFLUENZA.

Section 319F-3 of the Public Health Service Act (as added by section ____ and amended by section ____(a)) is further amended by adding at the end the following:

''(i) UNFAIR OR DECEPTIVE ACTS OR PRACTICES IN COMMERCE RELATED TO TREATMENTS FOR PANDEMIC INFLUENZA.—

''(1) SALES TO CONSUMERS AT UNCONSCIONABLE PRICE.—

''(A) IN GENERAL.—During any public health emergency declared by the Secretary under section 319 related to pandemic influenza, it shall be unlawful for any person to sell any drug (including an anti-viral drug), device, or biologic for the prevention or treatment of influenza in, or for use in, the area to which that declaration applies at a price that—

''(i) is unconscionably excessive (as determined by the Secretary); or

''(ii) indicates the seller is taking unfair advantage of the circumstances to increase prices unreasonably.

''(B) FACTORS TO BE CONSIDERED.—In determining whether a violation of paragraph (1) has occurred, a court shall take into account, among other factors, whether—

''(i) the amount charged represents a gross disparity between the price of a drug, device, or biologic for the prevention or treatment of influenza and the price at which the drug, device, or biologic was offered for sale in the usual course of the seller's business immediately prior to the public health emergency; or

''(ii) the amount charged grossly exceeds the price at which the same or similar drug, device, or biologic for the prevention or treatment of influenza was readily obtainable by other purchasers in the area in which the declaration applies.

''(C) MITIGATING FACTORS.—In determining whether a violation of subparagraph (A) has occurred, the court shall also take into account, among other factors, the price that would reasonably equate supply and demand in a competitive and freely functioning market and whether the price at which the drug, device, or biologic for the prevention or treatment of influenza was sold reasonably reflects additional costs, not within the control of the seller, that were paid or incurred by the seller.

''(2) FALSE PRICING INFORMATION.—It shall be unlawful for any person to report information related to the wholesale price of any drug, device, or biologic for the prevention or treatment of influenza to the Secretary if—

''(A) that person knew, or reasonably should have known, the information to be false or misleading;

''(B) the information was required by law to be reported; and

''(C) the person intended the false or misleading data to affect data compiled by the department or agency involved for statistical or analytical purposes with respect to the market for drugs, devices, or biologics for the prevention or treatment of influenza.

''(3) MARKET MANIPULATION.—It shall be unlawful for any person, directly or indirectly, to use or employ, in connection with the purchase or sale of drugs, devices, or biologics for the prevention or treatment of influenza at wholesale, any manipulative or deceptive device or contrivance, in contravention of such rules and regulations as the Secretary may prescribe as necessary or appropriate in the public interest or for the protection of United States citizens.''.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this Act (and the amendments made by this Act) for each of the fiscal years 2006 through 2010.

Mr. OBAMA. Mr. President, I rise today to talk about a critical issue—the possibility of an avian influenza pandemic.

When I started talking about this 7 months ago, not too many folks paid attention. Perhaps because the shorthand for this looming crisis is the ''bird flu,'' people assume it is just going to get birds and animals sick.

In reality, however, what is at stake here is the potential of a pandemic that we have not seen in the United States since 1918. As has already been stated, our top scientists and medical personnel, including the heads of the NIH, CDC, and the Department of Health and Human Services, all agree that it is almost inevitable that an avian flu pandemic will strike.

The key question is the extent of the damage, especially in terms of lives lost. The answer to this question will, in large measure, depend on our level of preparedness and the amount of resources we are willing to immediately commit to deal with this looming crisis.

After Katrina, I hope we all learned a lesson about the critical value of preparedness.

I rise today to introduce, along with Senators REID, BAYH, and KENNEDY, S. 1821, legislation that dramatically enhances the ability of the United States and international community to prevent and respond to an avian flu pandemic.

The bill we are introducing today—the Pandemic Preparedness and Response Act or PPRA—incorporates much of my AVIAN Act, and has a number of new and important provisions, that will protect Americans from pandemic flu.

The PPRA establishes leadership at the very top level by requiring the President to name a national director for Pandemic Preparedness and Response, who will sit in the executive office. This director will be in charge of all preparedness and response activities at the national level, including coordinating the activities and programs of each Federal agency.

It is not enough for the Department of Health and Human Services and Department of Homeland Security to be ready; we must have a commerce plan, a transportation plan, a diplomatic plan aimed at our foreign partners, and a plan for our military personnel and veterans.

We have asked this director to procure enough antivirals to cover 50 percent of the populations, and sufficient vaccines and other supplies we need for the Strategic National Stockpile. The director will also create a national tracking and distribution system to ensure the fair and equitable allocation of drugs and vaccines when the pandemic strikes.

On the State level, we have asked the Director of the CDC and HRSA to work with States and give them the help they need to make sure they are ready to respond as well. Our success at preventing or containing an outbreak of avian flu will depend on the preparedness of our State and local partners.

Understanding that international collaboration and cooperation is key to surveillance and quick response, we have created an international pandemic fund, and requested the Secretary of State develop and implement a diplomatic policy aimed at the Southeast and East Asian countries. Senator LUGAR and I have been hard at work on this last point for months.

Finally, we recognize that this Nation will never have enough vaccines, or the ability to produce sufficient vaccines, if we don't create the incentives for more drug manufacturers to get into the vaccine business. We just have three domestic flu vaccine manufacturers, and that is unacceptable. This bill authorizes the Secretary to enhance vaccine production capacity by creating a guaranteed market for seasonal flu vaccine through a Federal buyback program for unsold doses of seasonal flu vaccine. It also increases public education and outreach activities for Americans, to stimulate demand for the seasonal flu vaccine.

An outbreak of the avian flu could occur in a year, 5 years, 10 years, or if we were incredibly lucky not happen at all. But the one good thing about investing in measures to deal with this looming crisis is—and I will end on this point—if we spend the money now, it will pay dividends, even if this particular strain of the avian flu outbreak does not occur.

Why is this the case?

This is not—no pun intended—a case of Chicken Little.

The risk of some sort of pandemic, and the mutations of flus for which we have no immunity, is almost inevitable. The H5N1 strain may not be the strain that leads to a full blown pandemic. But, another strain could easily come along and cause serious damage in the future.

My point is this: undertaking these measures is going to be a wise investment that will help protect the lives of millions of people here in the United States and across the globe. This legislation gets at the heart of this issue.

By Mrs. MURRAY (for herself and Ms. CANTWELL):

S. 1822. A bill to amend titles XVIII and XIX of the Security Act to make improvements to the implementation of the medicare prescription drug benefit; to the Committee on Finance.

Mrs. MURRAY. Mr. President, today I am introducing legislation to protect low-income Medicare beneficiaries from being penalized under the new Medicare Modernization Act. My legislation also gives all seniors and the disabled more time to make the right choice in selecting a drug plan.

My bill is called the Medicare HEALS Act, which stands for Help for Every beneficiary and Low Income Seniors. I am pleased to be joined today by Senator CANTWELL in introducing this new bill.

My goal is to protect very low-income seniors who today are covered by both Medicare and Medicaid. The new drug law will impose new co-payments and premiums on these vulnerable patients, while—at the same time—covering fewer prescription drugs.

Worst of all, the law prohibits States from providing additional coverage, known as wrap-around coverage, to seniors, the disabled and low-income beneficiaries. I believe seniors deserve better. I believe low income working families deserve better, and that's why I've written this bill.

The new drug law will force painful changes on low income patients, and my bill will help protect our most vulnerable from the negative impacts of the drug law.

Let's start by looking at how low-income beneficiaries are covered today versus how they will be covered under the new law. Today, very low income seniors are eligible for coverage under both state Medicaid programs and the Federal Medicare program, so they are often referred to as ''dual eligibles.''

Today, their prescription drugs are covered by State Medicaid programs, and they are a good deal. For many seniors and the disabled, State Medicaid drug coverage involves limited co-payments, no premiums, and coverage for a broad range of medically-necessary drugs.

Once the new Medicare drug program is implemented, these vulnerable patients will lose their State Medicaid coverage. They will be shifted into the Federal Medicare program, which will impose higher co-payments, new premiums and fewer covered drugs. It's a bad deal for low-income seniors and to make matters worse, it's incredibly complicated to figure out which private drug plan meets their needs.

1 am concerned that these individuals will be unable to afford co-payments or tiered co-payments that will be part of many MMA plans.

I am concerned that these individuals will also be denied the most medically-appropriate treatments due to restrictions imposed by the plans or additional financial burdens that plans will use to drive down drug utilization costs.

In addition, I am not convinced that we have done enough to fully educate and prepare beneficiaries to the choices and implications of these choices that they face today.

Another problem with the Medicare drug law is that it will penalize anyone on Medicare who needs extra time to make a decision about which plan to choose or whether or not to join the program. For a new system that is as complex as this new drug law, it's unfair to force people to make a decision quickly and to penalize those who need extra time to make the right choice.

To solve these problems and to protect our most vulnerable, my legislation would repeal the prohibition included in MMA on the use of Medicaid funds to provide wrap around coverage for dually eligible.

While I still believe that additional delay is warranted in switching this population to private plans under Medicare, I do believe we need to ensure that States facing a huge backlash from this population can respond accordingly.

I have joined in support of legislation aimed at providing a 6-month transition period for dual eligibles to give these patients time to phase into these new plans, but I also think we must ensure that States have the ability to respond to lapses in coverage or financial barriers that will deny access to necessary and life saving drugs.

States would have the option of providing wrap-around coverage using both Federal and State Medicaid funds, as they do today.

My legislation would also deduct any State funds used to provide wrap-around coverage from the so-called clawback amount. As we know, the MMA legislation takes back much of the savings States will see by transferring these patients to Medicare. I do

not think it is fair to penalize States for trying to do the right thing.

Finally, my legislation would delay the late penalty enrollment from May 15, 2006 until January 1, 2008, for all beneficiaries. This will give all Medicare beneficiaries the time to fully evaluate the plans. The extension will provide beneficiaries with one full benefit year and the open enrollment period to determine if these plans offer them a good value or provide the kind of security we all expect from Medicare.

This extension is of particular importance to those seniors who may be eligible for assistance but have not yet applied. We know that full dual eligibles will be automatically enrolled in a plan if they fail to select one. However, those with incomes from 135 percent to 150 percent of the Federal poverty level could also qualify for assistance but will not be automatically enrolled.

Early estimates from the Social Security Administration and the Centers for Medicare and Medicaid Services (CMS) indicate that a number of seniors have failed to even apply for eligibility determination. I have been told from CMS that 18 to 19 million beneficiaries were mailed information and an application this summer to begin the eligibility determination. So far, only 3 million have even applied.

A recent USA Today/Gallup Poll shows that only 37 percent of beneficiaries understand the program somewhat, but 61 percent do not. Fifty-four percent of beneficiaries do not even plan on joining the program. Many seniors have simply chosen not to even try and navigate the process. For some, there are more than 20 different plans with premiums nationwide, ranging from $1.87 to $100 and deductibles from $0 to $250. This does not even get into restricted formularies or other restrictions that may be imposed.

It is clear that all beneficiaries need more time. Extending the late penalty enrollment deadline of May 15, 2006 is the simplest step we can take to give seniors time to evaluate these plans and this new benefit. The late enrollment penalty of 1 percent each month is a huge financial hit that punishes those who may need the help the most.

In Washington State, we could see thousands of frail, vulnerable beneficiaries paying significantly more for life saving drugs or simply going without. There are an estimated 86,167 full dual eligibles and an additional 22,869 who receive some assistance from Medicaid. The intent of MMA and this new benefit was to expand access to affordable drug coverage; however, the unintended consequence could be the disruption of care for millions of low income beneficiaries nationwide.

It is my understanding that dual eligibles in Washington State will be automatically enrolled into 1 of 12 plans. There are 31 plans participating as Medicare Advantage or Prescription Drug Plans (PDPs). Within these plans, there are often several different benefit packages. Premiums range from $0 to $120; deductibles can range from $0 to $2500; and many will have tiered copayment structures. None of these plans will cover all top 100 drugs used by seniors. Some plans provide only 77 of the top 100 drugs.

While these plans may offer far better benefits than many receive today, it will be difficult to make this determination. The range of choices; the restrictions; the variations in out-of-pocket and the belief by many that this is not a good benefit overall, will lead many seniors to simply walk away.

But, even if seniors decide to sit down and do the calculation and evaluate each plan or option, they face challenges in the reliability of the information.

CMS has partnered with a number of outstanding groups in Washington State who are working hard to get information and help to seniors so they can make informed choices. But the task is made much more difficult when CMS announces that materials already mailed to beneficiaries are incorrect.

My office received notice this week from CMS that the area specific 2006 version of the ''Medicare and You Handbook'' already mailed to beneficiaries contains a rather large error. The error occurs in the comparison charts listing the Medicare Prescription Drug Plans (PDPs). In the last column of the comparison table, entitled ''If I qualify for Extra Help, will my full premium be covered?''

For each plan listed, the column should say yes if the plan's premium is at or below the regional benchmark, and a beneficiary who qualifies for the low income subsidy would pay no premium for this plan.

The column should show no if the plan's premium is above the regional benchmark and a beneficiary who qualifies for the low income subsidy would pay the difference between the regional benchmark and the plan's premium.

Due to an error, this column lists yes for every plan. Even if one could figure out what the regional benchmark is and the difference in the premium, they are still getting bad information.

How can anyone determine the value of a plan or benefit when the initial information is wrong?

There are other examples of information being provided by CMS that is incorrect or inconsistent. I think this has happened in part because this administration is in a race against time to enroll, enroll, enroll. This kind of pressure will only lead to more and more confusion and distrust.

As we saw with the temporary discount drug card, seniors simply refused to participate. Even those who would have qualified for $600 did not bother to enroll. The largest enrollment was done by States and private plans for those who qualified for the subsidy, but far more simply did not bother. The choices were too complex, there were too many rules or restrictions, and there was no way for beneficiaries to measure the value of these cards.

My legislation does not address every problem and every coverage gap, but it is a small step to protect the most vulnerable. I urge my colleagues to join me in making these small but necessary corrections today before beneficiaries lose their coverage and lose access to affordable life saving drugs.

I know that this administration has resisted any efforts at fixing this program and has said the President would veto any legislation that delays implementation or changes the structure of the benefit. But, I am convinced we will be back making changes to this program over the next 2 years because seniors will demand action.

Maybe before all confidence in this program is gone and seniors are calling for repeal, the administration would look at small, humane fixes today, and that is the Medicare HEALS Act offers.

By Mrs. HUTCHISON:

S. 1823. A bill to empower States and local governments to prosecute illegal aliens and to authorize the Secretary of Homeland Security to establish a pilot Volunteer Border Marshal Program; to the Committee on the Judiciary.

Mrs. HUTCHISON. Mr. President, I rise today to address a serious threat facing our Nation—illegal immigration. Despite successful efforts by me and other Members to increase border patrol forces, add new detention facilities, and improve border monitoring, the problem of individuals entering our country illegally continues to impact communities across the country. Just last year, the number of immigrants entering our country illegally outnumbered those entering through legal means. While legal immigration contributes to the diversity and uniqueness of our society, illegal immigration undermines the system and weakens the legitimate process by which people can enter our country. With the Census Bureau estimating that 10 to 11 million people reside in our country illegally, clearly our strategy in confronting this issue must change.

Immigration and naturalization are constitutionally defined powers granted to the Federal Government. As such, many view the issue of immigration as strictly a Federal burden, to be addressed by Federal legislation, policies, and payment. While immigration policy is certainly initiated at the Federal level, one cannot ignore the inherent truth that the impact of illegal immigration is predominantly manifested in our State and local communities, often in the form of overwhelmed emergency rooms, overburdened school systems, and overcrowded prisons. Our local communities often find themselves with little recourse or ability to address the pervasive and crippling effects of a broken immigration system. These effects, of course, are not confined to our southern border regions,

but rather they reverberate across the country.

The country's immigration system is long overdue for a comprehensive overhaul, and I commend the efforts being made by a number of my colleagues to generate attention to the need for comprehensive immigration reform. Ideas are being proposed to improve avenues for legal immigration, enhance enforcement capabilities, and address the growing presence of illegal immigrants with nationalities other than Mexican. While I applaud these proposals and eagerly await our opportunity to discuss them, I believe it is essential that we recognize the role our State and local communities can have in addressing illegal immigration, particularly when it comes to the area of enforcement. As such, I am introducing legislation today to solidify the right and opportunity of our State and local governments to enforce the law—immigration law.

Historically, the authority for State and local law enforcement officials to enforce immigration law has been limited to the criminal provisions of the Immigration and Nationality Act; these include acts such as physically crossing the border illegally. By contrast, the enforcement of the act's civil provisions, which include apprehension and removal of deportable aliens already in the country, has been strictly a Federal responsibility, with States playing an incidental supporting role. This view was recently reinforced when a community in New Hampshire attempted to prosecute illegal immigrants for criminal trespass but was thwarted when a judge ruled it was constitutionally impermissible, stating that Congress has exclusive jurisdiction on civil immigration issues.

Enforcing the laws of our country should not be confined to Federal authorities when the illegal behavior specifically impacts the State and local communities. Just as State and local officials can arrest, detain, and prosecute for illicit drug violations, so they should be able to for illegal immigration violations. The legislation I propose today would enable State and local officials to arrest, detain, and prosecute illegal immigrants for all Federal immigration violations, both civil and criminal, and would authorize States to create immigration enforcement provisions in accordance with Federal immigration law. My proposal preserves the Federal Government's constitutionally delegated authority to determine immigration status, a determination to which the States would defer. Allowing communities to take enforcement actions based on their own needs, while working within limits set under Federal law, is sound, appropriate policy.

Further, in order to strengthen border security and reduce the strain on local and Federal border officials, my bill allows the Secretary of Homeland Security to create a Volunteer Border Marshal Program The program will assist the Department in securing our borders by using trained, State-licensed peace officers in a volunteer capacity. These volunteers would be assigned to the Border Patrol on temporary missions to identify and control illegal immigration, as well as human and drug trafficking.

In order to properly tackle the problem of illegal immigration, Federal, State, and local authorities must work as partners. Our communities must have the tools necessary to fight it effectively. My legislation will empower States and communities with a new weapon to combat illegal immigration and thereby reinforce our legal naturalization process. I encourage my colleagues to support this sensible approach to addressing this serious problem. I ask unanimous consent that the text of my bill be printed in the RECORD.

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

S. 1823

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 ''Illegal Immigration Enforcement and Empowerment Act''.

SEC. 2. STATE ENFORCEMENT AND EMPOWERMENT.

(a) IN GENERAL.—A State or unit of local government may investigate, identify, apprehend, arrest, detain, prosecute, and impose criminal or civil penalties upon any individual who violates—

(1) a Federal immigration law; or

(2) a State law that is based, in part, upon the violation of Federal immigration law.

(b) LIMITATION.—Criminal penalties imposed under subsection (a) may not exceed the penalties authorized under section 275(a) of the Immigration and Nationality Act (8 U.S.C. 1325(a)).

(c) FEDERAL DETERMINATION OF IMMIGRATION STATUS.—No penalty may be imposed upon an individual under this section unless the individual has been identified by the Federal Government as having violated a Federal immigration law.

SEC. 3. VOLUNTEER BORDER MARSHAL PROGRAM.

(a) ESTABLISHMENT.—Not later than 90 days after the date of enactment of this Act, the Secretary of Homeland Security may establish a pilot Volunteer Border Marshal Program (referred to in this section as the ''Program'').

(b) PURPOSE.—The purpose of the Program is to assist the Department of Homeland Security in securing the borders of the United States in a safe and orderly manner by using volunteer, State-licensed peace officers who are already well trained.

(c) ASSIGNMENTS.—Upon deployment, the volunteer peace officers shall be sworn in as Special United States Border Marshals and shall be assigned to the Office of Border Patrol, which shall be act as the lead agency of the Program.

(d) ROTATIONS.—The volunteer peace officers shall rotate on temporary missions along the international borders of the United States to assist the Office of Border Patrol in identifying and controlling illegal immigration and human and drug trafficking.

(e) DEFINITION.—In this section, the term ''peace officer'' means any law enforcement agent, whether currently employed or retired, who is licensed by a State authority to enforce State or local penal offenses.

By Mr. KERRY (for himself and Mr. SCHUMER):

S. 1824. A bill to amend the Internal Revenue Code of 1986 to strengthen the earned income tax credit; to the Committee on Finance.

Mr. KERRY. Mr. President, today I am introducing the Strengthen the Earned Income Tax Credit Act of 2005. Since 1975, the EITC has been an innovative tax credit which helps low-income working families. President Reagan referred to the EITC as ''the best antipoverty, the best pro-family, the best job creation measure to come out of Congress.'' According to the Center on Budget and Policy Priorities, the EITC lifts more children out of poverty than any other government program.

It is time for us to reexamine the EITC and determine where we can strengthen it. Census data released in August and the events of Hurricane Katrina reiterated the fact that there is a group of Americans that are not benefiting from the economic recovery. The Census data shows the number of people who work, but live in poverty increased by 563,000. Four million more people were poor in 2004 than in 2001, when the economy hit bottom. The poverty rate in 2004 remains higher than the rate in 2001, the year of the recession.

Hurricane Katrina affected many individuals who were already faced with difficult economic situations. Mississippi, Louisiana, and Alabama are the first, second, and eighth poorest States in the Nation. The income of the typical household in these three States is well below the national average. In the hardest hit counties, 18.6 percent of the population is poor and the national average is 12.4 percent.

Time after time, the Republican controlled Congress has passed tax cuts which are skewed towards those with the most. The Urban Institute-Brookings Institution Tax Policy Center reports that households with incomes of more than $1 million a year—the richest two-tenths of the population—receive tax cuts of an average of $103,000 a year. These individuals do not have to worry about how they will have to pay for a roof over their heads or enough gas to fill the tank. We should not be focused on tax cuts which help those who do not have to worry about living pay check to pay check.

We need to help the low-income workers who struggle day after day trying to make ends meet. They have been left behind in the economic policies of the last 4 years. We need to begin a discussion on how to help those that have been left behind. The Earned Income Tax Credit is the perfect place to start.

The Strengthen the Earned Income Tax Credit Act of 2005 strengthens the EITC by making the following four changes: Reduce marriage penalty; increase the credit for families with

three or more children; slow down the phase-out for individuals with no children; and permanently extend the provision which allows members of the armed forces to include combat pay as income for EITC computations. By making these changes, more individuals and families would benefit from the EITC.

First, the legislation increases marriage penalty relief and makes it permanent. In the way that the EITC is currently structured, many single individuals that marry find themselves faced with a reduction in their EITC once they are married. The tax code should not penalize individuals who marry.

