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# Senate

The Senate met at 9:30 a.m. and was called to order by the President pro tempore (Mr. STEVENS).

## PRAYER

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

Let us pray.

God of grace and God of glory, Your providence has guided our ways in times past. You have taught us to trust You for each day and every event.

As our Senators seek to do Your will, renew their faith, rekindle their love, and regenerate their resolve. Give them the insight to know that not everything old is bad, nor everything new, good; conversely, not everything old is good, nor everything new, bad. Teach them through Your Spirit lessons they need to learn. May their highest aim be to love You and do Your will. Lead them with Your sure hand so they may follow You without hesitation.

We pray in Your holy Name. Amen.

## PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore 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.

## RESERVATION OF LEADER TIME

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

## RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

## SCHEDULE

Mr. FRIST. Mr. President, this morning we will resume debate on the port security bill immediately following the 30-minute period of morning business. We have an agreement for a vote in relation to Senator REID's amendment to occur at 12:15 today. There is a point of order against that amendment, and therefore the vote is likely to be on a motion to waive the budget relative to that amendment.

The managers have done good work on the bill thus far, but we have not had an agreement yet as to when we can finish this security legislation. Therefore, last night I filed a cloture motion on the bill so that we will conclude the bill this week. I have indicated we are willing to vitiate that vote if an agreement is reached that will bring the Senate to a reasonable conclusion on this port security measure. In the meantime, we will continue to work on amendments, with rollcall votes each day. I also remind Senators that under the rule, Senators have until 1 p.m. today in order to file timely first-degree amendments.

## MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will be a period for the transaction of morning business for up to 30 minutes, with the first half of the time under the control of the Democratic leader or his designee and the second half of the time under the control of the majority leader or his designee.

## RECOGNITION OF THE MINORITY LEADER

The PRESIDENT pro tempore. The Democratic leader is recognized.

Mr. REID. Thank you very much, Mr. President.

## REAL SECURITY AMENDMENT

Mr. REID. Mr. President, shortly there will be a debate on an amendment that was offered on my behalf and a number of other Democrats.

It is an amendment that would implement all 41 recommendations of the bipartisan 9/11 Commission.

The amendment would equip our intelligence community to fight terrorists. In effect, what it would do is go back to what we have been doing for 27 years; that is, allow the Intelligence Committee every year to have a bill before this body, to allow them to update what needs to be done so they can proceed with intelligence activities in our country and around the rest of the world. We did not authorize the Intelligence Committee's work for the first time in 28 years last year. Now, this year, we have not done it again. This amendment would put that in effect.

Third, the amendment would secure our ports, rails, roads, airports, chemical and nuclear plants, and mass transit systems.

Fourth, the amendment would refocus America on the war on terror. I went into that in some detail yesterday.

Fifth, the amendment would provide better, updated tools to bring terrorists to justice.

Finally, the amendment would change course in Iraq. Certainly that is something the American people deserve and want.

Yesterday in Iraq, 65 Iraqis were found dead, a number of them beheaded, one with a note saying: Anyone that cooperates with Americans, this is what is going to happen to them. In addition to that, scores of others were killed in bombing incidents around the country. Two American soldiers were killed.

So the amendment would change course in Iraq. Americans deserve real security. This bill is real security. The amendment is real security. I ask colleagues on both sides of the aisle to join me in supporting this amendment.

I yield the floor, Mr. President.

The PRESIDENT pro tempore. The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, may I proceed?

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



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The PRESIDENT pro tempore. You may.

Mr. ROCKEFELLER. I thank the President pro tempore.

## NSA WARRANTLESS SURVEILLANCE PROGRAM

Mr. ROCKEFELLER. Mr. President, the National Security Agency has been wiretapping the conversations of Americans without obtaining court orders, as required by the Foreign Intelligence Surveillance Act, or FISA, for the past 5 years.