Second, the legislation increases the credit for families with three or more children. This proposal would make the credit more generous for families with 3 or more children. Increasing the credit rate results in an increase in the phase-out range. More families would be able to benefit from the EITC. The poverty level for an adult living with three children is $19,233. Under current law, an adult living with three children and eligible for the maximum EITC with income equivalent to the phase-out income level would still have income below the poverty level. This provision would lift this family above the poverty level. Some 36 percent of all children live in families with at least three children and more than half of poor children live in such families.

Third, the legislation would slow down the phase-out rate for individuals without children. It would result in more individuals without children eligible for the credit. For 2005, an individual with earnings above $11,750 would not be eligible for the EITC. Under the proposal, an individual with earnings above $16,950 would not be eligible for the EITC. The EITC for individuals with no children only offsets a portion of federal taxes. Giving more individuals the EITC would help provide an incentive to work.

Fourth, the Working Families Tax Relief Act of 2004 included a provision which would treat combat pay as earned income for purposes of computing the child credit. This provision expires at the end of the year. This legislation makes this provision permanent. There is no reason why a member of the armed services should lose their EITC when they are mobilized and serving their country.

This legislation will help those who most need our help. It will put more money in their pay check. We need to invest in our families and help individuals who want to make a living by working. We are all aware of our fiscal situation and we should legislate in a responsible manner. It is a time for shared sacrifice. We do not need to extend tax cuts or allow tax cuts to go forward that only benefit those earning over $200,000. We cannot keep adding to the deficit

Thank you for your consideration.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 265—RECOGNIZING 2005 AS THE YEAR OF THE 50TH ANNIVERSARY OF THE CROP SCIENCE SOCIETY OF AMERICA

Mr. FEINGOLD submitted the following resolution; which was referred to the Committee on Agriculture, Nutrition, and Forestry:

S. RES. 265

Whereas the Crop Science Society of America was founded in 1955, with Gerald O. Mott as its first President;

Whereas the Crop Science Society of America is one of the premier scientific societies in the world, as shown by its world-class journals, international and regional meetings, and development of a broad range of educational opportunities;

Whereas the science and scholarship of the Crop Science Society of America are mission-directed, with the goal of addressing agricultural challenges facing humanity;

Whereas the Crop Science Society of America significantly contributes to the scientific and technical knowledge necessary to protect and sustain natural resources in the United States;

Whereas the Crop Science Society plays a key role internationally in developing sustainable agricultural management and biodiversity conservation for the protection and sound management of the crop resources of the world;

Whereas the mission of the Crop Science Society of America continues to expand, from the development of sustainable production of food and forage, to the production of renewable energy and novel industrial products;

Whereas, in industry, extension, and basic research, the Crop Science Society of America has fostered a dedicated professional and scientific community that, in 2005, includes more than 3,000 members; and

Whereas the American Society of Agronomy was the parent society that led to the formation of both the Crop Science Society of America and the Soil Science Society of America and fostered the development of the common overall management of the 3 sister societies: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes 2005 as the 50th Anniversary year of the Crop Science Society of America;

(2) commends the Crop Science Society of America for 50 years of dedicated service to advance the science and practice of crop science; and

(3) acknowledges the promise of the Crop Science Society of America to continue to enrich the lives of all citizens, by improving stewardship of the environment, combating world hunger, and enhancing the quality of life for the next 50 years and beyond.

SENATE RESOLUTION 266—DESIGNATING THE MONTH OF OCTOBER 2005, AS ''FAMILY HISTORY MONTH''

Mr. HATCH submitted the following resolution; which was considered and agreed to:

S. RES. 266

Whereas it is the family, striving for a future of opportunity and hope, that reflects our Nation's belief in community, stability, and love;

Whereas the family remains an institution of promise, reliance, and encouragement;

Whereas we look to the family as an unwavering symbol of constancy that will help us discover a future of prosperity, promise, and potential;

Whereas within our Nation's libraries and archives lie the treasured records that detail the history of our Nation, our States, our communities, and our citizens;

Whereas individuals from across our Nation and across the world have embarked on a genealogical journey by discovering who their ancestors were and how various forces shaped their past;

Whereas an ever-growing number of people in our Nation, and in other nations, are collecting, preserving, and sharing genealogies, personal documents, and memorabilia that detail the life and times of families around the world;

Whereas 54,000,000 individuals belong to a family where someone in the family has used the Internet to research their family history;

Whereas individuals from across our Nation, and across the world, continue to research their family heritage and its impact upon the history of our Nation and the world;

Whereas approximately 60 percent of Americans have expressed an interest in tracing their family history;

Whereas the study of family history gives individuals a sense of their heritage and a sense of responsibility in carrying out a legacy that their ancestors began;

Whereas as individuals learn about their ancestors who worked so hard and sacrificed so much, their commitment to honor the memory of their ancestors by doing good is increased;

Whereas interest in our personal family history transcends all cultural and religious affiliations;

Whereas to encourage family history research, education, and the sharing of knowledge is to renew the commitment to the concept of home and family; and

Whereas the involvement of national, State, and local officials in promoting genealogy and in facilitating access to family history records in archives and libraries are important factors in the successful perception of nationwide camaraderie, support, and participation: Now, therefore, be it

Resolved, That the Senate—

(1) designates the month of October 2005, as ''Family History Month''; and

(2) calls upon the people of the United States to observe the month with appropriate ceremonies and activities.

SENATE RESOLUTION 267—TO AUTHORIZE TESTIMONY, DOCUMENT PRODUCTION, AND LEGAL REPRESENTATION IN STATE OF NEW HAMPSHIRE V. ANNE MILLER, MARY LEE SARGENT, JESSICA ELLIS, LYNN CHONG, DONALD BOOTH, EILEEN REARDON

Mr. FRIST (for himself and Mr. REID) submitted the following resolution; which was considered and agreed to:

Whereas, in the cases of State of New Hampshire v. Anne Miller, Mary Lee Sargent, Jessica Ellis, Lynn Chong, Donald Booth, Eileen Reardon, pending in Concord District Court, New Hampshire, testimony and documents have been requested from Carol Carpenter, an employee in the office of Senator Judd Gregg;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(2), the Senate may direct its counsel to represent an employee of the Senate with respect to

any subpoena, order, or request for testimony relating to their official responsibilities;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial or administrative process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate: Now, therefore, be it

Resolved that Carol Carpenter and other employees of Senator Gregg's office from whom testimony or the production of documents may be required are authorized to testify and produce documents in the cases of State of New Hampshire v. Anne Miller, Mary Lee Sargent, Jessica Ellis, Lynn Chong, Donald Booth, Eileen Reardon, except concerning matters for which a privilege should be asserted.

SEC. 2. The Senate Legal Counsel is authorized to represent Carol Carpenter and other employees of Senator Gregg's office in connection with the testimony and document production authorized in section one of this resolution.

AMENDMENTS SUBMITTED AND PROPOSED

SA 2046. 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.

SA 2047. Mr. NELSON of Florida (for himself, Mr. CORZINE, Mr. MARTINEZ, Mr. NELSON of Nebraska, Mr. THUNE, Mrs. BOXER, Ms. LANDRIEU, Mr. BINGAMAN, Ms. CANTWELL, Mrs. FEINSTEIN, Mr. HARKIN, Mr. KERRY, and Ms. MIKULSKI) submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table.

SA 2048. Mr. HARKIN (for himself and Mr. DORGAN) submitted an amendment intended to be proposed to amendment SA 1955 proposed by Mr. WARNER (for himself and Mr. LEVIN) to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 2049. Mr. WARNER (for himself and Mr. LEVIN) submitted an amendment intended to be proposed to amendment SA 1955 proposed by Mr. WARNER (for himself and Mr. LEVIN) to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 2050. Mr. SCHUMER submitted an amendment intended to be proposed to amendment SA 1955 proposed by Mr. WARNER (for himself and Mr. LEVIN) to the bill H.R. 2863, supra; which was ordered to lie on the table.

SA 2051. Mrs. CLINTON (for herself, Ms. MIKULSKI, Mr. LAUTENBERG, Mr. HARKIN, Mr. JEFFORDS, Mr. REED, Mr. SALAZAR, Mr. OBAMA, Mrs. BOXER, Ms. STABENOW, Mr. CORZINE, Mr. SCHUMER, Mr. DURBIN, Mrs. FEINSTEIN, Mr. FEINGOLD, Mr. CARPER, Mr. JOHNSON, and Mr. LEAHY) 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.

SA 2052. Mr. INHOFE submitted an amendment intended to be proposed to amendment SA 1955 proposed by Mr. WARNER (for himself and Mr. LEVIN) to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 2046. 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 378, between lines 10 and 11, insert the following:

SEC. 31___. MEDICAL ISOTOPE PRODUCTION.

Section 134 of the Atomic Energy Act of 1954 (42 U.S.C. 2160d) (as amended by section 630 of the Energy Policy Act of 2005 (Public Law 109–58; 119 Stat. 594)) is amended—

(1) in subsection a., by striking ''Except as provided in subsection b., the Commission'' and inserting ''The Commission'';

(2) by striking subsection b.; and

(3) by redesignating subsection c. as subsection b.

SA 2047. Mr. NELSON of Florida (for himself, Mr. CORZINE, Mr. MARTINEZ, Mr. NELSON of Nebraska, Mr. THUNE, Mrs. BOXER, Ms. LANDRIEU, Mr. BINGAMAN, Ms. CANTWELL, Mrs. FEINSTEIN, Mr. HARKIN, Mr. KERRY, and Ms. MIKULSKI) submitted an amendment intended to be proposed by him to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle D of title VI of division A, as added by Senate amendment No. 1955, 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.

(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''.

SA 2048. Mr. HARKIN (for himself and Mr. DORGAN) submitted an amendment intended to be proposed to amendment SA 1955 proposed by Mr. WARNER (for himself and Mr. LEVIN) to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle A of title IX of division A, as added by Senate amendment No. 1955, 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 2049. Mr. WARNER (for himself and Mr. LEVIN) submitted an amendment intended to be proposed to amendment SA 1955 by Mr. WARNER (for himself and Mr. LEVIN) to the bill H.R. 2863, making appropropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 2, line 16, strike ''$3,008,982,000'' and insert ''$3,108,982,000''.

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

SEC. 903. REDESIGNATION OF THE NAVAL RESERVE AS THE NAVY RESERVE.

(a) REDESIGNATION OF RESERVE COMPONENT.—The reserve component of the Armed Forces known as the Naval Reserve is redesignated as the Navy Reserve.

(b) CONFORMING AMENDMENTS TO TITLE 10, UNITED STATES CODE.—

(1) TEXT AMENDMENTS.—Title 10, United States Code, is amended by striking ''Naval Reserve'' each place it appears in a provision as follows and inserting ''Navy Reserve'':

(A) Section 513(a).
(B) Section 516.
(C) Section 526(b)(2)(C)(i).
(D) Section 971(a).
(D) Section 5001(a)(1).
(F) Section 5143.
(G) Section 5596(c).
(H) Section 6323(f).
(I) Section 6327.
(J) Section 6330(b).
(K) Section 6331(a)(2).
(L) Section 6336.
(M) Section 6389.
(N) Section 6911(c)(1).
(O) Section 6913(a).
(P) Section 6915.
(Q) Section 6954(b)(3).
(R) Section 6956(a)(2).
(S) Section 6959(a).
(T) Section 7225.
(U) Section 7226.
(V) Section 7605(1).
(W) Section 7852.
(X) Section 7853.
(Y) Section 7854.
(Z) Section 10101(3).
(AA) Section 10108.
(BB) Section 10172.
(CC) Section 10301(a)(7).
(DD) Section 10303.
(EE) Section 12004(e)(2).
(FF) Section 12005.
(GG) Section 12010.
(HH) Section 12011(a)(2).
(II) Section 12012(a).
(JJ) Section 12103.
(KK) Section 12205.
(LL) Section 12207(b)(2).
(MM) Section 12732.
(NN) Section 12774(b) (other than the first place it appears).
(OO) Section 14002(b).
(PP) Section 14101(a)(1).
(QQ) Section 14107(d).
(RR) Section 14302(a)(1)(A).
(SS) Section 14313(b).
(TT) Section 14501(a).
(UU) Section 14512(b).
(VV) Section 14705(a).
(WW) Section 16201(d)(1)(B)(ii).

(2) CAPTION AMENDMENTS.—Such title is further amended by striking ''NAVAL RESERVE'' each place it appears in a provision as follows and inserting ''NAVY RESERVE'':

(A) Section 971(a).
(B) Section 5143(a).

(3) SECTION HEADING AMENDMENTS.—(A) The heading of section 5143 of such title is amended to read as follows:

''§ 5143. Office of Navy Reserve: appointment of Chief''.

(B) The heading of section 6327 of such title is amended to read as follows:

''§ 6327. Officers and enlisted members of the Navy Reserve and Marine Corps Reserve: 30 years; 20 years; retired pay''.

(C) The heading of section 6389 of such title is amended to read as follows:

''§ 6389. Navy Reserve and Marine Corps Reserve; officers: elimination from active status; computation of total commissioned service''.

(D) The heading of section 7225 of such title is amended to read as follows:

''§ 7225. Navy Reserve flag''.

(E) The heading of section 7226 of such title is amended to read as follows:

''§ 7226. Navy Reserve yacht pennant''.

(F) The heading of section 10108 of such title is amended to read as follows:

''§ 10108. Navy Reserve: administration''.

(G) The heading of section 10172 of such title is amended to read as follows:

''§ 10172. Navy Reserve Force''.

(H) The heading of section 10303 of such title is amended to read as follows:

''§ 10303. Navy Reserve Policy Board''.

(I) The heading of section 12010 of such title is amended to read as follows:

''§ 12010. Computations for Navy Reserve and Marine Corps Reserve: rule when fraction occurs in final result''.

(J) The heading of section 14306 of such title is amended to read as follows:

''§ 14306. Establishment of promotion zones: Navy Reserve and Marine Corps Reserve running mate system''.

(4) TABLES OF CONTENTS AMENDMENTS.—(A) The table of sections at the beginning of chapter 513 of such title is amended by striking the item relating to section 5143 and inserting the following new item:

''5143. Office of Navy Reserve: appointment of Chief.''.

(B) The table of sections at the beginning of chapter 571 of such title is amended by striking the item relating to section 6327 and inserting the following new item:

''6327. Officers and enlisted members of the Navy Reserve and Marine Corps Reserve: 30 years; 20 years; retired pay.''.

(C) The table of sections at the beginning of chapter 573 of such title is amended by striking the item relating to section 6389 and inserting the following new item:

''6389. Navy Reserve and Marine Corps Reserve; officers: elimination from active status; computation of total commissioned service.''.

(D) The table of sections at the beginning of chapter 631 of such title is amended by striking the items relating to sections 7225 and 7226 and inserting the following new items:

''7225. Navy Reserve flag.
''7226. Navy Reserve yacht pennant.''.

(E) The table of sections at the beginning of chapter 1003 of such title is amended by striking the item relating to section 10108 and inserting the following new item:

''10108. Navy Reserve: administration.''.

(F) The table of sections at the beginning of chapter 1006 of such title is amended by striking the item relating to section 10172 and inserting the following new item:

''10172. Navy Reserve Force.''.

(G) The table of sections at the beginning of chapter 1009 of such title is amended by striking the item relating to section 10303 and inserting the following new item:

''10303. Navy Reserve Policy Board.''.

(H) The table of sections at the beginning of chapter 1201 of such title is amended by striking the item relating to section 12010 and inserting the following new item:

''12010. Computations for Navy Reserve and Marine Corps Reserve: rule when fraction occurs in final result.''.

(I) The table of sections at the beginning of chapter 1405 of such title is amended by striking the item relating to section 14306 and inserting the following new item:

''14306. Establishment of promotion zones: Navy Reserve and Marine Corps Reserve running mate system.''.

(c) CONFORMING AMENDMENT TO TITLE 14, UNITED STATES CODE.—Section 705 of title 14,

United States Code, is amended by striking ''Naval Reserve'' each place it appears and inserting ''Navy Reserve''.

(d) CONFORMING AMENDMENTS TO TITLE 37, UNITED STATES CODE.—

(1) TEXT AMENDMENTS.—Title 37, United States Code, is amended by striking ''Naval Reserve'' each place it appears in a provision as follows and inserting ''Navy Reserve'':

(A) Section 101(24)(C).

(B) Section 201(d).

(C) Section 205(a)(2)(I).

(D) Section 301c(d).

(E) Section 319(a).

(F) Section 905.

(2) CAPTION AMENDMENT.—Section 301c(d) of such title is further amended by striking ''NAVAL RESERVE'' and inserting ''NAVY RESERVE''.

(e) CONFORMING AMENDMENTS TO TITLE 38, UNITED STATES CODE.—Title 38, United States Code, is amended by striking ''Naval Reserve'' each place it appears in a provision as follows and inserting ''Navy Reserve'':

(1) Section 101(27)(B).

(2) Section 3002(6)(C).

(3) Section 3202(1)(C)(iii).

(4) Section 3452(a)(3)(C).

(f) CONFORMING AMENDMENTS TO OTHER CODIFIED TITLES.—

(1) TITLE 5, UNITED STATES CODE.—Section 2108(1)(B) of title 5, United States Code, is amended by striking ''Naval Reserve'' and inserting ''Navy Reserve''.

(2) TITLE 18, UNITED STATES CODE.—Section 2387(b) of title 18, United States Code, is amended by striking ''Naval Reserve'' and inserting ''Navy Reserve''.

(3) TITLE 46, UNITED STATES CODE.—(A) Title 46, United States Code, is amended by striking ''Naval Reserve'' each place it appears in a provision as follows and inserting ''Navy Reserve'':

(i) Section 8103(g).

(ii) Section 8302(g).

(B) The heading of section 8103 of such title is amended to read as follows:

''§ 8103. Citizenship and Navy Reserve requirements''.

(C) The table of sections at the beginning of chapter 81 of such title is amended by striking the item relating to section 8103 and inserting the following new item:

''8103. Citizenship and Navy Reserve requirements.''.

(g) CONFORMING AMENDMENTS TO OTHER LAWS.—

(1) Section 2301(4)(C) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6671(4)(C)) is amended by striking ''Naval Reserve'' and inserting ''Navy Reserve''.

(2)(A) The Merchant Marine Act, 1936 is amended by striking ''Naval Reserve'' each place it appears in a provision as follows and inserting ''Navy Reserve'':

(i) Section 301(b) (46 U.S.C. App. 1131(b)).

(ii) Section 1303 (46 U.S.C. App. 1295b).

(iii) Section 1304 (46 U.S.C. App. 1295c).

(B) Such Act is further amended by striking ''NAVAL RESERVE'' each place it appears in a provision as follows and inserting ''NAVY RESERVE'':

(i) Section 1303(c).

(ii) 1304(h).

(3)(A) Section 6(a)(1) of the Military Selective Service Act (50 U.S.C. App. 456(a)(1)) is amended by striking ''United States Naval Reserves'' and inserting ''members of the United States Navy Reserve''.

(B) Section 16(i) of such Act (50 U.S.C. App. 446(i)) is amended by striking ''Naval Reserve'' and inserting ''Navy Reserve''.

(h) OTHER REFERENCES.—Any reference in any law, regulation, document, record, or other paper of the United States to the Naval Reserve, other than a reference to the Naval Reserve regarding the United States Naval Reserve Retired List, shall be considered to be a reference to the Navy Reserve.

On page 117, line 11, insert ''through a computer accessible Internet website and other means and'' before ''at no cost'.

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

SEC. 924. AUTHORITY FOR UNITED STATES AIR FORCE INSTITUTE OF TECHNOLOGY TO RECEIVE FACULTY RESEARCH GRANTS FOR CERTAIN PURPOSES.

Section 9314 of title 10, United States Code, is amended by adding at the end the following new subsection:

''(d) ACCEPTANCE OF RESEARCH GRANTS.—(1) The Secretary of the Air Force may authorize the Commandant of the United States Air Force Institute of Technology to accept qualifying research grants. Any such grant may only be accepted if the work under the grant is to be carried out by a professor or instructor of the Institute for a scientific, literary, or educational purpose.

''(2) For purposes of this subsection, a qualifying research grant is a grant that is awarded on a competitive basis by an entity referred to in paragraph (3) for a research project with a scientific, literary, or educational purpose.

''(3) An entity referred to in this paragraph is a corporation, fund, foundation, educational institution, or similar entity that is organized and operated primarily for scientific, literary, or educational purposes.

''(4) The Secretary shall establish an account for the administration of funds received as qualifying research grants under this subsection. Funds in the account with respect to a grant shall be used in accordance with the terms and condition of the grant and subject to applicable provisions of the regulations prescribed under paragraph (6).

''(5) Subject to such limitations as may be provided in appropriations Acts, appropriations available for the United States Air Force Institute of Technology may be used to pay expenses incurred by the Institute in applying for, and otherwise pursuing, the award of qualifying research grants.

''(6) The Secretary of the Air Force shall prescribe regulations for purposes of the administration of this subsection.''.

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)''.

At the end of subtitle E of title VIII, add the following:

SEC. 846. REPORTS OF ADVISORY PANEL ON LAWS AND REGULATIONS ON ACQUISITION PRACTICES.

(a) EXTENSION OF FINAL REPORT.—Section 1423(d) of the Services Acquisition Reform Act of 2003 (title XIV of Public Law 108–136; 117 Stat. 1669; 41 U.S.C. 405 note) is amended by striking ''one year'' and inserting ''two years''.

(b) REQUIREMENT FOR INTERIM REPORT.—That section is further amended—

(1) by inserting ''(1)'' before ''Not later than''; and

(2) by adding at the end the following new paragraph:

''(2) Not later than one year after the date of the establishment of the panel, the panel shall submit to the official and committees referred to in paragraph (1) an interim report on the matters set forth in that paragraph.''.

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''.

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

SEC. 718. REPORT ON THE DEPARTMENT OF DEFENSE COMPOSITE HEALTH CARE SYSTEM II.

(a) REPORT REQUIRED.—Not later than six months after the date of the enactment of this Act, the Secretary of Defense shall submit to the appropriate committees of Congress a report on the Department of Defense Composite Health Care System II (CHCS II).

(b) REPORT ELEMENTS.—The report under subsection (a) shall include the following:

(1) A chronology and description of previous efforts undertaken to develop an electronic medical records system capable of maintaining a two-way exchange of data between the Department of Defense and the Department of Veterans Affairs.

(2) The plans as of the date of the report, including any projected commencement dates, for the implementation of the Composite Health Care System II.

(3) A statement of the amounts obligated and expended as of the date of the report on the development of a system for the two-way exchange of data between the Department of Defense and the Department of Veterans Affairs, including the Composite Health Care System II.

(4) An estimate of the amounts that will be required for the completion of the Composite Health Care System II.

(5) A description of the software and hardware being considered as of the date of the report for use in the Composite Health Care System II.

(6) A description of the management structure used in the development of the Composite Health Care System II.

(7) A description of the accountability measures utilized during the development of the Composite Health Care System II in order to evaluate progress made in the development of that System.

(8) The schedule for the remaining development of the Composite Health Care System II.

(c) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term ''appropriate committees of Congress'' means—

(1) the Committees on Armed Services, Appropriations, Veterans' Affairs, and Health,

Education, Labor, and Pensions of the Senate; and

(2) the Committees on Armed Services, Appropriations, Veterans' Affairs, and Energy and Commerce of the House of Representatives.

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.

On page 296, after line 19, add the following:

SEC. 1205. SENSE OF CONGRESS ON SUPPORT FOR NUCLEAR NON-PROLIFERATION TREATY.

Congress—

(1) reaffirms its support for the objectives of the Treaty on the Non-Proliferation of Nuclear Weapons, done at Washington, London, and Moscow July 1, 1968, and entered into force March 5, 1970 (the ''Nuclear Non-Proliferation Treaty'');

(2) expresses its support for all appropriate measures to strengthen the Nuclear Non-Proliferation Treaty and to attain its objectives; and

(3) calls on all parties to the Nuclear Non-Proliferation Treaty—

(A) to insist on strict compliance with the non-proliferation obligations of the Nuclear Non-Proliferation Treaty and to undertake effective enforcement measures against states that are in violation of their obligations under the Treaty;

(B) to agree to establish more effective controls on enrichment and reprocessing technologies that can be used to produce materials for nuclear weapons;

(C) to expand the ability of the International Atomic Energy Agency to inspect and monitor compliance with safeguard agreements and standards to which all states should adhere through existing authority and the additional protocols signed by the states party to the Nuclear Non-Proliferation Treaty;

(D) to demonstrate the international community's unified opposition to a nuclear weapons program in Iran by—

(i) supporting the efforts of the United States and the European Union to prevent the Government of Iran from acquiring a nuclear weapons capability; and

(ii) using all appropriate diplomatic means at their disposal to convince the Government of Iran to abandon its uranium enrichment program;

(E) to strongly support the ongoing United States diplomatic efforts in the context of the six-party talks that seek the verifiable and irreversible disarmament of North Korea's nuclear weapons programs and to use all appropriate diplomatic means to achieve this result;

(F) to pursue diplomacy designed to address the underlying regional security problems in Northeast Asia, South Asia, and the Middle East, which would facilitate non-proliferation and disarmament efforts in those regions;

(G) to accelerate programs to safeguard and eliminate nuclear weapons-usable material to the highest standards to prevent access by terrorists and governments;

(H) to halt the use of highly enriched uranium in civilian reactors;

(I) to strengthen national and international export controls and relevant security measures as required by United Nations Security Council Resolution 1540;

(J) to agree that no state may withdraw from the Nuclear Non-Proliferation Treaty and escape responsibility for prior violations of the Treaty or retain access to controlled materials and equipment acquired for ''peaceful'' purposes;

(K) to accelerate implementation of disarmament obligations and commitments under the Nuclear Non-Proliferation Treaty for the purpose of reducing the world's stockpiles of nuclear weapons and weapons-grade fissile material; and

(L) to strengthen and expand support for the Proliferation Security Initiative.

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

SEC. 1044. REPORT ON DEPARTMENT OF DEFENSE RESPONSE TO FINDINGS AND RECOMMENDATIONS OF DEFENSE SCIENCE BOARD TASK FORCE ON HIGH PERFORMANCE MICROCHIP SUPPLY.

(a) REPORT REQUIRED.—Not later than March 15, 2006, the Secretary of Defense shall submit to the congressional defense committees a report on the implementation of the recommendations of the Defense Science Board Task Force on High Performance Microchip Supply.

(b) CONTENTS.—The report required by subsection (a) shall include the following:

(1) An analysis of each finding of the Task Force.

(2) A detailed description of the response of the Department of Defense to each recommendation of the Task Force, including—

(A) for each recommendation that is being implemented or that the Secretary plans to implement—

(i) a summary of actions that have been taken to implement the recommendation; and

(ii) a schedule, with specific milestones, for completing the implementation of the recommendation; and

(B) For each recommendation that the Secretary does not plan to implement—

(i) the reasons for the decision not to implement the recommendation; and

(ii) a summary of alternative actions the Secretary plans to take to address the purposes underlying the recommendation.

(3) A summary of any additional actions the Secretary plan to take to address concerns raised by the Task Force.

(c) CONSULTATION.—To the extent practicable, the Secretary may consult with other departments and agencies of the Federal Government, institutions of higher education and other academic organizations, and industry in the development of the report required by subsection (a).

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

SEC. 31 ___. SAVANNAH RIVER NATIONAL LABORATORY.

The Savannah River National Laboratory shall be a participating laboratory in the Department of Energy laboratory directed research and development program.

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

SEC. 330. WELFARE OF SPECIAL CATEGORY RESIDENTS AT NAVAL STATION GUANTANAMO BAY, CUBA.

(a) IN GENERAL.—The Secretary of the Navy may provide for the general welfare, including subsistence, housing, and health care, of any person at Naval Station Guantanamo Bay, Cuba, who is designated by the Secretary, not later than 90 days after the date of the enactment of this Act, as a so-called ''special category resident''.

(b) PROHIBITION ON CONSTRUCTION OF FACILITIES.—The authorization in subsection (a) shall not be construed as an authorization for the construction of new housing facilities or medical treatment facilities.

(c) CONSTRUCTION OF PRIOR USE OF FUNDS.—The provisions of chapter 13 of title 31, United States Code, are hereby deemed not to have applied to the obligation or expenditure of funds before the date of the enactment of this Act for the general welfare of persons described in subsection (a).

At the end of subtitle E of title VI, add the following:

SEC. 653. OUTREACH TO MEMBERS OF THE ARMED FORCES AND THEIR DEPENDENTS ON THE SERVICEMEMBERS CIVIL RELIEF ACT.

(a) OUTREACH TO MEMBERS OF THE ARMED FORCES.—

(1) IN GENERAL.—The Secretary concerned shall provide to each member of the Armed Forces under the jurisdiction of the Secretary pertinent information on the rights and protections available to servicemembers and their dependents under the Servicemembers Civil Relief Act (50 U.S.C. App. 501 et seq.).

(2) TIME OF PROVISION.—Information shall be provided to a member of the Armed Forces under paragraph (1) at times as follows:

(A) During initial orientation training.

(B) In the case of a member of a reserve component of the Armed Forces, during initial orientation training and when the member is mobilized or otherwise individually called or ordered to active duty for a period of more than one year.

(C) At such other times as the Secretary concerned considers appropriate.

(b) OUTREACH TO DEPENDENTS.—The Secretary concerned may provide to the adult dependents of members of the Armed Forces under the jurisdiction of the Secretary pertinent information on the rights and protections available to servicemembers and their dependents under the Servicemembers Civil Relief Act.

(c) DEFINITIONS.—In this section, the terms ''dependent'' and ''Secretary concerned'' have the meanings given such terms in section 101 of the Servicemembers Civil Relief Act (50 U.S.C. App. 511).

On page 357, strike line 20, and insert 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 be excluded from the limitations in sections 525 and 526 of this title while serving in such position.

''(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 be excluded from the limitations in sections 525 and 526 of this title while serving in such position.

''(d) OFFICERS SERVING IN OFFICE OF DNI.—Up to 5 general and flag offices 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.''.

On page 178, strike lines 20 through 24 and insert the following:

(4) Department of Defense participation in the Medicare Advantage Program, formerly Medicare plus Choice;

(5) the use of flexible spending accounts and health savings accounts for military retirees under the age of 65;

(6) incentives for eligible beneficiaries of the military health care system to retain private employer-provided health care insurance;

(7) means of improving integrated systems of disease management, including chronic illness management;

(8) means of improving the safety and efficiency of pharmacy benefits management;

(9) the management of enrollment options for categories of eligible beneficiaries in the military health care system;

(10) reform of the provider payment system, including the potential for use of a pay-for-performance system in order to reward quality and efficiency in the TRICARE System;

(11) means of improving efficiency in the administration of the TRICARE program, to include the reduction of headquarters and redundant management layers, and maximizing efficiency in the claims processing system;

(12) other improvements in the efficiency of the military health care system; and

(13) any other matters the Secretary considers appropriate to improve the efficiency and quality of military health care benefits.

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 AIR FORCE FOR PROCUREMENT, AMMUNITION.—The amount authorized to be appropriated by section 301(4) for the Air Force is hereby reduced by $1,500,000.

On page 359, between lines 3 and 4, insert the following:

SEC. 2862. LAND CONVEYANCE, AIR FORCE PROPERTY, LA JUNTA, COLORADO.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Air Force may convey, without consideration, to the City of La Junta, Colorado (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 improvements thereon, consisting of approximately 8 acres located at the USA Bomb Plot in the La Junta Industrial Park for the purpose of training local law enforcement officers.

(b) PAYMENT OF COSTS OF CONVEYANCE.—

(1) IN GENERAL.—The Secretary shall require the City to cover costs to be incurred by the Secretary after the date of enactment of the Act, or to reimburse the Secretary for costs incurred by the Secretary after that date, to carry out the conveyance under subsection (a), including any survey costs, costs related to environmental assessments, studies, analyses, or other 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) TREATMENT OF AMOUNTS RECEIVED.—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 property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary.

(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.

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.—The amount authorized to be appropriated by section 301(4) for the Air Force is hereby reduced by $1,000,000.

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''.

Strike section 1008.

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

SEC. 244. DESIGNATION OF FACILITIES AND RESOURCES CONSTITUTING THE MAJOR RANGE AND TEST FACILITY BASE.

(a) DEPARTMENT OF DEFENSE TEST RESOURCE MANAGEMENT CENTER.—Section 196(h) of title 10, United States Code, is amended by striking ''Director of Operational Test and Evaluation'' and inserting ''Secretary of Defense''.

(b) INSTITUTIONAL FUNDING OF TEST AND EVALUATION ACTIVITIES.—Section 232(b)(1) of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 116 Stat. 2490) is amended by striking ''Director of Operational Test and Evaluation'' and inserting ''Secretary of Defense''.

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 mission 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.

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 modifying the capacity of the Minuteman III intercontinental ballistic missile (ICBM) from its prior capability to carry up to 3 independent reentry vehicles (RVs) to carry as few as a single reentry vehicle, a process known as downloading.

(2) A series of Department of Defense studies of United States strategic forces, including the 2001 Nuclear Posture Review, has confirmed the continued need for 500 intercontinental ballistic missiles.

(3) 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.

(4) 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 deploy a force of 500 intercontinental ballistic missiles, provided that unanticipated strategic developments may compel the United States to make changes to this force structure in the future.

(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.

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

SEC. 1044. REPORT ON USE OF SPACE RADAR FOR TOPOGRAPHICAL MAPPING FOR SCIENTIFIC AND CIVIL PURPOSES.

(a) IN GENERAL.—Not later than January 15, 2006, the Secretary of Defense shall submit to the congressional defense committees on report on the feasability and advisability of utilizing the Space Radar for purposes of providing coastal zone and other topographical mapping information, and related information, to the scientific community and other elements of the private sector for scientific and civil purposes.

(b) REPORT ELEMENTS.—The report required by subsection (a) shall include the following:

(1) A description and evaluation of any uses of the Space Radar for scientific or civil purposes that are identified by the Secretary for purposes of the report.

(2) A description and evaluation of any additions or modifications to the Space Radar identified by the Secretary for purposes of the report that would increase the utility of the Space Radar to the scientific community or other elements of the private sector for scientific or civil purposes, including the utilization of additional frequencies, the development or enhancement of ground systems, and the enhancement of operations.

(3) A description of the costs of any additions or modifications identified pursuant to paragraph (2).

(4) A description and evaluation of processes to be utilized to determine the means of modifying the Space Radar in order to meet the needs of the scientific community or other elements of the private sector with respect to the use of the Space Radar for scientific or civil purposes, and a proposal for meeting the costs of such modifications.

(5) A description and evaluation of the impacts, if any, on the primary missions of the Space Radar, and on the development of the Space Radar, of the use of the Space Radar for scientific or civil purposes.

(6) A description of the process for developing requirements for the Space Radar, including the involvement of the Civil Applications Committee.

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

SEC. 125. JOINT PRIMARY AIRCRAFT TRAINERS.

(a) ADDITIONAL AMOUNT FOR AIRCRAFT PROCUREMENT FOR THE NAVY.—The amount authorized to be appropriated by section 102(a)(1) for aircraft procurement for the Navy is hereby increased by $10,000,000.

(b) AVAILABILITY OF AMOUNT.—Of the amount authorized to be appropriated by section 102(a)(1) for aircraft procurement for the Navy, as increased by subsection (a), $10,000,000 may be available for the procurement of Joint Primary Aircraft Trainers (JPAT) for the Navy.

(c) OFFSET.—The amount authorized to be appropriated by section 301(4) for operation and maintenance for Air Force activities is hereby reduced by $10,000,000.

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

SEC. 124. RAPID INTRAVENOUS INFUSION PUMP.

(a) ADDITIONAL AMOUNT FOR PROCUREMENT FOR THE MARINE CORPS.—The amount authorized to be appropriated by section 102(b) for procurement for the Marine Corps is hereby increased by $1,000,000.

(b) AVAILABILITY OF AMOUNT.—Of the amount authorized to be appropriated by section 102(b) for procurement for the Marine Corps, as increased by subsection (a), $1,000,000 may be available for General Property for Field Medical Equipment for the Rapid Intravenous (IV) Infusion Pump.

(c) OFFSET.—The amount authorized to be appropriated by section 301(4) is hereby reduced by $1,000,000.

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

SEC. 213. AGING MILITARY AIRCRAFT FLEET SUPPORT.

(a) ADDITIONAL AMOUNT FOR RESEARCH, DEVELOPMENT, TEST, AND EVALUATION FOR THE 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 $4,000,000.

(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), $4,000,000 may be available for Program Element #63112F for Aging Military Aircraft Fleet Support.

(c) OFFSET.—The amount authorized to be appropriated by section 301(4) for operation and maintenance for Air Force activities is hereby reduced by $4,000,000.

At the end of subtitle A of title I, add the following:

SEC. 114. UH–60 BLACK HAWK HELICOPTER PROCUREMENT IN RESPONSE TO ATTRITION.

(a) INCREASE IN AMOUNT.—Of the amount authorized to be appropriated by section 101(1) for aircraft for the Army, the amount available for the procurement of UH–60 Black Hawk helicopters in response to attrition is hereby increased to $40,600,000, with the amount to be used to increase the number of UH–60 Black Hawk helicopters to be procured in response to attrition from 2 helicopters to 4 helicopters.

(b) OFFSET.—Of the amount authorized to be appropriated by section 101(1) for aircraft for the Army, the amount available for UH–60 Black Hawk helicopter medevac kits is hereby reduced to $29,700,000, with the amount to be derived in a reduction in the number of such kits from 10 kits to 6 kits.

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

SEC. 537. ELIGIBILITY OF UNITED STATES NATIONALS FOR APPOINTMENT TO THE SENIOR RESERVE OFFICERS' TRAINING CORPS.

(a) IN GENERAL.—Section 2107(b)(1)(A) of title 10, United States Code, is amended by inserting ''or national'' after ''citizen''.

(b) ARMY RESERVE OFFICERS TRAINING PROGRAMS.—Section 2107a(b)(1)(A) of such title is amended by inserting ''or national'' after ''citizen''.

(c) ELIGIBILITY FOR APPOINTMENT AS COMMISSIONED OFFICERS.—Section 532(f) of such title is amended by inserting '', or for a United States national otherwise eligible for appointment as a cadet or midshipman under section 2107(a) of this title or as a cadet under section 2107a of this title,'' after ''for permanent residence''.

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

SEC. 244. REPORT ON COOPERATION BETWEEN THE DEPARTMENT OF DEFENSE AND THE NATIONAL AERONAUTICS AND SPACE ADMINISTRATION ON RESEARCH, DEVELOPMENT, TEST, AND EVALUATION ACTIVITIES.

(a) REPORT REQUIRED.—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 cooperative activities between the Department of Defense and the National Aeronautics and Space Administration related to research, development, test, and evaluation on areas of mutual interest to the Department and the Administration.

(b) AREAS COVERED.—The areas of mutual interest to the Department of Defense and the National Aeronautics and Space Administration referred to in subsection (a) may include, but not be limited to, areas relating to the following:

(1) Aeronautics research.

(2) Facilities, personnel, and support infrastructure.

(3) Propulsion and power technologies.

(4) Space access and operations.

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

SEC. 213. WARHEAD/GRENADE SCIENTIFIC BASED MANUFACTURING TECHNOLOGY.

(a) ADDITIONAL AMOUNT FOR RESEARCH, DEVELOPMENT, TEST, AND EVALUATION FOR THE ARMY.—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.

(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), $1,000,000 may be available for Weapons and Ammunition Technology (PE#602624A) for Warhead/Grenade Scientific Based Manufacturing Technology.

(c) OFFSET.—The amount authorized to be appropriated by section 301(4) for operation and maintenance, Air Force activities is hereby reduced by $1,000,000.

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

SEC. 213. JOINT SERVICE SMALL ARMS PROGRAM.

(a) INCREASED 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 $5,000,000.

(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), $5,000,000 may be available for the Joint Service Small Arms Program.

(c) OFFSET.—The amount authorized to be appropriated by section 301(4) is hereby reduced by $5,000,000.

On page 286, between lines 7 and 8, insert the following:

SEC. 1073. ESTABLISHMENT OF NATIONAL FOREIGN LANGUAGE COORDINATION COUNCIL.

(a) ESTABLISHMENT.—There is established the National Foreign Language Coordination Council (in this section referred to as the ''Council''), which shall be an independent establishment as defined under section 104 of title 5, United States Code.

(b) MEMBERSHIP.—The Council shall consist of the following members or their designees:

(1) The National Language Director, who shall serve as the chairperson of the Council.

(2) The Secretary of Education.

(3) The Secretary of Defense.

(4) The Secretary of State.
(5) The Secretary of Homeland Security.
(6) The Attorney General.
(7) The Director of National Intelligence.
(8) The Secretary of Labor.
(9) The Director of the Office of Personnel Management.
(10) The Director of the Office of Management and Budget.
(11) The Secretary of Commerce.
(12) The Secretary of Health and Human Services.
(13) The Secretary of the Treasury.
(14) The Secretary of Housing and Urban Development.
(15) The Secretary of Agriculture.
(16) The heads of such other Federal agencies as the Council considers appropriate.

(c) RESPONSIBILITIES.—

(1) IN GENERAL.—The Council shall be charged with—

(A) developing a national foreign language strategy, within 18 months of the date of enactment of this section, in consultation with—

(i) State and local government agencies;
(ii) academic sector institutions;
(iii) foreign language related interest groups;
(iv) business associations;
(v) industry; and
(vi) heritage associations;

(B) conducting a survey of Federal agency needs for foreign language area expertise; and

(C) overseeing the implementation of such strategy through—

(i) execution of subsequent law; and
(ii) the promulgation and enforcement of rules and regulations.

(2) STRATEGY CONTENT.—The strategy developed under paragraph (1) shall include—

(A) identification of crucial priorities across all sectors;

(B) identification and evaluation of Federal foreign language programs and activities, including—

(i) recommendations on coordination;
(ii) program enhancements; and
(iii) allocation of resources so as to maximize use of resources;

(C) needed national policies and corresponding legislative and regulatory actions in support of, and allocation of designated resources to, promising programs and initiatives at all levels (Federal, State, and local), especially in the less commonly taught languages that are seen as critical for national security and global competitiveness in the next 20 to 50 years;

(D) effective ways to increase public awareness of the need for foreign language skills and career paths in all sectors that can employ those skills, with the objective of increasing support for foreign language study among—

(i) Federal, State, and local leaders;
(ii) students;
(iii) parents;
(iv) elementary, secondary, and postsecondary educational institutions; and
(v) potential employers;

(E) incentives for related educational programs, including foreign language teacher training;

(F) coordination of cross-sector efforts, including public-private partnerships;

(G) coordination initiatives to develop a strategic posture for language research and recommendations for funding for applied foreign language research into issues of national concern;

(H) assistance for—

(i) the development of foreign language achievement standards; and
(ii) corresponding assessments for the elementary, secondary, and postsecondary education levels, including the National Assessment of Educational Progress in foreign languages;

(I) development of —

(i) language skill-level certification standards;
(ii) an ideal course of pre-service and professional development study for those who teach foreign language;
(iii) suggested graduation criteria for foreign language studies and appropriate non-language studies, such as—

(I) international business;
(II) national security;
(III) public administration;
(IV) health care;
(V) engineering;
(VI) law;
(VII) journalism; and
(VIII) sciences; and

(J) identification of and means for replicating best practices at all levels and in all sectors, including best practices from the international community.

(d) MEETINGS.—The Council may hold such meetings, and sit and act at such times and places, as the Council considers appropriate, but shall meet in formal session at least 2 times a year. State and local government agencies and other organizations (such as academic sector institutions, foreign language-related interest groups, business associations, industry, and heritage community organizations) shall be invited, as appropriate, to public meetings of the Council at least once a year.

(e) STAFF.—

(1) IN GENERAL.—The Director may appoint and fix the compensation of such additional personnel as the Director considers necessary to carry out the duties of the Council.

(2) DETAILS FROM OTHER AGENCIES.—Upon request of the Council, the head of any Federal agency may detail, on a reimbursable basis, any of the personnel of such agency to the Council.

(3) EXPERTS AND CONSULTANTS.—With the approval of the Council, the Director may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(f) POWERS.—

(1) DELEGATION.—Any member or employee of the Council may, if authorized by the Council, take any action that the Council is authorized to take in this section.

(2) INFORMATION.—The Council may secure directly from any Federal agency such information, consistent with Federal privacy laws, the Council considers necessary to carry out its responsibilities. Upon request of the Director, the head of such agency shall furnish such information to the Council.

(3) DONATIONS.—The Council may accept, use, and dispose of gifts or donations of services or property.

(4) MAIL.—The Council may use the United States mail in the same manner and under the same conditions as other Federal agencies.

(g) CONFERENCES, NEWSLETTER, AND WEBSITE.—In carrying out this section, the Council—

(1) may arrange Federal, regional, State, and local conferences for the purpose of developing and coordinating effective programs and activities to improve foreign language education;

(2) may publish a newsletter concerning Federal, State, and local programs that are effectively meeting the foreign language needs of the nation; and

(3) shall create and maintain a website containing information on the Council and its activities, best practices on language education, and other relevant information.

(h) REPORTS.—Not later than 90 days after the date of enactment of this section, and annually thereafter, the Council shall prepare and transmit to the President and Congress a report that describes the activities of the Council and the efforts of the Council to improve foreign language education and training and impediments, including any statutory and regulatory restrictions, to the use of each such program.

(i) ESTABLISHMENT OF A NATIONAL LANGUAGE DIRECTOR.—

(1) IN GENERAL.—There is established a National Language Director who shall be appointed by the President. The National Language Director shall be a nationally recognized individual with credentials and abilities across all of the sectors to be involved with creating and implementing long-term solutions to achieving national foreign language and cultural competency.

(2) RESPONSIBILITIES.—The National Language Director shall—

(A) develop and oversee the implementation of a national foreign language strategy across all sectors;

(B) establish formal relationships among the major stakeholders in meeting the needs of the Nation for improved capabilities in foreign languages and cultural understanding, including Federal, State, and local government agencies, academia, industry, labor, and heritage communities; and

(C) coordinate and lead a public information campaign that raises awareness of public and private sector careers requiring foreign language skills and cultural understanding, with the objective of increasing interest in and support for the study of foreign languages among national leaders, the business community, local officials, parents, and individuals.

(3) COMPENSATION.—The National Language Director shall be paid at a rate of pay payable for a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

(j) ENCOURAGEMENT OF STATE INVOLVEMENT.—

(1) STATE CONTACT PERSONS.—The Council shall consult with each State to provide for the designation by each State of an individual to serve as a State contact person for the purpose of receiving and disseminating information and communications received from the Council.

(2) STATE INTERAGENCY COUNCILS AND LEAD AGENCIES.—Each State is encouraged to establish a State interagency council on foreign language coordination or designate a lead agency for the State for the purpose of assuming primary responsibility for coordinating and interacting with the Council and State and local government agencies as necessary.

(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as necessary to carry out this section.

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

SEC. 330. POINT OF MAINTENANCE/ARSENAL/DEPOT AIT INITIATIVE.

(a) 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 $10,000,000.

(b) AVAILABILITY OF AMOUNT.—Of the amount authorized to be appropriated by section 301(1) for operation and maintenance for the Army, as increased by subsection (a), $16,000,000 may be available for the Point of Maintenance/Arsenal/Depot AIT (AD–AIT) Initiative.

(c) OFFSET.—The amount authorized to be appropriated by section 301(4) is hereby reduced by $10,000,000 to be derived from amounts authorized to be appropriated by that section for the Air Force.

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

SEC. 330. LONG ARM HIGH-INTENSITY ARC METAL HALIDE HANDHELD SEARCHLIGHT.

(a) 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 $4,500,000.

(b) AVAILABILITY OF AMOUNT.—Of the amount authorized to be appropriated by section 301(1) for operation and maintenance for the Army, as increased by subsection (a), $4,500,000 may be available for the Long Arm High-Intensity Arc Metal Halide Handheld Searchlight.

(c) OFFSET.—The amount authorized to be appropriated by section 301(4) is hereby reduced by $4,500,000, with the amount of the reduction to be derived from amounts authorized to be appropriated by that section for the Air Force.

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. REPORT ON USE OF LEAD SYSTEM INTEGRATORS IN THE ACQUISITION OF MAJOR SYSTEMS.

(a) REPORT REQUIRED.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report on the use of lead system integrators for the acquisition by the Department of Defense of major systems.

(b) CONTENTS.—The report required by subsection (a) shall include a detailed description of the actions taken, or to be taken (including a specific timetable), and the current regulations and guidelines regarding—

(1) the definition of the respective rights of the Department of Defense, lead system integrators, and other contractors that participate in the development or production of any individual element of the major weapon system (including subcontractors under lead system integrators) in intellectual property that is developed by the other participating contractors in a manner that ensures that—

(A) 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

(B) lead system integrators obtain access to technical data developed by the other participating contractors only to the extent necessary to execute their contractual obligations as lead systems integrators;

(2) the prevention or mitigation of organizational conflicts of interest on the part of lead system integrators;

(3) the prevention of the performance by lead system integrators of functions closely associated with inherently governmental functions;

(4) the appropriate use of competitive procedures in the award of subcontracts by lead system integrators with system responsibility;

(5) the prevention of organizational conflicts of interest arising out of any financial interest of lead system integrators without system responsibility in the development or production of individual elements of a major weapon system; and

(6) the prevention of pass-through charges by lead system integrators with system responsibility on systems or subsystems developed or produced under subcontracts where such lead system integrators do not provide significant value added with regard to such systems or subsystems.

(c) DEFINITIONS.—In this section:

(1) The term ''lead system integrator'' includes lead system integrators with system responsibility and lead system integrators without system responsibility.

(2) The term ''lead system integrator with system responsibility'' means a prime contractor for the development or production of a major system if the prime contractor is not expected at the time of award, as determined by the Secretary of Defense for purposes of this section, to perform a substantial portion of the work on the system and the major subsystems.

(3) The term ''lead system integrator without system responsibility'' means a contractor under a contract for the procurement of services whose primary purpose 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 ''major system'' has the meaning given such term in section 2302d of title 10, United States Code.

(5) The term ''pass-through charge'' means a charge for overhead or profit on work performed by a lower-tier contractor (other than charges for the direct costs of managing lower-tier contracts and overhead and profit based on such direct costs) that does not, as determined by the Secretary for purposes of this section, promote significant value added with regard to such work.

(6) 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.

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.

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) 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.

(c) 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.

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 who participates personally and substantially in the acquisition of textiles on a regular basis 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).

On page 92, after line 25, add the following:

SEC. 538. PROMOTION OF FOREIGN LANGUAGE SKILLS AMONG MEMBERS OF THE RESERVE OFFICERS' TRAINING CORPS.

(a) IN GENERAL.—The Secretary of Defense shall support the acquisition of foreign language skills among cadets and midshipmen in the Reserve Officers' Training Corps, including through the development and implementation of—

(1) incentives for cadets and midshipmen to participate in study of a foreign language, including special emphasis for Arabic, Chinese, and other ''strategic languages'', as defined by the Secretary of Defense in consultation with other relevant agencies; and

(2) a recruiting strategy to target foreign language speakers, including members of heritage communities, to participate in the Reserve Officers' Training Corps.

(b) REPORT REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to the congressional defense committees a report on the actions taken to carry out this section.

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.

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) is hereby reduced by $3,000,000.

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(4) for operation and maintenance for the Air Force is hereby reduced by $6,000,000.

On page 213, between lines 2 and 3, insert the following:

SEC. 807. TEMPORARY INAPPLICABILITY OF BERRY AMENDMENT TO PROCUREMENTS OF ITEMS USED TO PRODUCE FORCE PROTECTION EQUIPMENT.

(a) IN GENERAL.—Section 2533a(a) of title 10, United States Code, shall not apply to the procurement, during the 2-year period beginning on the date of the enactment of this Act, of items if such items are used to produce force protection equipment needed to prevent combat fatalities in Iraq or Afghanistan.

(b) TREATMENT OF PROCUREMENTS WITHIN PERIOD.—For the purposes of subsection (a), a procurement shall be treated as being made during the 2-year period described in that subsection to the extent that funds are obligated by the Department of Defense for that procurement during that period.

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

SEC. 244. DELAYED EFFECTIVE DATE FOR LIMITATION ON PROCUREMENT OF SYSTEMS NOT GPS-EQUIPPED.

(a) DELAYED EFFECTIVE DATE.—Section 152(b) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1578), as amended by section 218(e) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 112 Stat. 1952; 10 U.S.C. 2281 note), is further amended by striking ''2005'' and inserting ''2007''.

(b) RATIFICATION OF ACTIONS.—Any obligation or expenditure of funds by the Department of Defense during the period beginning on October 1, 2005, and ending on the date of the enactment of this Act to modify or procure a Department of Defense aircraft, ship, armored vehicle, or indirect-fire weapon system that is not equipped with a Global Positioning System receiver is hereby ratified.

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

SEC. 213. DEFENSE BASIC RESEARCH PROGRAMS.

(a) ARMY PROGRAMS.—(1) The amount authorized to be appropriated by section 201(1) for research, development, test, and evaluation for the Army is hereby increased by $10,000,000.

(2) Of the amount authorized to be appropriated by section 201(1) for research, development, test, and evaluation for the Army, as increased by paragraph (1), $10,000,000 may be available for Program Element 0601103A for University Research Initiatives.

(b) NAVY PROGRAMS.—(1) The amount authorized to be appropriated by section 201(2) for research, development, test, and evaluation for the Navy is hereby increased by $5,000,000.

(2) Of the amount authorized to be appropriated by section 201(2) for research, development, test, and evaluation for the Navy, as increased by paragraph (1), $5,000,000 may be available for Program Element 0601103N for University Research Initiatives.

(c) AIR FORCE PROGRAMS.—(1) The amount authorized to be appropriated by section 201(3) for research, development, test, and evaluation for the Air Force is hereby increased by $10,000,000.

(2) Of the amount authorized to be appropriated by section 201(3) for research, development, test, and evaluation for the Air Force, as increased by paragraph (1), $10,000,000 may be available for Program Element 0601103F for University Research Initiatives.

(d) DEFENSE-WIDE ACTIVITIES.—(1) The amount authorized to be appropriated by section 201(4) for research, development, test, and evaluation for Defense-wide activities is hereby increased by $15,000,000.

(2) Of the amount authorized to be appropriated by section 201(4) for research, development, test, and evaluation for Defense-wide activities, as increased by paragraph (1)—

(A) $10,000,000 may be available for Program Element 0601120D8Z for the SMART National Defense Education Program; and

(B) $5,000,000 may be available for Program Element 0601101E for the Defense Advanced Research Projects Agency University Research Program in Computer Science and Cybersecurity.

(e) OFFSETS.—(1) The amount authorized to be appropriated by section 301(4) is hereby reduced by $40,000,000.

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.''.

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''.

At the end of subtitle A of title VIII, add the following:

SEC. 807. ACQUISITION STRATEGY FOR COMMERCIAL SATELLITE COMMUNICATION SERVICES.

(a) REQUIREMENT FOR SPEND ANALYSIS.—The Secretary of Defense shall, as a part of the effort of the Department of Defense to develop a revised strategy for acquiring commercial satellite communication services, perform a complete spend analysis of the past and current acquisitions by the Department of commercial satellite communication services.

(b) REPORT ON ACQUISITION STRATEGY.—

(1) IN GENERAL.—Not later than six months after the date of the enactment of this Act, the Secretary shall submit to Congress a report on the acquisition strategy of the Department of Defense for commercial satellite communications services.

(2) ELEMENTS.—The report required by paragraph (1) shall include the following:

(A) A description of the spend analysis required by subsection (a), including the results of the analysis.

(B) The proposed strategy of the Department for acquiring commercial satellite communication services, which strategy shall—

(i) be based in appropriate part on the results of the analysis required by subsection (a); and

(ii) take into account various methods of aggregating purchases and leveraging the purchasing power of the Department, including through the use of multiyear contracting for commercial satellite communication services.

(C) A proposal for such legislative action as the Secretary considers necessary to acquire appropriate types and amounts of commercial satellite communications services using methods of aggregating purchases and leveraging the purchasing power of the Department (including the use of multiyear contracting), or if the use of such methods is determined inadvisable, a statement of the rationale for such determination.

(D) A proposal for such other legislative action that the Secretary considers necessary to implement the strategy of the Department for acquiring commercial satellite communication services.

In the section heading of section 582, insert ''or decreases'' after ''increases''.

In section 582(a), insert ''or decrease'' after ''overall increase''.

In the matter preceding subparagraph (A) of section 582(b)(2), insert ''or decrease'' after ''overall increase''.

In section 582(b)(2)(B), strike ''; or'' and insert a semicolon.

In section 582(b)(2)(C), strike the period at the end and insert ''; or''.

In section 528(b)(2), add at the end the following:

(D) a change in the number of housing units on a military installation.

In section 582(d)(1), insert ''or decrease'' after ''overall increase''.

At the end of subtitle F of title V, add the following:

SEC. 573. UNIFORM POLICY ON PARENTAL LEAVE AND SIMILAR LEAVE.

(a) POLICY REQUIRED.—The Secretary of Defense shall prescribe in regulations a uniform policy for the taking by members of the Armed Forces of parental leave to cover leave to be used in connection with births or adoptions, as the Secretary shall designate under the policy.

(b) UNIFORMITY ACROSS ARMED FORCES.—The policy prescribed under subsection (a) shall apply uniformly across the Armed Forces.

On page 96, strike lines 19 and 20 and insert the following:

''(2) Military legal assistance may be provided only by a judge advocate or a civilian attorney who is a member of the bar of a Federal court or of the highest court of a State.

''(3) In this subsection, the term 'military legal assistance' includes—

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

SEC. 538. PILOT PROGRAM ON ENHANCED QUALITY OF LIFE FOR MEMBERS OF THE ARMY RESERVE AND THEIR FAMILIES.

(a) PILOT PROGRAM REQUIRED.—

(1) IN GENERAL.—The Secretary of the Army shall carry out a pilot program to assess the feasability and advisability of utilizing a coalition of military and civilian community personnel at military installations in order to enhance the quality of life for members of the Army Reserve who serve at such installations and their families.

(2) LOCATIONS.—The Secretary shall carry out the pilot program at a military installation selected by the Secretary for purposes of the pilot program in two States.

(b) PARTICIPATING PERSONNEL.—A coalition of personnel under the pilot program shall consist of—

(1) such command personnel at the installation concerned as the commander of such installation considers appropriate;

(2) such other military personnel at such installation as the commander of such installation considers appropriate; and

(3) appropriate members of the civilian community of installation, such as clinicians and teachers, who volunteer for participation in the coalition.

(c) OBJECTIVES.—

(1) PRINCIPLE OBJECTIVE.—The principle objective of the pilot program shall be to enhance the quality of life for members of the Army Reserve and their families in order to enhance the mission readiness of such members, to facilitate the transition of such members to and from deployment, and to enhance the retention of such members.

(2) OBJECTIVES RELATING TO DEPLOYMENT.—In seeking to achieve the principle objective under paragraph (1) with respect to the deployment of members of the Army Reserve,

each coalition under the pilot program shall seek to assist members of the Army Reserve and their families in—

(A) successfully coping with the absence of such members from their families during deployment; and

(B) successfully addressing other difficulties associated with extended deployments, including difficulties of members on deployment and difficulties of family members at home.

(3) METHODS TO ACHIEVE OBJECTIVES.—The methods selected by each coalition under the pilot program to achieve the objectives specified in this subsection shall include methods as follows:

(A) Methods that promote a balance of work and family responsibilities through a principle-centered approach to such matters.

(B) Methods that promote the establishment of appropriate priorities for family matters, such as the allocation of time and attention to finances, within the context of meeting military responsibilities.

(C) Methods that promote the development of meaningful family relationships.

(D) Methods that promote the development of parenting skills intended to raise emotionally healthy and empowered children.

(d) REPORT.—Not later than April 1, 2007, the Secretary shall submit to the congressional defense committees a report on the pilot program carried out under this section. The report shall include—

(1) a description of the pilot program;

(2) an assessment of the benefits of utilizing a coalition of military and civilian community personnel on military installations in order to enhance the quality of life for members of the Army Reserve and their families; and

(3) such recommendations for legislative or administrative action as the Secretary considers appropriate in light of the pilot program.

(e) FUNDING.—

(1) IN GENERAL.—The amount authorized to be appropriated by section 301(6) for operation and maintenance for the Army Reserve is hereby increased by $160,000, with the amount of the increase to be available to carry out the pilot program required by this section.

(2) OFFSET.—The amount authorized to be appropriated by section 201(2) for research, development, test, and evaluation for the Navy and available for Ship Self Defense (Detect and Control) (PE #0604755N) is hereby reduced by $160,000, with the amount of the reduction to be allocated to amounts for Autonomous Unmanned Surface Vessel.

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 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.

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).

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.

On page 296, after line 19, add the following:

SEC. 1205. REPORT ON NONSTRATEGIC NUCLEAR WEAPONS.

(a) REVIEW.—Not later than six months after date of enactment, the Secretary of Defense shall, in consultation with the Secretary of State, conduct a review of United States and Russian nonstrategic nuclear weapons and determine whether it is in the national security interest of the United States—

(1) to reduce the number of United States and Russian nonstrategic nuclear weapons;

(2) to improve the security of United States and Russian nonstrategic nuclear weapons in storage and during transport;

(3) to identify and develop mechanisms and procedures to implement transparent reductions in nonstrategic nuclear weapons; and

(4) to identify and develop mechanisms and procedures to implement the transparent dismantlement of excess nonstrategic nuclear weapons.

(b) REPORT.—

(1) IN GENERAL.—The Secretary of Defense shall, in consultation with the Secretary of State and the Secretary of Energy, submit a joint report on the results of the review required under subsection (a). The report shall include a plan to implement, not later than October 1, 2006, actions determined to be in the United States national security interest.

(2) FORM.—The report required under paragraph (1) shall be submitted in unclassified form, but may include an unclassified annex.

In subtitle B of title VII of the bill, add the following at the end:

SEC. 718. PANDEMIC AVIAN FLU PREPAREDNESS.

(a) REPORT.—The Secretary of Defense shall report to the Committees on Armed Services of the Senate and the House of Representatives efforts within the Department of Defense to prepare for pandemic influenza, including pandemic avian influenza. 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, the Secretary of Defense shall submit the report to the Committees on Armed Services of the Senate and the House of Representatives.

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) Not later than 120 days after the date of the members return from such deployment.

(4) Whenever the member receives any other medical examination through the Department of Defense.

In lieu of the matter proposed to be inserted, insert the following:

SEC. 718. MENTAL HEALTH COUNSELORS UNDER TRICARE.

(a) IN GENERAL.—Section 1079(a) of title 10, United States Code, is amended by adding at the end the following new paragraph:

''(17) Services of mental health counselors, except that—

''(A) such services are limited to services provided by counselors who are licensed under applicable State law to provide mental health services;

''(B) such services may be provided independently of medical oversight and supervision only in areas identified by the Secretary as 'medically underserved areas' where the Secretary determines that 25 percent or more of the residents are located in primary shortage areas designated pursuant to section 332 of the Public Health Services Act (42 U.S.C. 254e); and

''(C) the provision of such services shall be consistent with such rules as may be prescribed by the Secretary of Defense, including criteria applicable to credentialing or certification of mental health counselors and a requirement that mental health counselors accept payment under this section as full payment for all services provided pursuant to this paragraph.''.

(b) 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,''.

(a) AUTHORITY TO CONTINUE ALLOWANCE.—Effective as of September 30, 2005, section 1026 of division A of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005 (Public Law 109–13), is amended by striking subsections (d) and (e).

(b) CODIFICATION OF REPORTING REQUIREMENT.—Section 411h of title 37, United States Code, is amended by adding at the end the following new subsection:

'(e) If the amount of travel and transportation allowances provided in a fiscal year under clause (ii) of subsection (a)(2)(B) exceeds $20,000,000, the Secretary of Defense shall submit to Congress a report specifying the total amount of travel and transportation allowances provided under such clause in such fiscal year.'.

(c) CONFORMING AMENDMENT.—Subsection (a)(2)(B)(ii) of such section, as added by section 1026 of division A of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005 (Public Law 109–13), is amended by striking 'under section 1967(c)(1)(A) of title 38'.

(d) FUNDING.—Funding shall be provided out of existing funds.

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 September 30, 2010.

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

''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**''.

At the end of subtitle H of title V, add the following:

SEC. 596. CONSUMER EDUCATION FOR MEMBERS OF THE ARMED FORCES AND THEIR SPOUSES ON INSURANCE AND OTHER FINANCIAL SERVICES.

(a) EDUCATION AND COUNSELING REQUIREMENTS.—

(1) IN GENERAL.—Chapter 50 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 992. Consumer education: financial services

''(a) REQUIREMENT FOR CONSUMER EDUCATION PROGRAM FOR MEMBERS.—(1) The Secretary concerned shall carry out a program to provide comprehensive education to members of the armed forces under the jurisdiction of the Secretary on—

''(A) financial services that are available under law to members;

''(B) financial services that are routinely offered by private sector sources to members;

''(C) practices relating to the marketing of private sector financial services to members;

''(D) such other matters relating to financial services available to members, and the marketing of financial services to members, as the Secretary considers appropriate; and

''(E) such other financial practices as the Secretary considers appropriate.

''(2) Training under this subsection shall be provided to members as—

''(A) a component of members initial entry orientation training; and

''(B) a component of periodically recurring required training that is provided for the members at military installations.

''(3) The training provided at a military installation under paragraph (2)(B) shall include information on any financial services marketing practices that are particularly prevalent at that military installation and in the vicinity.

''(b) COUNSELING FOR MEMBERS AND SPOUSES.—(1) The Secretary concerned shall, upon request, provide counseling on financial services to each member of the armed forces, and such member's spouse, under the jurisdiction of the Secretary.

''(2)(A) In the case of a military installation at which at least 2,000 members of the armed forces on active duty are assigned, the Secretary concerned—

''(i) shall provide counseling on financial services under this subsection at such installation through a full-time financial services counselor at such installation; and

''(ii) may provide such counseling at such installation by any means elected by the Secretary concerned from among the following:

''(I) Through members of the armed forces in grade E–7 or above, or civilians, who provide such counseling as a part of the other duties for the Armed Forces or the Department of Defense.

''(II) By contract, including contract for services by telephone and by the Internet.

''(III) Through qualified representatives of nonprofit organizations and agencies under formal agreement with the Department of Defense to provide such counseling.

''(B) In the case of any military installation not described in subparagraph (A), the Secretary concerned shall provide counseling on financial services under this subsection at such installation by any of the means set forth in subparagraph (A)(ii), as elected by the Secretary concerned.

''(3) Each financial services counselor under paragraph (2)(A)(i), and any other individual providing counseling on financial services under paragraph (2), shall be an individual who, by reason of education, training, or experience, is qualified to provide helpful

counseling to members of the armed forces and their spouses on financial services and marketing practices described in subsection (a)(1). Such individual may be a member of the armed forces or an employee of the Federal Government.

''(4) The Secretary concerned shall take such action as is necessary to ensure that each financial services counselor under paragraph (2)(A)(i), and any other individual providing counseling on financial services under paragraphs (2), is free from conflicts of interest relevant to the performance of duty under this section, and, in the performance of that duty, is dedicated to furnishing members of the armed forces and their spouses with helpful information and counseling on financial services and related marketing practices.

''(c) LIFE INSURANCE.—(1) In counseling a member of the armed forces, or spouse of a member of the armed forces, under this section regarding life insurance offered by a private sector source, a financial services counselor under subsection (b)(2)(A)(i), or another individual providing counseling on financial services under subsection (b)(2), shall furnish the member or spouse, as the case may be, with information on the availability of Servicemembers' Group Life Insurance under subchapter III of chapter 19 of title 38, including information on the amounts of coverage available and the procedures for electing coverage and the amount of coverage.

''(2)(A) A covered member of the armed forces may not authorize payment to be made for private sector life insurance by means of an allotment of pay to which the member is entitled under chapter 3 of title 37 unless the authorization of allotment is accompanied by a written certification by a commander of the member, a financial services counselor referred to in subsection (b)(2)(A)(i), or another individual providing counseling on financial services under subsection (b)(2), as applicable, that the member has received counseling under paragraph (1) regarding the purchase of coverage under that private sector life insurance.

''(B) Subject to subparagraph (C), a written certification described in subparagraph (A) may not be made with respect to a member's authorization of allotment as described in subparagraph (A) until seven days after the date of the member's authorization of allotment in order to facilitate the provision of counseling to the member under paragraph (1).

''(C) The commander of a member may waive the applicability of subparagraph (B) to a member for good cause, including the member's imminent change of station.

''(D) In this paragraph, the term 'covered member of the armed forces' means an active duty member of the armed forces in grades E–1 through E–4.

''(d) FINANCIAL SERVICES DEFINED.—In this section, the term 'financial services' includes the following:

''(1) Life insurance, casualty insurance, and other insurance.

''(2) Investments in securities or financial instruments.

''(3) Banking, credit, loans, deferred payment plans, and mortgages.''.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

''992. Consumer education: financial services.''.

(b) CONTINUING EFFECT OF EXISTING ALLOTMENTS FOR LIFE INSURANCE.—Paragraph (c)(2) of section 992 of title 10, United States Code (as added by subsection (a)), shall not affect any allotment of pay authorized by a member of the Armed Forces before the effective date of such section.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the first month that begins more than 120 days after the date of the enactment of this Act.

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 Stat. 251), of the amendments made by subsection (a) of such section, section 403(l) of title 37, United States Code, is amended by striking ''180 days'' each place it appears and inserting ''365 days''.

At the end of subtitle A of title VI, add the following:

SEC. 605. BASIC ALLOWANCE FOR HOUSING FOR RESERVE MEMBERS.

(a) EQUAL TREATMENT OF RESERVE MEMBERS.—Subsection (g) of section 403 of title 37, United States Code, is amended—

(1) by redesignating paragraph (3) as paragraph (4);

(2) by inserting after paragraph (2) the following new paragraph (3):

''(3) The rate of basic allowance for housing to be paid to the following members of a reserve component shall be equal to the rate in effect for similarly situated members of a regular component of the uniformed services:

''(A) A member who is called or ordered to active duty for a period of more than 30 days.

''(B) A member who is called or ordered to active duty for a period of 30 days or less in support of a contingency operation.''; and

(3) in paragraph (4), as so redesignated, by striking ''less than 140 days'' and inserting ''30 days or less''.

(b) CONFORMING AMENDMENT REGARDING MEMBERS WITHOUT DEPENDENTS.—Paragraph (1) of such subsection is amended by inserting ''or for a period of more than 30 days'' after ''in support of a contingency operation'' both places it appears.

At the end of subtitle E of title VI, add the following:

SEC. 653. EDUCATION LOAN REPAYMENT PROGRAM FOR CHAPLAINS IN THE SELECTED RESERVE.

(a) IN GENERAL.—Chapter 1609 of title 10, United States Code, is amended by adding at the end the following new section:

''§ 16303. Education loan repayment program: chaplains serving in the Selected Reserve

''(a) AUTHORITY TO REPAY EDUCATION LOANS.—Under regulations prescribed by the Secretary of Defense and subject to the provisions of this section, the Secretary concerned may, for purposes of maintaining adequate numbers of chaplains in the Selected Reserve, repay a loan that—

''(1) was used by a person described in subsection (b) to finance education resulting in a Masters of Divinity degree; and

''(2) was obtained from an accredited theological seminary as listed in the Association of Theological Schools (ATS) handbook.

''(b) ELIGIBLE PERSONS.—(1) Except as provided in paragraph (2), a person described in this subsection is a person who—

''(A) satisfies the requirements specified in subsection (c);

''(B) holds, or is fully qualified for, an appointment as a chaplain in a reserve component of an armed force; and

''(C) signs a written agreement to serve not less than three years in the Selected Reserve.

''(2) A person accessioned into the Chaplain Candidate Program is not eligible for the repayment of loans under subsection (a).

''(c) ACADEMIC AND PROFESSIONAL REQUIREMENTS.—The requirements specified in this subsection are such requirements for accessioning and commissioning of chaplains as are prescribed by the Secretary concerned in regulations.

''(d) LOAN REPAYMENT.—(1) Subject to paragraph (2), the repayment of a loan under this section may consist of payment of the principal, interest, and related expenses of such loan.

''(2) The amount of any repayment of a loan made under this section on behalf of a person may not exceed $20,000 for each three year period of obligated service that the person agrees to serve in an agreement described in subsection (b)(3). Of such amount, not more than an amount equal to 50 percent of such amount may be paid before the completion by the person of the first year of obligated service pursuant to such agreement. The balance of such amount shall be payable at such time or times as are prescribed by the Secretary concerned in regulations.

''(e) EFFECT OF FAILURE TO COMPLETE OBLIGATION.—A person on behalf of whom repayment of a loan is made under this section who fails, during the period of obligated service the person agrees to serve in an agreement described in subsection (b)(3), to serve satisfactorily in the Selected Reserve may, at the election of the Secretary concerned, be required to pay the United States an amount equal to any amount of repayments made on behalf of the person in connection with the agreement.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 1609 of such title is amended by adding at the end the following new item:

''16303. Education loan repayment program: chaplains serving in the Selected Reserve.''.

At the end of subtitle F of title V, add the following:

SEC. 573. NATIONAL CALL TO SERVICE PROGRAM.

(a) LIMITATION TO DOMESTIC NATIONAL SERVICE PROGRAMS.—Subsection (c)(3)(D) of section 510 of title 10, United States Code, is amended by striking ''in the Peace Corps, Americorps, or another national service program'' and inserting ''in Americorps or another domestic national service program''.

(b) ADMINISTRATION OF EDUCATION INCENTIVES BY SECRETARY OF VETERANS AFFAIRS.—Paragraph (2) of subsection (h) of such section is amended to read as follows:

''(2)(A) Educational assistance under paragraphs (3) or (4) of subsection (e) shall be provided through the Department of Veterans Affairs under an agreement to be entered into by the Secretary of Defense and the Secretary of Veterans Affairs. The agreements shall include administrative procedures to ensure the prompt and timely transfer of funds from the Secretary concerned to the Secretary of Veterans Affairs for the making of payments under this section.

''(B) Except as otherwise provided in this section, the provisions of sections 503, 511, 3470, 3471, 3474, 3476, 3482(g), 3483, and 3485 of title 38 and the provisions of subchapters I and II of chapter 36 of such title (with the exception of sections 3686(a), 3687, and 3692) shall be applicable to the provision of educational assistance under this chapter. The term 'eligible veteran' and the term 'person', as used in those provisions, shall be deemed for the purpose of the application of those provisions to this section to refer to a person eligible for educational assistance under paragraph (3) or (4) of subsection (e).''.

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

SEC. 522. RECRUITMENT AND ENLISTMENT OF HOME SCHOOLED STUDENTS IN THE ARMED FORCES.

(a) POLICY ON RECRUITMENT AND ENLISTMENT.—

(1) POLICY REQUIRED.—The Secretary of Defense shall prescribe a policy on the recruitment and enlistment of home schooled students in the Armed Forces.

(2) UNIFORMITY ACROSS THE ARMED FORCES.—The Secretary shall ensure that the policy prescribed under paragraph (1) applies, to the extent practicable, uniformly across the Armed Forces.

(b) ELEMENTS.—The policy under subsection (a) shall include the following:

(1) An identification of a graduate of home schooling for purposes of recruitment and enlistment in the Armed Forces that is in accordance with the requirements described in subsection (c).

(2) Provision for the treatment of graduates of home schooling with no practical limit with regard to enlistment eligibility.

(3) An exemption of graduates of home schooling from the requirement for a secondary school diploma or an equivalent (GED) as a precondition for enlistment in the Armed Forces.

(c) HOME SCHOOL GRADUATES.—In prescribing the policy, the Secretary of Defense shall prescribe a single set of criteria to be utilized by the Armed Forces in determining whether an individual is a graduate of home schooling. The Secretary concerned shall ensure compliance with education credential coding requirements.

(d) SECRETARY CONCERNED DEFINED.—In this section, the term ''Secretary concerned'' has the meaning given such term in section 101(a)(9) of title 10, United States Code.

At the end of subtitle H of title V, add the following:

SEC. 595. PAY OF MEMBERS OF THE COMMISSION ON THE NATIONAL GUARD AND RESERVES.

(a) IN GENERAL.—Subsection (e)(1) of section 513 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 1880) is amended by striking ''except that'' and all that follows through the end and inserting ''except that—

''(A) in applying the first sentence of subsection (a) of section 957 of such Act to the Commission, 'may' shall be substituted for 'shall'; and

''(B) in applying subsections (a), (c)(2), and (e) of section 957 of such Act to the Commission, 'level IV of the Executive Schedule' shall be substituted for 'level V of the Executive Schedule'.''.

(b) TECHNICAL AMENDMENT.—Subsection (c)(2)(C) of such section is amended by striking ''section 404(a)(4)'' and inserting ''section 416(a)(4)''.

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.

At the end of division A, add the following:

TITLE XV—RECRUITMENT AND RETENTION

SEC. 1501. SHORT TITLE.

This title may be cited as the ''Military Recruiting Initiatives Act of 2005''.

SEC. 1502. INCREASE IN MAXIMUM ENLISTMENT BONUS.

(a) ENLISTMENT BONUS FOR SELECTED RESERVE MEMBERS.—Section 308c(b) of title 37, United States Code, is amended by striking ''$10,000'' and inserting ''$20,000''.

(b) ENLISTMENT BONUS FOR ACTIVE MEMBERS.—Section 309(a) of title 37, United States Code, is amended by striking ''$20,000'' and inserting ''$40,000''.

SEC. 1503. TEMPORARY AUTHORITY TO PAY BONUS TO ENCOURAGE MEMBERS OF THE ARMY TO REFER OTHER PERSONS FOR ENLISTMENT IN THE ARMY.

(a) AUTHORITY TO PAY BONUS.—The Secretary of the Army may pay a bonus under this section to a member of the Army, whether in the regular component of the Army or in the Army National Guard or Army Reserve, who refers to an Army recruiter a person who has not previously served in an Armed Force and who, after such referral, enlists in the regular component of the Army or in the Army National Guard or Army Reserve.

(b) REFERRAL.—For purposes of this section, a referral for which a bonus may be paid under subsection (a) occurs—

(1) when a member of the Army contacts an Army recruiter on behalf of a person interested in enlisting in the Army; or

(2) when a person interested in enlisting in the Army contacts the Army recruiter and informs the recruiter of the role of the member in initially recruiting the person.

(c) CERTAIN REFERRALS INELIGIBLE.—

(1) REFERRAL OF IMMEDIATE FAMILY.—A member of the Army may not be paid a bonus under subsection (a) for the referral of an immediate family member.

(2) MEMBERS IN RECRUITING ROLES.—A member of the Army serving in a recruiting or retention assignment, or assigned to other duties regarding which eligibility for a bonus under subsection (a) could (as determined by the Secretary) be perceived as creating a conflict of interest, may not be paid a bonus under subsection (a).

(d) AMOUNT OF BONUS.—The amount of the bonus paid for a referral under subsection (a) may not exceed $1,000. The bonus shall be paid in a lump sum.

(e) TIME OF PAYMENT.—A bonus may not be paid under subsection (a) with respect to a person who enlists in the Army until the person completes basic training and individual advanced training.

(f) RELATION TO PROHIBITION ON BOUNTIES.—The referral bonus authorized by this section is not a bounty for purposes of section 514(a) of title 10, United States Code.

(g) LIMITATION ON INITIAL USE OF AUTHORITY.—During the first year in which bonuses are offered under this section, the Secretary of the Army may not pay more than 1,000 referral bonuses per component of the Army.

(h) DURATION OF AUTHORITY.—A bonus may not be paid under subsection (a) with respect to any referral that occurs after December 31, 2007.

SEC. 1504. INCREASE IN MAXIMUM AGE FOR ENLISTMENT.

Section 505(a) of title 10, United States Code, is amended by striking ''thirty-five years of age'' and inserting ''forty-two years of age''.

SEC. 1505. REPEAL OF PROHIBITION ON PRIOR SERVICE ENLISTMENT BONUS FOR RECEIPT OF OTHER ENLISTMENT OR REENLISTMENT BONUS FOR SERVICE IN THE SELECTED RESERVE.

Section 308i(a)(2) of title 37, United States Code, is amended by striking subparagraph (D).

SEC. 1506. INCREASE AND ENHANCEMENT OF AFFILIATION BONUS FOR OFFICERS OF THE SELECTED RESERVE.

(a) REPEAL OF PROHIBITION ON ELIGIBILITY FOR PRIOR RESERVE SERVICE.—Subsection (a)(2) of section 308j of title 37, United States Code, is amended—

(1) in subparagraph (A), by adding ''and'' at the end;

(2) by striking subparagraph (B); and

(3) by redesignating subparagraph (C) as subparagraph (B).

(b) INCREASE IN MAXIMUM AMOUNT.—Subsection (d) of such section is amended by striking ''$6,000'' and inserting ''$10,000''.

SEC. 1507. ENHANCEMENT OF EDUCATIONAL LOAN REPAYMENT AUTHORITIES.

(a) ADDITIONAL LOANS ELIGIBLE FOR REPAYMENT.—Paragraph (1) of section 2171(a) of title 10, United States Code, is amended—

(1) in subparagraph (B), by striking ''or'' at the end;

(2) in subparagraph (C), by striking the period at the end and inserting ''; or''; and

(3) by inserting after subparagraph (C) the following new subparagraph:

''(D) any loan incurred for educational purposes made by a lender that is—

''(i) an agency or instrumentality of a State;

''(ii) a financial or credit institution (including an insurance company) that is subject to examination and supervision by an agency of the United States or any State;

''(iii) a pension fund approved by the Secretary for purposes of this section; or

''(iv) a non-profit private entity designated by a State, regulated by such State, and approved by the Secretary for purposes of this section.''.

(b) ELIGIBILITY OF OFFICERS.—Paragraph (2) of such section is amended by striking ''an enlisted member in a military specialty'' and inserting ''a member in an officer program or military specialty''.

SEC. 1508. REPORT ON RESERVE DENTAL INSURANCE PROGRAM.

(a) STUDY.—The Secretary of Defense shall conduct a study of the Reserve Dental Insurance program.

(b) ELEMENTS.—The study required by subsection (a) shall—

(1) identify the most effective mechanism or mechanisms for the payment of premiums under the Reserve Dental Insurance program for members of the reserve components of the Armed Forces and their dependents, including by deduction from reserve pay, by direct collection, or by other means (including appropriate mechanisms from other military benefits programs), to ensure uninterrupted availability of premium payments regardless of whether members are performing active duty with pay or inactive-duty training with pay;

(2) include such matters relating to the Reserve Dental Insurance program as the Secretary considers appropriate; and

(3) assess the effectiveness of mechanisms for informing the members of the reserve components of the Armed Forces of the availability of, and benefits under, the Reserve Dental Insurance program.

(c) REPORT.—Not later than February 1, 2007, the Secretary shall submit to the congressional defense committees a report on the study required by subsection (a). The report shall include the findings of the study

and such recommendations for legislative or administrative action regarding the Reserve Dental Insurance program as the Secretary considers appropriate in light of the study.

(d) RESERVE DENTAL INSURANCE PROGRAM DEFINED.—In this section, the term ''Reserve Dental Insurance program'' includes—

(1) the dental insurance plan required under paragraph (1) of section 1076a(a) of title 10, United States Code; and

(2) any dental insurance plan established under paragraph (2) or (4) of section 1076a(a) of title 10, United States Code.

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.

(g) OFFSET.—The amounts authorized to be appropriated by section 301(4) are hereby reduced by $3,100,000 from operation and maintenance, Air Force.

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 301(4) is hereby reduced by $10,000,000.

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

SEC. 330. REPORT ON AIRCRAFT TO PERFORM HIGH-ALTITUDE AVIATION TRAINING SITE.

Not later than December 15, 2005, the Secretary of the Army shall submit to the congressional defense committee a report containing the following:

(1) An evaluation of the type of aircraft available in the inventory of the Army that is most suitable to perform the High-altitude Aviation Training Site (HAATS) Mission.

(2) A determination of when such aircraft may be available for assignment to the HAATS.

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

SEC. 213. MEDIUM TACTICAL VEHICLE MODIFICATIONS.

(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 $5,000,000.

(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), $5,000,000 may be available for Medium Tactical Vehicle Modifications.

(c) OFFSET.—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.

At the appropriate place, insert the following:

SEC. ___. SENSE OF THE SENATE REGARDING MANNED SPACE FLIGHT.

(a) FINDINGS.—The Congress finds that—

(1) human spaceflight preeminence allows the United States to project leadership around the world and forms an important component of United States national security;

(2) continued development of human spaceflight in low-Earth orbit, on the Moon, and beyond adds to the overall national strategic posture;

(3) human spaceflight enables continued stewardship of the region between the earth and the Moon—an area that is critical and of growing national and international security relevance;

(4) human spaceflight provides unprecedented opportunities for the United States to lead peaceful and productive international relationships with the world community in support of United States security and geopolitical objectives;

(5) a growing number of nations are pursuing human spaceflight and space-related capabilities, including China and India;

(6) past investments in human spaceflight capabilities represent a national resource that can be built upon and leveraged for a broad range of purposes, including national and economic security; and

(7) the industrial base and capabilities represented by the Space Transportation System provide a critical dissimilar launch capability for the nation.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that it is in the national security interest of the United States to maintain uninterrupted preeminence in human spaceflight.

At the end of title XIV of division A, add the following:

SEC. 1411. TACTICAL WHEELED VEHICLES.

(a) ADDITIONAL AMOUNT FOR OTHER PROCUREMENT, ARMY.—The amount authorized to be appropriated by section 1403(a)(3) for other procurement for the Army is hereby increased by $360,800,000.

(b) AVAILABILITY OF AMOUNT.—Of the amount authorized to be appropriated by section 1403(a)(3) for other procurement for the Army, as increased by subsection (a)—

(1) $360,800,000 may be made available for the procurement of armored Tactical Wheeled Vehicles for units deployed in Iraq and Afghanistan; or

(2) if the Secretary of the Army determines that such amount is not needed for the procurement of armored Tactical Wheeled Vehicles for units deployed in Iraq and Afghanistan—

(A) up to $247,100,000 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

(B) up to $113,700,000 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.

On page 286, between lines 7 and 8, insert the following:

SEC. 1073. ANNUAL REPORT ON COSTS TO CARRY OUT UNITED NATIONS RESOLUTIONS.

(a) REQUIREMENT FOR ANNUAL REPORT.—The Secretary of Defense and the Secretary of State shall submit to the congressional defense committees, the Committee on Foreign Relations of the Senate, and the Committee on International Relations of the House of Representatives an annual report that sets forth all direct and indirect costs (including incremental costs) incurred by the Department of Defense during the preceding year in implementing or supporting any resolution adopted by the United Nations Security Council, including any such

resolution calling for international sanctions, international peacekeeping operations, international peace enforcement operations, monitoring missions, observer missions, or humanitarian missions undertaken by the Department of Defense. Each such report shall include an aggregate of all such Department of Defense costs by operation or mission, the percentage of the United States contribution by operation or mission, and the total cost of each operation or mission.

(b) COSTS FOR ASSISTING FOREIGN TROOPS.—The Secretary of Defense and the Secretary of State shall detail in each annual report required by this section all direct and indirect costs (including incremental costs) incurred in training, equipping, and otherwise assisting, preparing, resourcing, and transporting foreign troops for implementing or supporting any resolution adopted by the United Nations Security Council, including any such resolution calling for international sanctions, international peacekeeping operations, international peace enforcement operations, monitoring missions, observer missions, or humanitarian missions.

(c) CREDIT AND COMPENSATION.—The Secretary of Defense and the Secretary of State shall detail in each annual report required by this section all efforts made to seek credit against past United Nations expenditures and all efforts made to seek compensation from the United Nations for costs incurred by the Department of Defense in implementing and supporting United Nations activities.

(d) FORM OF REPORT.—Each annual report required by this section shall be submitted in unclassified form, but may include a classified annex.

On page 237, after line 17, insert the following:

SEC. 846. EXCLUSION OF CERTAIN SECURITY EXPENSES FROM CONSIDERATION FOR PURPOSE OF SMALL BUSINESS SIZE STANDARDS.

Section 3(a) of the Small Business Act (15 U.S.C. 632(a)), is amended by adding at the end the following:

''(4) EXCLUSION OF CERTAIN SECURITY EXPENSES FROM CONSIDERATION FOR PURPOSE OF SMALL BUSINESS SIZE STANDARDS.—

''(A) DETERMINATION REQUIRED.—Not later than 30 days after the date of enactment of this paragraph, the Administrator shall review the application of size standards established pursuant to paragraph (2) to small business concerns that are performing contracts in qualified areas and determine whether it would be fair and appropriate to exclude from consideration in the average annual gross receipts of such small business concerns any payments made to such small business concerns by Federal agencies to reimburse such small business concerns for the cost of subcontracts entered for the sole purpose of providing security services in a qualified area.

''(B) ACTION REQUIRED.—Not later than 60 days after the date of enactment of this paragraph, the Administrator shall either—

''(i) initiate an adjustment to the size standards, as described in subparagraph (A), if the Administrator determines that such an adjustment would be fair and appropriate; or

''(ii) provide a report to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives explaining in detail the basis for the determination by the Administrator that such an adjustment would not be fair and appropriate.

''(C) QUALIFIED AREAS.—In this paragraph, the term 'qualified area' means—

''(i) Iraq,

''(ii) Afghanistan, and

''(iii) 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.''.

On page 237, after line 17, insert the following:

SEC. 846. SMALL BUSINESS CONTRACTING IN OVERSEAS PROCUREMENTS.

Section 15(g) of the Small Business Act (15 U.S.C. 644(g)) is amended by adding at the end the following:

''(3) SMALL BUSINESS CONTRACTING IN OVERSEAS PROCUREMENTS.—

''(A) STATEMENT OF CONGRESSIONAL POLICY.—It is the policy of the Congress that Federal agencies shall endeavor to meet the contracting goals established under this subsection, regardless of the geographic area in which the contracts will be performed.

''(B) AUTHORIZATION TO USE CONTRACTING MECHANISMS.—Federal agencies are authorized to use any of the contracting mechanisms authorized in this Act for the purpose of complying with the Congressional policy set forth in subparagraph (A).

''(C) REPORT TO CONGRESSIONAL COMMITTEES.—Not later than 1 year after the date of enactment of this paragraph, the Administrator and the Chief Counsel for Advocacy shall submit to the Committee on Small Business and Entrepreneurship of the Senate and Committee on Small Business of the House of Representatives a report on the activities undertaken by Federal agencies, offices, and departments to carry out this paragraph.''.

On page 237, after line 17, insert the following:

SEC. 846. FAIR ACCESS TO MULTIPLE-AWARD CONTRACTS.

Section 15(g) of the Small Business Act (15 U.S.C. 644(g)) is amended by adding at the end the following:

''(3) FAIR ACCESS TO MULTIPLE-AWARD CONTRACTS.—

''(A) STATEMENT OF CONGRESSIONAL POLICY.—It is the policy of the Congress that Federal agencies shall endeavor to meet the contracting goals established under this subsection with regard to orders under multiple-award contracts, including Federal Supply Schedule contracts and multi-agency contracts.

''(B) AUTHORIZATION FOR LIMITED COMPETITION.—The head of a contracting agency may include in any contract entered under section 2304a(d)(1)(B) or 2304b(e) of title 10, United States Code, a clause setting aside a specific share of awards under such contract pursuant to a competition that is limited to small business concerns, if the head of the contracting agency determines that such limitation is necessary to comply with the congressional policy stated in subparagraph (A).

''(C) REPORT REQUIREMENT.—

''(i) IN GENERAL.—Not later than 180 days after the date of enactment of this paragraph, the Administrator shall submit a report on the level of participation of small business concerns in multiple-award contracts, including Federal Supply Schedule contracts, to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives.

''(ii) CONTENTS.—The report required by clause (i) shall include, for the most recent 2-year period for which data are available—

''(I) the total number of multiple-award contracts;

''(II) the total number of small business concerns that received multiple-award contracts;

''(III) the total number of orders under multiple-award contracts;

''(IV) the total value of orders under multiple-award contracts;

''(V) the number of orders received by small business concerns under multiple-award contracts;

''(VI) the value of orders received by small business concerns under multiple-award contracts;

''(VII) the number of small business concerns that received orders under multiple-award contracts; and

''(VIII) such other information as may be relevant.''.

On page 218, strike line 1 and all that follows through page 220, line 5, and insert the following:

SEC. 814. RESEARCH AND DEVELOPMENT EFFORTS FOR PURPOSES OF SMALL BUSINESS RESEARCH.

(a) IN GENERAL.—Section 9 of the Small Business Act (15 U.S.C. 638) is amended by adding at the end the following:

''(x) RESEARCH AND DEVELOPMENT FOCUS.—

''(1) REVISION AND UPDATE OF CRITERIA AND PROCEDURES OF IDENTIFICATION.—In carrying out subsection (g), the Secretary of Defense shall, not less often than once every 4 years, revise and update the criteria and procedures utilized to identify areas of the research and development efforts of the Department of Defense which are suitable for the provision of funds under the Small Business Innovation Research Program and the Small Business Technology Transfer Program.

''(2) UTILIZATION OF PLANS.—The criteria and procedures described in paragraph (1) shall be developed through the use of the most current versions of the following plans:

''(A) The joint warfighting science and technology plan required under section 270 of the National Defense Authorization Act for Fiscal Year 1997 (10 U.S.C. 2501 note).

''(B) The Defense Technology Area Plan of the Department of Defense.

''(C) The Basic Research Plan of the Department of Defense.

''(3) INPUT IN IDENTIFICATION OF AREAS OF EFFORT.—The criteria and procedures described in paragraph (1) shall include input in the identification of areas of research and development efforts described in that paragraph from Department of Defense program managers (PMs) and program executive officers (PEOs).

''(y) COMMERCIALIZATION PILOT PROGRAM.—

''(1) IN GENERAL.—The Secretary of Defense and the Secretary of each military department is authorized to create and administer a 'Commercialization Pilot Program' to accelerate the transition of technologies, products, and services developed under the Small Business Innovation Research Program to Phase III, including the acquisition process.

''(2) IDENTIFICATION OF RESEARCH PROGRAMS FOR ACCELERATED TRANSITION TO ACQUISITION PROCESS.—In carrying out the Commercialization Pilot Program, the Secretary of Defense and the Secretary of each military department shall identify research programs of the Small Business Innovation Research Program that have the potential for rapid transitioning to Phase III and into the acquisition process.

''(3) LIMITATION.—No research program may be identified under paragraph (2), unless the Secretary of the military department concerned certifies in writing that the successful transition of the program to Phase III and into the acquisition process is expected to meet high priority military requirements of such military department.

''(4) FUNDING.—For payment of expenses incurred to administer the Commercialization 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 pursuant to

the Small Business Innovation Research Program. Such funds—

''(A) shall not be subject to the limitations on the use of funds in subsection (f)(2); and

''(B) shall not be used to make Phase III awards.

''(5) EVALUATIVE REPORT.—At the end of each fiscal year, the Secretary of Defense and each Secretary of a military department 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 an evaluative report regarding activities under the Commercialization Pilot Program. The report shall include—

''(A) an accounting of the funds used in the Commercialization Pilot Program;

''(B) a detailed description of the Commercialization Pilot Program, including incentives and activities undertaken by acquisition program managers, program executive officers, and by prime contractors; and

''(C) a detailed compilation of results achieved by the Commercialization Pilot Program, including the number of small business concerns assisted and a number of inventions commercialized.

''(6) SUNSET.—The pilot program under this subsection shall terminate at the end of fiscal year 2009.''.

(b) IMPLEMENTATION OF EXECUTIVE ORDER 13329.—Section 9 of the Small Business Act (15 U.S.C. 638) is amended—

(1) in subsection (b)—

(A) in paragraph (6), by striking ''and'' at the end;

(B) in paragraph (7), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(8) to provide for and fully implement the tenets of Executive Order 13329 (Encouraging Innovation in Manufacturing).'';

(2) in subsection (g)—

(A) in paragraph (9), by striking ''and'' at the end;

(B) in paragraph (10), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(11) provide for and fully implement the tenets of Executive Order 13329 (Encouraging Innovation in Manufacturing).''; and

(3) in subsection (o)—

(A) in paragraph (14), by striking ''and'' at the end;

(B) in paragraph (15), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(16) provide for and fully implement the tenets of Executive Order 13329 (Encouraging Innovation in Manufacturing).''.

(c) 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' shall not be construed to exclude testing and evaluation of products, services, or technologies for use in technical or weapons systems, and further, awards for testing and evaluation of products, services, or technologies for use in technical or weapons systems may be made in either the second or the third phase of the Small Business Innovation Research Program and of the Small Business Technology Transfer Program, as defined in this subsection.''.

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.

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 a strategy to educate the small business community regarding radio frequency identifier technology requirements, compliance, standards, and opportunities.

(b) REPORTING.—Not later than 180 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.

(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).

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.

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

SEC. 114. SECOND SOURCE FOR PRODUCTION AND SUPPLY OF TIRES FOR THE STRYKER COMBAT VEHICLE.

(a) REQUIREMENT.—The Secretary of the Army shall conduct a study of the feasibility and costs and benefits for the participation of a second source for the production and supply of tires for the Stryker combat vehicle to be procured by the Army with funds authorized to be appropriated in this Act.

(b) REPORT.—Not later than 90 days after the date of enactment of this Act, the Secretary shall submit to the congressional defense committees a report on the results of the study under 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 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.

At the appropriate place in title VIII, insert the following:

SEC. ___. ENSURING TRANSPARENCY IN FEDERAL CONTRACTING.

(a) PUBLICATION OF INFORMATION ON FEDERAL CONTRACTOR PENALTIES AND VIOLATIONS.—(1) The Secretary of Defense shall maintain a publicly-available website that provides information on instances in which major contractors have been fined, paid penalties or restitution, settled, plead guilty to, or had judgments entered against them in

connection with allegations of improper conduct. The website shall be updated not less than once a year.

(2) For the purpose of this subsection, a major contractor is a contractor that receives at least $100,000,000 in Federal contracts in the most recent fiscal year for which data are available.

(b) REPORT ON FEDERAL SOLE SOURCE CONTRACTS RELATED TO IRAQ RECONSTRUCTION.—

(1) REPORT REQUIRED.—Not later than 120 days after the date of the enactment of this Act, the Administrator for Federal Procurement Policy shall submit to Congress a report on all sole source contracts in excess of $2,000,000 entered into by executive agencies in connection with Iraq reconstruction from January 1, 2003, through the date of the enactment of this Act.

(2) CONTENT.—The report submitted under paragraph (1) shall include the following information with respect to each such contract:

(A) The date the contract was awarded.

(B) The contract number.

(C) The name of the contractor.

(D) The amount awarded.

(E) A brief description of the work to be performed under the contract.

(3) EXECUTIVE AGENCY DEFINED.—In this subsection, the term ''executive agency'' has the meaning given such term in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403).

At the end of subtitle A of title VIII, add the following:

SEC. 807. GUIDANCE ON USE OF TIERED EVALUATION OF OFFERS FOR CONTRACTS AND TASK ORDERS UNDER CONTRACTS.

(a) GUIDANCE REQUIRED.—The Secretary of Defense shall prescribe guidance for the military departments and the Defense Agencies on the use of tiered evaluations of offers or proposals of offerors for contracts and for task orders under contracts.

(b) ELEMENTS.—The guidance prescribed under subsection (a) shall include a prohibition on the initiation by a contracting officer of a tiered evaluation of an offer or proposal of an offeror for a contract or for a task or delivery order under a contract unless the contracting officer—

(1) has conducted market research in accordance with part 10 of the Federal Acquisition Regulation in order to determine whether or not a sufficient number of qualified small businesses are available to justify limiting competition for the award of such contract or task or delivery order under applicable law and regulations;

(2) is unable, after conducting market research under paragraph (1), to make the determination described in that paragraph; and

(3) includes in the contract file a written explanation why such contracting officer was unable to make such determination.

On page 52, between lines 5 and 6, insert the following:

SEC. 304. NAVY HUMAN RESOURCES BENEFIT CALL CENTER.

Of the amount authorized to be appropriated by section 301(2) for operation and maintenance for the Navy, $1,500,000 may be available for civilian manpower and personnel for a human resources benefit call center.

On page 213, between lines 2 and 3, insert the following:

SEC. 807. CONGRESSIONAL NOTIFICATION OF CANCELLATION OF MAJOR AUTOMATED INFORMATION SYSTEMS.

(a) REPORT REQUIRED.—The Secretary of Defense shall notify the congressional defense committees not less than 60 days before cancelling a major automated information system program that has been fielded or approved to be fielded, or making a change that will significantly reduce the scope of such a program, of the proposed cancellation or change.

(b) CONTENT.—Each notification submitted under subsection (a) with respect to the proposed cancellation or change shall include—

(1) the specific justification for the proposed change;

(2) a description of the impact of the proposed change on the Department's ability to achieve the objectives of the program that has been cancelled or changed;

(3) a description of the steps that the Department plans to take to achieve such objectives; and

(4) other information relevant to the change in acquisition strategy.

(c) DEFINITIONS.—In this section:

(1) The term ''major automated information system'' has the meaning given that term in Department of Defense Directive 5000.

(2) The term ''approved to be fielded'' means having received Milestone C approval.

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

SEC. 330. PROVISION OF DEPARTMENT OF DEFENSE SUPPORT FOR CERTAIN PARALYMPIC SPORTING EVENTS.

Section 2564 of title 10, United States Code, is amended—

(1) in subsection (c) by adding at the end the following new paragraphs:

''(4) A sporting event sanctions by the United States Olympic Committee through the Paralympic Military Program.

''(5) A national or international Paralympic sporting event (other than one covered by paragraph (3) or (4)) which is—

''(A) held in the United States or any of its territories or commonwealths;

''(B) governed by the International Paralympic Committee;

''(C) sanctioned by the United States Olympic Committee; and

''(D) for which participation exceeds 100 amateur athletes.''; and

(2) in subsection (d)—

(A) by inserting ''(1)'' before ''The Secretary''; and

(B) by adding at the end the following new paragraph:

''(2) Not more than $1,000,000 may be expended in any fiscal year to provide support for events specified under paragraph (5) of subsection (c).''.

On page 292, between lines 15 and 16, insert the following:

SEC. 1106. BID PROTESTS BY FEDERAL EMPLOYEES IN ACTIONS UNDER OFFICE OF MANAGEMENT AND BUDGET CIRCULAR A–76.

(a) ELIGIBILITY TO PROTEST.—(1) Section 3551(2) of title 31, United States Code, is amended to read as follows:

''(2) The term 'interested party'—

''(A) with respect to a contract or a solicitation or other request for offers described in paragraph (1), means an actual or prospective bidder or offeror whose direct economic interest would be affected by the award of the contract or by failure to award the contract; and

''(B) with respect to a public-private competition conducted under Office of Management and Budget Circular A–76 regarding performance of an activity or function of a Federal agency, includes—

''(i) any official who submitted the agency tender in such competition; and

''(ii) any one person who, for the purpose of representing them in a protest under this subchapter that relates to such competition, has been designated as their agent by a majority of the employees of such Federal agency who are engaged in the performance of such activity or function.''.

(2)(A) Subchapter V of chapter 35 of such title is amended by adding at the end the following new section:

''§ 3557. Expedited action in protests for Public-Private competitions

''For protests in cases of public-private competitions conducted under Office of Management and Budget Circular A–76 regarding performance of an activity or function of Federal agencies, the Comptroller General shall administer the provisions of this subchapter in a manner best suited for expediting final resolution of such protests and final action in such competitions.''.

(B) The chapter analysis at the beginning of such chapter is amended by inserting after the item relating to section 3556 the following new item:

''3557. Expedited action in protests for public-private competitions.''.

(b) RIGHT TO INTERVENE IN CIVIL ACTION.—Section 1491(b) of title 28, United States Code, is amended by adding at the end the following new paragraph:

''(5) If a private sector interested party commences an action described in paragraph (1) in the case of a public-private competition conducted under Office of Management and Budget Circular A–76 regarding performance of an activity or function of a Federal agency, then an official or person described in section 3551(2)(B) of title 31 shall be entitled to intervene in that action.''.

(c) APPLICABILITY.—Subparagraph (B) of section 3551(2) of title 31, United States Code (as added by subsection (a)), and paragraph (5) of section 1491(b) of title 28, United States Code (as added by subsection (b)), shall apply to—

(1) protests and civil actions that challenge final selections of sources of performance of an activity or function of a Federal agency that are made pursuant to studies initiated under Office of Management and Budget Circular A–76 on or after January 1, 2004; and

(2) any other protests and civil actions that relate to public-private competitions initiated under Office of Management and Budget Circular A–76 on or after the date of the enactment of this Act.

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 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).

At the end of subtitle A of title VIII, add the following:

SEC. 807. CONTRACTING FOR PROCUREMENT OF CERTAIN SUPPLIES AND SERVICES.

(a) 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 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.''.

At the appropriate place in title V, insert the following:

SEC. ___. PARTICIPATION OF MEMBERS OF THE ARMED FORCES IN THE PARALYMPIC GAMES.

Section 717(a)(1) of title 10, United States Code, is amended by striking ''and Olympic Games'' and inserting '', Olympic Games, and Paralympic Games,''.

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

SEC. 2887. REPORT ON USE OF GROUND SOURCE HEAT PUMPS AT DEPARTMENT OF DEFENSE FACILITIES.

(a) REPORT REQUIRED.—Not later than 180 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 use of ground source heat pumps at Department of Defense facilities.

(b) CONTENT.—The report required under subsection (a) shall include—

(1) a description of the types of Department of Defense facilities that use ground source heat pumps;

(2) an assessment of the applicability and cost-effectiveness of the use of ground source heat pumps at Department of Defense facilities in different geographic regions of the United States;

(3) a description of the relative applicability of ground source heat pumps for purposes of new construction at, and retrofitting of, Department of Defense facilities; and

(4) recommendations for facilitating and encouraging the increased use of ground source heat pumps at Department of Defense facilities.

SA 2050. Mr. SCHUMER submitted an amendment intended to be proposed to amendment SA 1955 proposed by Mr. WARNER (for himself and Mr. LEVIN) to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle B of title XXXI of division C, insert the following:

SEC. 31___. MEDICAL ISOTOPE PRODUCTION.

Section 134 of the Atomic Energy Act of 1954 (42 U.S.C. 2160d) (as amended by section 630 of the Energy Policy Act of 2005 (Public Law 109–58; 119 Stat. 594)) is amended—

(1) in subsection a., by striking ''Except as provided in subsection b., the Commission'' and inserting ''The Commission'';

(2) by striking subsection b.; and

(3) by redesignating subsection c. as subsection b.

SA 2051. Mrs. CLINTON (for herself, Ms. MIKULSKI, Mr. LAUTENBERG, Mr. HARKIN, Mr. JEFFORDS, Mr. REED, Mr. SALAZAR, Mr. OBAMA, Mrs. BOXER, Ms. STABENOW, Mr. CORZINE, Mr. SCHUMER, Mr. DURBIN, Mrs. FEINSTEIN, Mr. FEINGOLD, Mr. CARPER, Mr. JOHNSON, and Mr. LEAHY) 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:

TITLE ____—KATRINA COMMISSION

SEC. ____01. ESTABLISHMENT OF COMMISSION.

There is established in the legislative branch the Katrina Commission (in this title referred to as the ''Commission'').

SEC. ____02. COMPOSITION OF 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 leader of the Senate (majority or minority leader, as the case may be) of the Democratic Party, in consultation with the leader of the House of Representatives (majority or

minority leader, as the case may be) 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 Democratic Party;

(4) 2 members shall be appointed by the senior member of the leadership of the House of Representatives of the Republican Party;

(5) 2 members shall be appointed by the senior member of the Senate leadership 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 who represent a diverse range of citizens and enjoy national recognition and significant depth of experience in such professions as governmental service, emergency preparedness, mitigation planning, cataclysmic planning and response, intergovernmental management, resource planning, recovery operations and planning, Federal coordination, military coordination, and other extensive natural disaster and emergency response experience.

(4) DEADLINE FOR APPOINTMENT.—All members of the Commission shall be appointed on or before October 1, 2005.

(5) INITIAL MEETING.—The Commission shall meet and begin the operations of the Commission as soon as practicable.

(c) QUORUM; VACANCIES.—After its initial meeting, the Commission shall meet upon the call of the chairman or a majority of its members. Six members of the Commission shall constitute a quorum. 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. ___03. DUTIES.

The duties of the Commission are to—

(1) examine and report upon the Federal, State, and local response to the devastation wrought by Hurricane Katrina in the Gulf Region of the United States of America especially in the States of Louisiana, Mississippi, Alabama, and other areas impacted in the aftermath;

(2) ascertain, evaluate, and report on the information developed by all relevant governmental agencies regarding the facts and circumstances related to Hurricane Katrina prior to striking the United States and in the days and weeks following;

(3) build upon concurrent and prior investigations of other entities, and avoid unnecessary duplication concerning information related to existing vulnerabilities;

(4) make a full and complete accounting of the circumstances surrounding the approach of Hurricane Katrina to the Gulf States, and the extent of the United States government's preparedness for, and response to, the hurricane;

(5) planning necessary for future cataclysmic events requiring a significant marshaling of Federal resources, mitigation, response, and recovery to avoid significant loss of life;

(6) an analysis as to whether any decisions differed with respect to response and recovery for different communities, neighborhoods, parishes, and locations and what problems occurred as a result of a lack of a common plan, communication structure, and centralized command structure; and

(7) investigate and report to the President and Congress on its findings, conclusions, and recommendations for immediate corrective measures that can be taken to prevent problems with Federal response that occurred in the preparation for, and in the aftermath of, Hurricane Katrina so that future cataclysmic events are responded to adequately.

SEC. ___04. FUNCTIONS OF COMMISSION.

(a) IN GENERAL.—The functions of the Commission are to—

(1) conduct an investigation that—

(A) investigates relevant facts and circumstances relating to the catastrophic impacts that Hurricane Katrina exacted upon the Gulf Region of the United States especially in New Orleans and surrounding parishes, and impacted areas of Mississippi and Alabama; and

(B) shall include relevant facts and circumstances relating to—

(i) Federal emergency response planning and execution at the Federal Emergency Management Agency, the Department of Homeland Security, the White House, and all other Federal entities with responsibility for assisting during, and responding to, natural disasters;

(ii) military and law enforcement response planning and execution;

(iii) Federal mitigation plans, programs, and policies including prior assessments of existing vulnerabilities and exercises designed to test those vulnerabilities;

(iv) Federal, State, and local communication interoperability successes and failures;

(v) past, present, and future Federal budgetary provisions for preparedness, mitigation, response, and recovery;

(vi) the Federal Emergency Management Agency's response capabilities as an independent agency and as part of the Department of Homeland Security;

(vii) the role of congressional oversight and resource allocation;

(viii) other areas of the public and private sectors determined relevant by the Commission for its inquiry; and

(ix) long-term needs for people impacted by Hurricane Katrina and other forms of Federal assistance necessary for large-scale recovery;

(2) identify, review, and evaluate the lessons learned from Hurricane Katrina including coordination, management policies, and procedures of the Federal Government, State and local governments, and nongovernmental entities, relative to detection, planning, mitigation, asset prepositioning, and responding to cataclysmic natural disasters such as Hurricane Katrina; 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 organization, coordination, planning, management arrangements, procedures, rules, and regulations.

SEC. ___05. 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 Act—

(A) hold such hearings and sit and act at such times and places, take such testimony, receive such evidence, 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 subsection (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 FROM FEDERAL AGENCIES.—

(1) IN GENERAL.—The Commission is authorized to secure directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality of the Government, information, suggestions, estimates, and statistics for the purposes of this title. Each department, bureau, agency, board, commission, office, independent establishment, or instrumentality shall, to the extent authorized by law, furnish such information, suggestions, estimates, and statistics directly to the Commission, upon 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.

(2) RECEIPT, HANDLING, STORAGE, AND DISSEMINATION.—Information shall only be received, handled, stored, and disseminated by members of the Commission and its staff consistent with all applicable statutes, regulations, and Executive orders.

(d) ASSISTANCE FROM 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 and agencies of the United States 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) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

(f) 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.

SEC. ___06. 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 ___10.

(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. ___07. STAFF OF COMMISSION.

(a) IN GENERAL.—

(1) APPOINTMENT AND COMPENSATION.—The chairman, in consultation with the vice chairman, 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) IN GENERAL.—The executive director and any personnel of the Commission who are employees shall be employees 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) MEMBERS OF COMMISSION.—Subparagraph (A) shall not be construed to 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. ___08. COMPENSATION AND TRAVEL EXPENSES.

(a) COMPENSATION.—Each member of the Commission may 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. ___09. SECURITY CLEARANCES FOR COMMISSION MEMBERS AND STAFF.

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

SEC. ___10. REPORTS OF COMMISSION; TERMINATION.

(a) INTERIM REPORTS.—The Commission may submit to the President and Congress interim reports containing such findings, conclusions, and recommendations for corrective measures as have been agreed to by a majority of Commission members.

(b) FINAL REPORT.—Not later than 6 months after the date of the enactment of this title, the Commission shall submit to the President and Congress a final report containing such findings, conclusions, and recommendations for corrective measures as have been agreed to by a majority of Commission members.

(c) TERMINATION.—

(1) IN GENERAL.—The Commission, and all the authorities of this Act, 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 and disseminating the final report.

SEC. ___11. FUNDING.

(a) EMERGENCY APPROPRIATION OF FUNDS.—There are authorized to be appropriated $3,000,000 for purposes of the activities of the Commission under this title and such funding is designated as emergency spending under section 402 of H. Con. Res. 95 (109th Congress).

(b) DURATION OF AVAILABILITY.—Amounts made available to the Commission under subsection (a) shall remain available until the termination of the Commission.

SA 2052. Mr. INHOFE submitted an amendment intended to be proposed to amendment SA 1955 proposed by Mr. WARNER (for himself and Mr. LEVIN) to the bill H.R. 2863, making appropriations for the Department of Defense for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

At the end of title XII of division A, as added by Senate amendment No. 1955, add the following:

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, at the request of the Secretary of State, support partnership security capacity building as authorized under subsection (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 submitted not less than 7 days before the provision of such partnership security capacity building.

(e) 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.

(f) MILITARY AND SECURITY FORCES DEFINED.—In this section, the term ''military and security forces'' includes armies, guard, border security, civil defense, infrastructure protection, and police forces.

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.

NOTICES OF HEARINGS/MEETINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. DOMENICI. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Committee on Energy and Natural Resources.

The hearing will be held on Tuesday, October 18, 2005, at 3 p.m. in Room SD–

366 of the Dirksen Senate Office Building.

The purpose of the hearing is to consider our national capacity for producing innovation in energy technologies and the importance of this innovation to our global economic competitiveness. The Committee will also hear testimony describing the results of a forthcoming National Academy of Sciences report on this same topic.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, Washington, DC 20510–6150.

For further information, please contact Dr. Kathryn Clay (202) 224–6224 or Steve Waskiewicz at (202) 228–6195.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet on October 5, 2005, at 2:30 p.m. to conduct a hearing on the Kyoto Protocol: assessing the status of efforts to reduce greenhouse gases.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, October 5, 2005, at 2:15 p.m. to hold a Business Meeting on nominations.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. STEVENS. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on October 5, 2005, at 2:30 p.m. to hold a closed briefing.

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

SPECIAL COMMITTEE ON AGING

Mr. STEVENS. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet today, October 5, 2005, from 10:30 a.m.–12:30 p.m. in Hart 216 for the purpose of conducting a hearing.

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

SUBCOMMITTEE ON TRADE, TOURISM, AND ECONOMIC DEVELOPMENT

Mr. STEVENS. Mr. President, I ask unanimous consent that the Subcommittee on Trade, Tourism, and Economic Development be authorized to meet on October 5, 2005, at 2:30 p.m., on Spyware.

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

PRIVILEGE OF THE FLOOR

Ms. LANDRIEU. Mr. President, I ask unanimous consent that privilege of the floor be granted to Jason Matthews and Kathleen Strottman during consideration of this legislation.

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

The PRESIDING OFFICER. The Senator from Louisiana.

UNANIMOUS-CONSENT REQUEST—S. 1716

Ms. LANDRIEU. Mr. President, I understand we are now in morning business. I ask unanimous consent that immediately upon the disposition of the Defense appropriations bill, on which we just voted cloture, that immediately following the vote on that bill that the Senate return to consideration of S. 1716, which is a bill by Senator GRASSLEY and Senator BAUCUS to provide emergency health care relief to the many victims of Hurricanes Katrina and Rita throughout the gulf coast and the needs of States throughout the Nation. I ask unanimous consent that the bill be brought up for consideration right after the final vote on the Defense appropriations bill.

The PRESIDING OFFICER. Is there objection?

Mr. FRIST. Reserving the right to object.

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. Mr. President, I will object shortly. As the distinguished Senator from Louisiana knows, the issue we are talking about is one that is very close to me, one on which she and I have had many conversations because it goes right to the heart of health care for hundreds of thousands of people. It is an issue we have to address. I personally have spent about an hour and a half today on this issue with the chairman and many others. We are not there yet. I pledge to keep working on this issue. I understand the time urgency of it.

As the distinguished Senator from Louisiana knows, there are several objections on our side, and on behalf of those colleagues, I object.

The PRESIDING OFFICER. Objection is heard.

Ms. LANDRIEU. Mr. President, may I ask the majority leader a question?

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

Ms. LANDRIEU. Through the Chair, first of all, I appreciate the work that he has been doing behind the scenes with the leadership in the Senate to press forward on this very important issue. But I would like to ask him what he thinks about the possibility of us going home on break for over a week before something can be determined definitively as to whether people who are without a home, without a job, without a church, without a neighborhood, without their family—does the Senator think we should possibly make some decisions at least about their emergency health care needs before we leave?

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. Mr. President, the issue of health care and health care delivery among peoples who have lost their homes, who have lost shelters, security, family members, is something we need to address quickly, expeditiously, and we are going to continue to work on it.

At the same time, I wish to say to the American people who are listening to me—and the Senator from Louisiana and I have had the opportunity to travel together over the region she is about to discuss, and I observed firsthand. Those people now are getting health care, and health care is not being denied anybody. It cannot be denied, and it will not be denied. The real issue is to make sure that compensation for that health care does flow and does flow in a timely fashion to where the patient is displaced or to the State of Louisiana or it might be Alabama or Mississippi. How that is done most appropriately and fairly where the funds can follow the individual and follow the patient, the family, is what is being addressed.

The issue is not as to whether or not health care is being provided. Health care is being provided. It is available to those people who need it.

Mr. President, I would like to proceed with a couple of items of business, and then I know that the Senator from Louisiana has the floor and has a number of very important things to address.

I should also say that Senator LANDRIEU and I have been in discussion over the course of today on a number of issues that she provided in a letter to me which addresses health care issues, small business issues, education issues, and community disaster loans. I continue to aggressively address all four of those issues with my colleagues as well.

APPOINTMENT

The Chair, on behalf of the President pro tempore, pursuant to Public Law 106–398, as amended by Public Law 108–7, in accordance with the qualifications specified under section 1238(b)(3)(E) of Public Law 106–398, and upon the recommendation of the Democratic leader, in consultation with the chairmen of the Senate Committee on Armed Services and the Senate Committee on Finance, reappoints the following individuals to the United States-China Economic Security and Review Commission: C. Richard D'Amato of Maryland for a term beginning January 1, 2006 and expiring December 31, 2007 and William A. Reinsch of Maryland for a term beginning January 1, 2006 and expiring December 31, 2007.

FAMILY HISTORY MONTH

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of S. Res. 266, which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 266) designating the month of October 2005, as ''Family History Month.''

There being no objection, the Senate proceeded to consider the resolution.

Mr. FRIST. 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. 266) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 266

Whereas it is the family, striving for a future of opportunity and hope, that reflects our Nation's belief in community, stability, and love;

Whereas the family remains an institution of promise, reliance, and encouragement;

Whereas we look to the family as an unwavering symbol of constancy that will help us discover a future of prosperity, promise, and potential;

Whereas within our Nation's libraries and archives lie the treasured records that detail the history of our Nation, our States, our communities, and our citizens;

Whereas individuals from across our Nation and across the world have embarked on a genealogical journey by discovering who their ancestors were and how various forces shaped their past;

Whereas an ever-growing number of people in our Nation, and in other nations, are collecting, preserving, and sharing genealogies, personal documents, and memorabilia that detail the life and times of families around the world;

Whereas 54,000,000 individuals belong to a family where someone in the family has used the Internet to research their family history;

Whereas individuals from across our Nation, and across the world, continue to research their family heritage and its impact upon the history of our Nation and the world;

Whereas approximately 60 percent of Americans have expressed an interest in tracing their family history;

Whereas the study of family history gives individuals a sense of their heritage and a sense of responsibility in carrying out a legacy that their ancestors began;

Whereas as individuals learn about their ancestors who worked so hard and sacrificed so much, their commitment to honor the memory of their ancestors by doing good is increased;

Whereas interest in our personal family history transcends all cultural and religious affiliations;

Whereas to encourage family history research, education, and the sharing of knowledge is to renew the commitment to the concept of home and family; and

Whereas the involvement of national, State, and local officials in promoting genealogy and in facilitating access to family history records in archives and libraries are important factors in the successful perception of nationwide camaraderie, support, and participation: Now, therefore, be it

Resolved, That the Senate—

(1) designates the month of October 2005, as ''Family History Month''; and

(2) calls upon the people of the United States to observe the month with appropriate ceremonies and activities.

AUTHORIZATION OF TESTIMONY, DOCUMENT PRODUCTION AND LEGAL REPRESENTATION

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of S. Res. 267, which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 267) to authorize testimony, document production, and legal representation in State of New Hampshire v. Anne Miller, Mary Lee Sargent, Jessica Ellis, Lynn Chong, Donald Booth, Eileen Reardon.

There being no objection, the Senate proceeded to consider the resolution.

Mr. FRIST. Mr. President, this resolution concerns a request for testimony, documents, and representation in related criminal trespass actions in Concord District Court in the State of New Hampshire. In these actions, 6 defendants have been charged with criminally trespassing on the premises of Senator JUDD GREGG's Concord, NH, office on June 2, 2005, for refusing repeated requests to leave Senator GREGG's office at the end of the business day in order to allow the office to close. Trials on the charge of trespass are scheduled to commence or about October 18, 2005. The State has subpoenaed a member of the Senator's staff who witnessed the defendants' conduct. The enclosed resolution would authorize that staff member, and any other employees of Senator GREGG's office from whom evidence may be required, to testify and produce documents in connection with these actions.

Mr. FRIST. 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. 267) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 267

Whereas, in the cases of State of New Hampshire v. Anne Miller, Mary Lee Sargent, Jessica Ellis, Lynn Chong, Donald Booth, Eileen Reardon, pending in Concord District Court, New Hampshire, testimony and documents have been requested from Carol Carpenter, an employee in the office of Senator Judd Gregg;

Whereas, pursuant to sections 703(a) and 704(A)(2) of the Ethics in Government Act of 1978, 2 U.S.C. 288b(a) and 288c(a)(2), the Senate may direct its counsel to represent an employee of the Senate with respect to any subpoena, order, or request for testimony relating to their official responsibilities;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial or administrative process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate: Now, therefore, be it

Resolved that Carol Carpenter and other employees of Senator Gregg's office from whom testimony or the production of documents may be required are authorized to testify and produce documents in the cases of State of New Hampshire v. Anne Miller, Mary Lee Sargent, Jessica Ellis, Lynn Chong, Donald Booth, Eileen Reardon, except concerning matters for which a privilege should be asserted.

SEC. 2. The Senate Legal Counsel is authorized to represent Carol Carpenter and other employees of Senator Gregg's office in connection with the testimony and document production authorized in section one of this resolution.

ORDERS FOR THURSDAY, OCTOBER 6, 2005

Mr. FRIST. I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m. on Thursday, October 6. I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and the Senate then resume consideration of H.R. 2683, the Defense appropriations bill. I further ask unanimous consent that notwithstanding the adjournment of the Senate, all time overnight be counted against the 30 hours postcloture.

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

PROGRAM

Mr. FRIST. The Senate has made tremendous progress on the bill today. It has been a very long day. The chairman and ranking member have done a superb job working with other chairmen and other ranking members throughout the course of the day to bring us to this point. I do want to congratulate Senator STEVENS and Senator INOUYE for their great work. We will finish this bill before we leave on Friday, as we set out to do now about 7 or 8 days ago. We will have a very long session tomorrow. We have a lot of work to do. We are in this postcloture period. There are a lot of amendments to be processed and to be voted upon.

We are still working toward an agreement on the pensions bill. I hope to have progress to report on that front tomorrow. Aggressively, people have been working to bring resolution to that bill, and I am confident we will be able to do that but do not yet know the timing on that.

ORDER FOR ADJOURNMENT

Mr. FRIST. 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, following the remarks of Senator LANDRIEU.

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

DISASTER RELIEF

Mr. DURBIN. Mr. President, I rise to say a few words about the issue that the Senator from Louisiana is going to talk about, but I do not want to take any of her time away from her. I know it is late in the evening but if I could, I will say a few words before leaving the floor. I hope that my Senate colleagues who are following this debate and conversation, as well as those who are viewing these proceedings, understand what my colleague from Louisiana, Senator MARY LANDRIEU, and her colleague, Senator VITTER have been through.

They have faced a disaster virtually unprecedented in modern American history. Having been through a few minor disasters and floods in my area, I cannot imagine the stress that they have been under to serve the public, which is their responsibility in the Senate. Though I do not know Senator VITTER as well, nor have I known him as long, I can certainly attest to his concern for the people of Louisiana. I can speak personally about the concern of Senator LANDRIEU.

From the moment I got her on the telephone—and it was not an easy task—while she was still fighting flood waters in her hometown of New Orleans, until this moment today, she has been consumed with one focused objective, what she can do to spare the suffering of the people she represents and to rebuild and recover from this terrible disaster.

I visited New Orleans a few weeks ago with a bipartisan delegation, met with her as well as Commander Allen, who is heading up the FEMA effort now, as well as Governor Blanco and Mayor Nagin, many of them local officials. It is clear now that they have faced challenges that most public servants do not dream of. The reason we are here tonight is because she is reaching the end of her patience. I have talked to her during the course of this day, and I know what is boiling up inside of her.

The thought that we would leave Washington, the capital of our Nation, for a week or 10 days and be back in our home States is a real concern to her because she knows while we are gone, people in Louisiana will continue to suffer because of our inaction and our unwillingness to respond to the basics. Look at what has happened so far. The administration announces initially no-bid contracts to some of the most recognizable big hitters in Washington, corporations that always seem to win when others are facing misfortune.

The administration says it is going to cut the wages for construction workers who are going back to work to rebuild in Louisiana, Mississippi, and Alabama, exactly the opposite of what these families need to get back on their feet.

The administration has refused to come forward with the emergency housing that is needed for so many of these people who are literally at their wits' end, trying to keep their families together, living in the most extreme circumstances.

This Senator from Louisiana has been on the floor repeatedly, appealing to both sides of the aisle, but particularly to the majority, for help with health care for the people who have been displaced. Someone lucky enough to have health insurance when Hurricane Katrina hit may have lost not only their home but also their job and their health insurance, and now they are adrift. Senator LANDRIEU has been working with Senator GRASSLEY, a Republican, and Senator BAUCUS, a Democrat, to make certain they have health care coverage. It is not enough to say if they show up in an emergency room, somebody will probably take care of them. Is that what you would like your medical future to be for you and your family? That is not what Senator LANDRIEU wants and that is what she is fighting to change.

We have also seen the suggestion we cut back on cash payments to people who have no job, may not even have access to the unemployment checks or whatever they are entitled to at this moment.

I think one of the worst and crowning blows is this notion that somehow every penny we put into rebuilding America, rebuilding the Gulf Coast States—New Orleans, Louisiana, Mississippi, and Alabama—has to be paid for by cutting other programs that may help poor people. Today the Agriculture Committee is considering cuts in food stamps, $500 million or $600 million in cuts in food stamps so we can provide help to Hurricane Katrina victims. So we will literally take food from the mouths of babies and mothers and families across America to give them to the babies and mothers and families of Hurricane Katrina? Is that what it has come to in America?

The suggestion we would cut Medicaid, the health insurance for the poor and elderly and disabled in America, so we can provide that same Medicaid, that same health insurance for the poor and elderly and disabled and dislocated in Hurricane Katrina, is that what it has come to in America?

I think what troubles me the most is the situation here where there is an insistence by some of my colleagues that every penny we spend investing in rebuilding the Gulf Coast States has to be met by a cut in spending for the most vulnerable people in America. None of these people who are insisting on this match of cut for spending said that when we were talking about rebuilding Iraq—$18 billion, without a single dollar of it set off against any cut in spending. Not one of them brought up this idea of cutting spending to give tax breaks to the wealthiest people in America. But when it comes to the most vulnerable, those helpless victims of this hurricane in those States, they are demanding this setoff that, frankly, will make life more painful and difficult for vulnerable people all across America.

This is a real test of who we are and what we stand for. If we are truly in this together, if we are going to be unified as a nation and react as a community and as a family, we can do better. America can do better. I salute the Senator from Louisiana. I will turn the floor over to her, thank her for her leadership, and say this Senator and many others will fight with you to the bitter end to make sure the people you represent understand that they do not stand alone.

I yield the floor.

Ms. LANDRIEU. Mr. President, I thank the Senator from Illinois, who has been such a champion for people in need, for people who need their Government to step up and to be with them in times of difficulty. That is what governments are all about.

We appreciate the self-sufficiency of people. We appreciate the value of upward mobility. We appreciate the values of family that Illinois and Louisiana treasure, about moving forward. But we also understand when life throws you a curve ball, when you are hit by a monster storm, when the home you have worked for all your life and might in fact have been paid for is literally washed away before your eyes; when the business that your father or your mother handed down to you and you built up to be something to be proud of, to turn over to your children, is gone in the flickering of an eye; when your child is in an accident and it was unexpected and the health insurance doesn't pay for it and you have a child now who is in great need—you would think we would have a government that would not question whether we should be there to help.

We would say: Of course. This is America. This is what we do. We help each other through difficult times. That is the way the country used to be. That is the country I grew up in. But I am standing here now on the floor at a quarter to 11 on Wednesday night. We are getting ready to pass a very important bill. We, the other Senator from Louisiana, Senator VITTER, and I, have been patient—persistent but patient over the 31 days since this first hurricane hit Louisiana and devastated our largest city and rocked the whole southern part of our State back on its heels. We have been to countless meetings, countless conferences, countless telephone conversations, countless visits back to our State and region, visiting from shelters to briefing rooms. We have outlined what we need. I have to stand here now at a quarter to 11 on

a Wednesday night with the idea that Congress is basically prepared to go home and do nothing other than what we have done, which is give $62 billion to an agency that does not work.

That is where we are. Thirty-one days after the worst natural disaster in the history of the country, the subsequent breaking of a levee system that is primarily the fault of the Federal Government—not only but primarily the fault of the Federal Government from decades of neglect and disinvestment, disengagement, and disinterest—and I have to go tell my constituents that people in Congress needed a break and we had to go home, and the only thing we could do is give $62 billion to the agency about which the only thing we all seem to agree, Republican and Democrat, House and Senate, is that it doesn't work.

I sent a letter—I have sent many, but this is another letter—to the leadership, to say:

> Although a month has passed since Hurricane Katrina destroyed the lives and livelihoods of hundreds of thousands of Americans, survivors of this disaster and Hurricane Rita [throughout Louisiana, Texas, Mississippi and Alabama] still await direct federal assistance.

They are not getting much direct Federal assistance because the assistance has gone to FEMA. FEMA is not resourced, organized or prepared to handle it, so people are not getting the money.

So, instead of doing something before we leave to actually get the money to people it could help, we may do nothing.

In order to provide immediate relief to millions of Americans, I am suggesting that part of the FEMA money be reallocated. There is $43 billion tonight—we checked today—of the $61 billion or so we have appropriated. There is about $43 billion sitting there, $43 billion the taxpayers have already appropriated, we have already voted for, sitting there.

Some of us are suggesting that we take a few billion of that $43 billion that is sitting there doing nothing and do something important with it, such as send signals to Mississippi, Louisiana, and Alabama that they could be reimbursed for their hospital and health care expenses for the 2 million people who have been displaced from their homes, from their neighborhoods, from their church communities, so there would be no question that they could get that reimbursement and States could begin planning how to provide critical health needs.

The Senator from Tennessee said that everyone will be getting health benefits. If you are a middle-income family and had private health insurance with your employer, and your employer went out of business, you don't continue with that health care unless we pass all or part of the Baucus-Grassley bill that provides a way for that health care to be continued.

The Senator says you can get health care. Yes, you could go stand in line in an emergency room and wait for a day, 2 or 3 days. The lines were long before Katrina, and after Katrina and Rita, I had a mother tell me she waited 2 days with her child with cerebral palsy in her arms—for 2 days trying to get health care.

Unfortunately, many people go to the emergency room to get health care. But in this case, we have many people who don't usually get their health care from emergency rooms that need the Grassley-Baucus bill to be able to extend their private coverage at a reasonable and affordable rate until we can figure out a better way to keep them with health insurance, get them back in their jobs, get them back into homes, and decide how to do that.

That is why I sent a letter today saying I think we should act on the Emergency Health Care Relief Act—not 2 weeks from now, not a month from now, but right now. Take a few billion dollars and instead of letting it sit there doing nothing under the FEMA headline, take this money and use it for health care.

In addition, we have had 71,000 small businesses at a minimum—it could be more—71,000 small businesses, from restaurants to small manufacturing shops to high-tech businesses to agricultural-related businesses to art stores. I could go on and on and on. These are people who worked their whole lives to create a business for themselves and their children. They may employ three or four people. But it was a successful business. They were proud of their business. The business is gone.

Instead of Congress acting to help small business through the Small Business Administration, we have decided we want to give all the money to FEMA. If FEMA gives it to small businesses, fine; if they do not, OK with us. We are going home for 2 weeks.

So I sent the letter saying, Could we take some of that FEMA money—they have $43 billion—just $720 million of the FEMA money and give it to the Small Business Hurricane Relief and Reconstruction Act, sponsored not by Democrats but by the Republicans, by the chairman of the committee, the very able Senator from Maine, Senator SNOWE, who 2 weeks ago moved a bill out of her committee at the request of the Small Business Administration, and because of the need of small businesses in the gulf coast, moved a tight, comprehensive, direct package. But, no, we can't do that. We have to go home without helping our small businesses.

When I was on the committee the Small Business Administration testified. This was a week ago. They said 25,000 businesses had put in applications for aid and they had approved seven. That was last week.

I think that we should do anything we can do to give some money to the Small Business Administration, through already approved law—nothing new on the books—that they asked for, that the Republican chairman of the Senate committee said absolutely this is what we should do, with the ranking member, the Senator from Massachusetts, Senator KERRY, agreeing. It passed unanimously out of our committee. We have very liberal members of our committee, and very conservative members of our committee who passed this unanimously, but for some reason we can't do this before we leave because the House leadership and the administration don't think that this help for small business is an emergency.

I might want them to call some of the 71,000 small businesses that don't have their business any longer and ask them if they could wait another few weeks for no reason, just because we can't manage to get a bill that passed unanimously over here, for the White House or someone in the administration to say, you know, that would be a good idea. FEMA is not working so well. While we try to work on getting FEMA to work better, it would make sense to us to take $720 million of the $43 billion that FEMA has and get it to the small businesses to help.

Another part of this letter is $3.3 billion for immediate funding for elementary, secondary, and postsecondary relief for children. We go to school early in the South. Up here around Washington people do not go to school until after September. But down South, we all go back to school around the middle of August. In Louisiana and Mississippi and Alabama, kids that just finished with their new backpacks, got in their little uniforms, parents are excited, kids are excited, they had just started school the week before the hurricane.

Then, on August 29th, Katrina, a category 4 or 5 hurricane, with 165-mile-an-hour winds, slammed into the gulf coast and destroyed hundreds of schools—public, private, parochial.

The superintendents, in their self-reliant way, started making phone calls and saying 250,000 children need to go to school. So they start making all kinds of arrangements, principals and teachers, mothers and fathers without much money, having lost their home and in some cases their business, scrambling to find schools to put their kids in. Why? Because a smart, good educator from Louisiana, the superintendent, who is universally admired in our State, said to people 12 days after the storm, You might have lost everything, but if you still have your children, do me a favor. Get them in school because it will bring normalcy to them. It will calm them from this tragedy, and it will provide some order for your family.

Wealthy people had many options. Middle-income people had fewer options, but they kind of made it work. The poor have struggled with this issue.

Our States have said it has been a month. We know there are 250,000 children, just elementary and school-age kids, that are enrolled in other schools,

strange schools. Children have been doing beautifully though, showing up to a brand new school, sometimes without any of their friends with them.

I have been through the shelters. I have seen the children leave, I have seen them come back. They are doing a great job.

The only people not doing very well are the Members of Congress on the House side and the administration that can't seem to find $3 billion to let the States know that those children's tuition will be paid for. Maybe public schools can survive this. Maybe public schools just know: I am a public school and I know I am going to get our money. But what about the parochial schools?

Let me also remind you that these schools are employers. They employ teachers and support staff. Maybe they can wait until January, but since the administration has said we want to give help—$4,000 a child or up to $7,500 per child to make sure the States of Mississippi, Louisiana, Alabama, and Texas are whole—we should allow the schools that have taken in these children to be compensated at some great expense to the schools that were already full.

Let's take the State of Arkansas. They took 75,000 people; maybe they have 25,000 children or maybe only 20,000 children. Those children have gone to schools in Arkansas. They have taken them in. Those schools have not received one penny for those children and are not quite sure if they will. They have taken them in anyway, though. The parents do not know if their children are going to be paid for or if they will have to pick up a second tuition. Some of them have already paid tuition for the school they were in before the hurricane hit.

I am wondering, why is this complicated? The administration has said they are for it. LAMAR ALEXANDER, Senator KENNEDY, two Republicans, and a Democrat have pretty much agreed on how to do this. It only costs $3 billion. Again, we would just as soon take it from FEMA since they are not doing very well with the money we have given them. It wouldn't cost us anything and we would get that done for our States, something positive and concrete. But, no, we have to go home.

The fourth thing in the letter we sent today was to see if we could get some direct funding, $1.5 billion we say here, for just 3 months, it would just cover about 3 months of basic payroll for sheriff departments, for police, for fire fighters in the cities and counties and parishes that were the hardest hit.

Today, in the city of New Orleans—and this is a picture of one neighborhood—the headline in our hometown newspaper is that the city is to lay off 3,000 city employees. When a city has been destroyed, as this picture indicates, and people in your city look like this picture, which can be seen all over south Louisiana—this is what most homes in the southern part of Mississippi and throughout south Louisiana look like. Whatever town, county, or city she lives in, you can obviously tell she will not be paying any sales tax. If you could see a broader picture, there are no stores standing where, if she could get up and walk, she could buy something and pay sales tax. Obviously, she will not be paying any ad valorem tax on this house.

Counties and parishes all over south Louisiana made their payrolls in August. They made their first payroll in September. They made their second payroll the end of September. They have no revenues coming in. They come here and ask for $1.5 billion and are told: Why don't you go back and tighten your numbers a little bit. Why don't you go back and just see if there is any way this lady could pay a little tax. I have never seen or heard anything like this in my life.

FEMA has $43 billion unallocated. Throughout the entire region, they have no sales tax to operate, no property tax to operate, and are getting ready to declare bankruptcy. And Congress says, they have to tighten their numbers. If we give them the money in New Orleans, if we give the money to them under current law, we have to pay it back.

How is New Orleans or Waveland or anyplace that looks like this, how are they going to pay any money back? If we do not get this law changed before we leave, the only money New Orleans could get under the current law, which is why we keep saying FEMA is not working—under the current law a city or county can get a maximum of $5 million by loan, which they have to pay back.

Do you know how much the annual operating monthly payroll is for the city of New Orleans? It is $40 million. How would the $5 million help the city of New Orleans to stay in business when in 1 month they spend $40 million just on operating expenses for the city that looks like this? I come and ask for $40 million for 1 month and get told it is too much to ask for? Don't ask for too much, Senator.

OK, well, we will ask for just 3 months of operating expenses for some of these communities. I suggest if you are giving tax credits to get people to come back, you might need a city they can come back to, or a county they can come back to that is actually operating. I don't know too many businesses that want to operate in a place with no police protection, no fire protection, no sewer, no water, and limited utility maintenance for electricity because the city is shut down. Maybe there is a community like that somewhere in the world or in America, but I don't know of one. Even people who live in rural areas—and I have been out to Montana, Idaho, and beautiful places in the West where you never see anyone—have a beautiful ranch in the middle of nowhere, and there is a fire department that would come if their ranch caught on fire.

We have cities and communities on the gulf coast that are letting their police and their firemen go, and we are sitting around passing tax credits.

I am sure this woman could use some of the tax credits we have passed. I have not figured out exactly which one, but I will work on that tomorrow, something she might particularly benefit from.

I have sheriff's departments, cities, counties, and parishes that do not know how they will make payroll. FEMA has $43 billion, and I cannot get $1.5 billion to help them stay in business. Anything we might do in December could actually work.

I don't know how to express any more the tragedy and the magnitude of this disaster. I hope perhaps some people listening would pick up the special edition of National Geographic, ''Why It Became a Man-made Disaster, Where It Could Happen Next.'' The pictures are hard to look at. The text is even more difficult to read—not because the words are large but because it makes you so sick when you read it because it was avoidable.

This was all avoidable, but there were many failures along the way at the national level, at the State level, at the local level. I hope we can learn from what we did so people do not think: Well, the Senator from Louisiana is just talking about the people from Louisiana.

Let me read you the last page, which is why I am spending time on the floor, why I am going to stay on this floor, why I am going to push this issue, so we get something for the people of Louisiana and the gulf coast before we leave, something for their health care or something for their education or something for their small business or something for their police and fire departments, something for their operating budgets, so we can have something to work with when we get back.

But the reason I am also pressing it is because I know, as sure as I am standing here, there is going to be another disaster. If we do not fix FEMA, if we do not fix some of these systems and set a precedent—not a precedent because it is already in the law; but actually act on what the law already says, which is all we are asking, not anything new; but we are setting a precedent by acting on what the Federal Government already has—it is going to happen to someone else. And I am likely to tell you now who that someone else is going to be.

The next Katrina? According to NOAA—which is the National Oceanic and Atmospheric Administration—meteorologist Joe Golden, the five places in the United States at greatest risk for a calamitous hurricane are Tampa Bay, FL—heads up, Senators from Florida—Mobile, AL—heads up, delegation from Alabama—Houston, TX—heads up to the Texas delegation—New York City and Long Island, NY, and Miami, FL.

This is a picture of the likely areas of threat in the dark color on this map in

the National Geographic article. So not only do we have to get this right for the gulf coast, which has been hit hard and knocked down—but not knocked out—we have to fix this so it does not happen again, and if it does, the people of Florida do not have to suffer the way the people of Louisiana and Mississippi have had to suffer; so the people of New York would not have to go through what we went through.

But I do not know if I have hope about that because also in National Geographic they remind us of something that I knew of as a kid. Everybody in Louisiana knows about it. It was Hurricane Betsy—the largest natural disaster in the history of the country. There is a hurricane that all the oldtimers know about that hit in 1965, Hurricane Betsy. It flooded a great area of the metropolitan area, Plaquemines Parish, Saint Bernard Parish, and the Lower Nine, which was also terribly affected by Katrina.

As a result of Betsy, the Federal Government did the same thing. President Lyndon Johnson came down at the request actually of Senator Russell Long from Louisiana who said: Please come, see what has happened, and help us.

President Johnson, I am proud to say, came down and seemed to do more than we are doing now. I have a memo I am going to submit for the RECORD that he himself wrote—that I got from the Lyndon Baines Johnson Library today—upon his return, as he indicated to Congress what needed to be done. Maybe this would inspire us to do more.

Anyway, that hurricane occurred. We set out to build a levee system, a bold, aggressive plan for a levee system. But somewhere along the way that plan fell by the wayside. Congress got distracted. Other priorities came up. Even though our delegation, decade after decade, Republican and Democrat, pleaded, begged, and used our own political chits to add money to the executive budget every year for levees and flood protection and important dredging projects, it was never a promise that was fulfilled.

So we find ourselves, 40 years after Betsy, having basically a collapse of a levee system. I would like to be optimistic, but I am not sure I can be, because in 1927 the great flood before Betsy did the same thing. The picture I have in the Chamber is eerily the same, except there is no overpass. This first picture was taken in 1927. This other one was taken in 2005. You would think that a sophisticated country such as ours—sophisticated governments such as ours—would understand that every now and then you have to make smart investments and smart decisions about levee protection and about growth.

So I am hoping, since we had this once in 1927, we flooded again in the 1960s, and now in 2005, we could learn some lessons about how to prevent this because it is preventable. We are not the only people in the world who live below sea level. There are examples all over the Earth of people who have to live close to the water for trade and commerce purposes who have managed to discipline themselves, restrain themselves, wisely spend their money, and invest it in the protections that their homeowners and their businesses and their people need to have a long and prosperous and safe existence.

But we did not learn it in 1927 sufficiently. We did not learn it in 1965. And I am hoping today we can learn it in 2005.

Before we build the levee system, though, we have to face the immediate issues, which is why we sent this letter to the leadership, why I have said: Let's not go home until we take some money from FEMA, which has $43 billion and is not spending it very well. And everyone agrees with that. There is not a person in Congress now who is defending the way FEMA is distributing this money. It is not because they do not have some good people at FEMA. I have met many of them. They are caring and compassionate individuals.

But FEMA is not organized to manage this crisis, and they are the agency that should be coordinating it. They are not resourced. They are not staffed. They are not organized because they were put in the Department of Homeland Security, stripped of much of their independence. Their budget was slashed. Most of the people who knew how to run disasters either left or were asked to leave. So they have a group of people who are not as experienced, not as well organized, and not prepared.

As a result, our people in Louisiana, Mississippi, and Alabama are suffering. So instead of complaining more about it, which we have done ad nauseam almost for 31 days, we said: OK, let's move on here. Let's take some of the money that is not being used and direct it immediately to things that would really make a difference in people's lives and, most importantly, would send a positive signal that help is on the way.

So I do not know why we are not able to do this, which is why I have called up this bill, the Grassley-Baucus bill, why I am going to push and insist and use all the power I have as a Senator from this State of Louisiana, with anyone else, Republican or Democrat, who will help to try to get this message to the White House, to the House leadership: Please do not abandon the people of Louisiana again, and the people of Mississippi again, and the people of Alabama again by leaving before we do something to help them in a direct and concrete manner.

Now, there have been a lot of press releases issued. I will submit those for the RECORD. There are lots of messages that people give out, that people are asked to say—things like: The President has called on all Americans to help those in need; the President has asked for this; So and so has asked for this; please tell people they are not alone.

We have programs such as the opportunity zones, urban homesteading. I think there is some merit in some of this that has been proposed. I am not opposed to exploring options for anything to encourage home ownership. But right now our State, the city of New Orleans, cannot keep people on the payroll. If we do not do something immediately to give money to our local governments, to sheriffs, to first responders, for firefighters, I do not know how anything else we do is going to matter because there will not be a city to do it in, or there will not be a county that is functioning when the schools manage to get rebuilt, when any businesses decide to take advantage of the tax credits we have given them to open, there will not be a city to move into.

We are trying to get some of our neighborhoods back in New Orleans, and the mayor and Federal officials and the Governor and the council have been working through a complicated plan that is not universally supported. But I can understand why we have to go neighborhood by neighborhood, because some neighborhoods are totally uninhabitable. You want to bring some life to the city, but what is the use of moving people back into Algiers, which is where we want to move them on the west bank, or back into the CBD, if the mayor has to let 3,000 people off this week and 3,000 people off next week? Who would the people in the central business district call when they need a permit?

I don't think this is too complicated. It is time for us to act. We have passed some tax credits in a bipartisan fashion, $6 billion in tax credits to help people with casualty loss, to let people take some money out of their IRA tax free, to tell the IRS, don't collect any taxes for people. If anybody owes you money or if people are late or don't expect any quarterly reports, that has all been helpful. We have given a $2,400 credit to employers. One thing we can do in this Congress is pass tax cuts. We have become very good at passing tax cuts. We are appreciative of these tax cuts, $6 billion. But I can tell you that our State needs $9 billion. Maybe we could live with $6 billion if we eliminate some things that we need. Perhaps we could wait for a couple of months to get this emergency health care relief act.

We need the $720 million for small business relief already passed in a bipartisan way. We need money for our elementary and secondary schools. And most importantly, we need money for our community disaster loans and for several hospitals in the region. When the whole community was collapsing, when certain hospitals had to evacuate, these three hospitals in the metropolitan area—West Jefferson, East Jefferson, and Oschner, two public hospitals and one private hospital—stayed open the whole time, never closed their doors, even with water rising and windows out and all sorts of disaster and

difficulty. Because of their sheer determination to do so, they stayed open. As a result, Oschner can't qualify for insurance because they never closed their doors. But if we don't give them some immediate help, this well-respected institution may not be able to keep their doors open. They are one of the largest employers, most respected institutions. What are we going to do, say, sorry, come back in a month? They may not be here in a month.

We don't even have on this list our universities. The University of New Orleans, Southern University, Dillard University, Xavier University, Tulane University, Loyola University, and our largest community college, Delgado, which had five feet of water around it. These are not only the brainpower that is going to help us rebuild a city greater and better, higher and stronger and smarter, these are employers who employ thousands of the professionals who make up the heart of our region. We don't even have them on the list. They were on the front page of the New York Times, on CNN last night, saying: Does anybody know we are out here? We are not able to make payroll.

Why wouldn't they be able to make payroll? They have no students in their university. So what does the president of the university tell his faculty: Go to Atlanta and come back in 2 years? And if Xavier is not functioning, and Dillard is not functioning, and the University of New Orleans is not up and operating, and Tulane can't get completely back up, and Loyola, who do the small businesses we are trying to give tax credits to, who do they sell their products to if there are no large businesses that have survived?

Let me talk about one other employer, the Catholic Church. There are people in this Congress who have this idea that in a storm such as this or in a hurricane or disaster, let's have faith-based initiatives. Churches do beautiful work. The synagogues do beautiful work. People of faith have done so many things that I want to say thank you to everyone who has helped in every way. But in my city, as a Catholic city predominantly, the Catholic Church not only runs schools and senior centers and feeding centers and homeless shelters, they don't think of themselves as a business. They think of themselves as a ministry. They, in fact, are one of the largest employers in our region and have been since before the Government actually existed in the way we know it today. In other words, the Ursuline nuns, the nuns of the Holy Sisters, the Sisters of the Poor, the Jesuits came to the city before we even had an American Government and helped to stand the city up. That is how long they have been there. They have helped decade after decade, through the Revolutionary War, the Battle of New Orleans, the Civil War, through every tragedy, the nuns, the priests, the teachers have been there.

Now their schools are ruined. Their hospitals are ruined. They come to ask the Government for some help. We act like, go ask a faith-based institution. They are a faith-based institution. Whom should they go ask? They have to let off maybe 1,500 people. Why would we want our largest employer to let go people so these people who are trained in the ministry, who deliver services, who are the social workers of the city, the psychologists of the city, the counsellors of the city, the teachers of the city could go to Atlanta or Houston or Michigan or Dallas and come back in a couple years? We need them to stay there and help us build the city and community.

I am sure that is true in Waveland. I am sure it is true in Pass Christian. I am sure it is true throughout the gulf coast of Mississippi. Instead we get: Go ask a faith-based institution for help. Go ask a church. They are the church. They can't even save their own employees so how are they going to help everyone else? I don't know what has happened to us as a country. It makes me frightened to think about how far we have come as a nation that we don't understand the role of the Federal Government at a time such as this, that we are so focused on tax cuts, on other priorities, that when hard-working Americans, hard-working American citizens, who have done nothing but work hard all their lives to build some equity, to get to a place not of luxury but of peace and comfort, lose everything in the blink of an eye, we have to come up here to the Federal Government and beg on their behalf, instead of the Federal Government saying: This is why we are here. That is what being part of a nation is all about. If one State is hurting, the other 49 can lift them up. Or if two States are hurting, the other 48 can lift them up.

Instead, we have to listen to editorial after editorial saying: Why can't Louisiana be more self-reliant? The State needs to demonstrate self-reliance.

The Budget Director of Louisiana reported to our legislature that their revenues will be short $1 billion out of a budget of approximately $14 billion. But the State needs to be self-reliant; the people in Louisiana are not self-reliant.

I want to show a picture of a woman who I think is self-reliant. She is not on a wagon train out West, but this is what I think about self-reliance. She has her baby in her arms. She is doing the best she can in a very tough situation. I want to show some other pictures of self-reliance.

This is a woman for whom no one came. She probably has no car, but she has the two babies that she can carry, and I am sure if she had a third, she would have managed to put a third one in her arms and wade through 5 feet of water to try to get these children to safety. This is what Senator LANDRIEU thinks is being self-reliant.

There is another picture in this magazine of some people in a boat. There is a picture in this magazine of about 10 people in a boat. The boat does not have the Coast Guard emblem—and let me thank the Coast Guard. They saved 32,000 people in the course of 3 and 4 days; 32,000 the Coast Guard alone saved out of houses, off porches, off roofs. That is not counting the thousands of people who were saved by Wildlife and Fisheries.

But there is a picture in this magazine of a boat that looks like it is sort of a blown-up boat with about 12 people in it. There are no paddles. So the people in the boat found some wood floating in the water and picked up the wood and started paddling.

This is the picture. I hope the cameras can see it. They are going to have to really blow it up, but here it is. It is not very large. But this is what the Senator from Louisiana thinks is being self-reliant. People found something that floated, put themselves and their children in it, found some old wood, and started paddling to safety. And I have to listen to news people saying that our people are not self-reliant?

I will not apologize for asking for help on behalf of the 4.5 million people who live in my State—Black and White, Hispanic and Asian—who have been devastated by this storm, 2 million of whom have lost their homes and their neighborhoods. Most of them have never asked the Government for one thing, have never been on one program, and they come here to ask for a little bit of help and they are told: You need to be more self-reliant. How much more self-reliant can people be other than to raise their children, send them to school, balance their budget, pay for their house, pay their bills on time, and serve in the military? How much more self-reliant can they be?

I thought and I think they thought they lived in a nation that when something such as this happened that was unexpected and not their fault, somebody would be there to help them. All we have is photo ops, message boards, and press releases. But when it comes down to actually passing some legislation with some money attached to it that could actually help someone, we cannot seem to find the will to do it, despite the fact that what we are asking for we can take from the FEMA money and not add anything. Republicans and Democrats have come together almost unanimously in support of these, but yet we are going to go home without doing anything.

Mr. President, I hope I have made my point. I will be back in the morning to talk about some other aspects of this recovery. Again, to be perfectly clear, FEMA has been given $51 billion. There is $43 billion, as of yesterday, that is unallocated. Everyone agrees that FEMA is not what it used to be, that it is not working very well. For whatever reason and for whose ever fault that might be, we cannot fix that overnight. So I am asking to take a few billion of that money that is just sitting there and allocate it to programs already established, that are already working, that are desperately needed, that have

been agreed to by Republicans and Democrats alike before we leave so we can give hope to people.

I am going to stand here on this floor all day tomorrow and use every pressure point I can to see that some agreement can be reached to do something before we leave and when we come back, to agree to up-or-down votes on some critical bills on which we need action now. We don't get action on them, anything we do in January or February or March or April, in large measure, will be for nought because the counties, cities, parishes, police departments, and fire departments that we are trying to help may not make it that long. Without them, it is very hard, if not impossible, to build our communities and build our cities.

In conclusion, people want to come home. Some people may not be able to. But as a Senator from Louisiana, I want people to know from our State that everyone is welcome home. All people are welcome, and we want everyone back. We are doing the very best we can to try to provide and prioritize what we need to do first, second, and third in order to get people back and get our communities started again.

Not only is New Orleans a great city, but the region is pretty spectacular and special. The whole gulf coast is a place that when you grow up in New Orleans, you know about Waveland, Pass Christian, places that are very special to people along that gulf coast. Generation after generation of families have vacationed together and lived together and worshipped together and gone to school together, and it is gone.

We would like the help of this Nation to build it back higher, stronger, and better. We don't want to waste a penny, but we need this help now.

Let us act when we come back early in the morning to get some of this done and to work with our colleagues to see that we can get help to the people who are desperately in need of help.

I yield the floor.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands adjourned until 9:30 a.m. tomorrow.

Thereupon, the Senate, at 11:33 p.m., adjourned until Thursday, October 6, 2005, at 9:30 a.m.