In recent months, a number of bills have been proposed which would codify the President's program of warrantless surveillance. The White House is now pushing the Senate Judiciary Committee to pass sweeping legislation that would amend FISA and grant the President unprecedented authority to undertake wiretapping in the United States without the judicial scrutiny currently required by law.

For Congress to legislate on this program in the coming days would not only be premature but irresponsible.

The fact remains that despite repeated assurances from the administration, Members of Congress remain in the dark and cannot answer fundamental questions about the program's existence, effectiveness or legal justification.

As one of the few Members who have received the most detailed information to date. I can tell you that, putting aside the legal argument, the administration has not been able to document convincingly the counterterrorism benefits of the program.

In fact for the past 6 months, I have been requesting, without success, specific details about the program including how many terrorists have been identified, how many arrested, how many convicted, and how many terrorists have been deported or killed as a direct result of information obtained through the warrantless wiretapping program.

I can assure you, not one person in Congress has the answers to these fundamental questions.

At the same time, let me be perfectly clear, I support all efforts to track down terrorists wherever they are using all of our best technology and resources. But it can and must be done legally and in a way that protects the rights of all Americans.

For 4½ years, the President had restricted knowledge of this program to the top leaders of the Senate and House and the two top leaders on the congressional Intelligence Committees.

By limiting the briefings to 2 of the 15 Intelligence Committee members, the White House had sought to prevent the committee from conducting the legally required oversight of the NSA program.

Because of this restriction on access to the program, the committee has been effectively prevented from knowing about the program, evaluating the program, and acting on the program.

Frankly, I believe the White House goal of the past 5 years has been to use the iron cloak of secrecy to keep Congress ignorant of and powerless to challenge a controversial program of suspect legality.

The repeated representations by the President and senior administration officials that the warrantless wiretapping program was and is subject to extensive congressional oversight are simply outrageous.

Entire committees, not individual Senators, report out legislation that authorizes and funds intelligence collection programs. The full Senate, not individual Senators, takes action to approve or reject this legislation.

The White House wanted a warrantless wiretapping program that was exempt from the scrutiny of both the courts and the Congress, even if it meant ignoring the legal requirements of FISA and the National Security Acts and shattering what had been decades of responsible, bipartisan congressional oversight of intelligence programs. Why?

Administration officials have stated that the fact that the NSA was collecting the communications of suspected terrorists coming in or out of the United States without a court's determination that probable cause existed was simply too sensitive to disclose to the other Members of Congress intimating that the congressional Intelligence Committees could not keep aspects of the program classified.

I would remind this administration that the Intelligence Committee is entrusted on a daily basis with the secrets that if disclosed would irreparably harm our national security, compromise multibillion-dollar collection programs, and even get people killed.

There are 15 members of the Senate Intelligence Committee and many more of my colleagues who at an earlier time served on the committee.

All Senators, by right of their elected position and the duties they are sworn to carry out have access to the details of these highly classified collection programs.

It is a sobering responsibility but members of our committee and the Senate as a whole have protected these secrets because each of us understands what is at stake.

In fact, as someone who has been briefed on the NSA wiretapping program, I can assure may colleagues that the sensitivity of the program pales in comparison with other intelligence activities our committee oversees on a routine basis.

My colleagues should be troubled by the fact that the only NSA intelligence collection program that the White House has directed be described in detail publicly is also the only NSA program the White House continues to withhold from the full Senate.

I want my colleagues to consider the implications of this carefully.

At a time when terrorism is the No. 1 threat to America's security, the White House has decided that Congress cannot be trusted with the job of protecting our citizens.

Instead of working with Congress, the President decided with an almost imperial disdain to ignore the constitutional role the legislative branch plays in providing for the National defense.

It wasn't until March 9 of this year, and after enormous pressure, that the administration agreed to allow five additional committee members and three staffers to be briefed into the program.

Another 2 months would pass before the White House agreed with our request that the entire committee membership be apprised of the program's operations.

However, contrary to public statements in recent months by the President and Vice President that Congress is being fully briefed, I am dismayed to report that this administration continues to pursue its policy of depriving the Congress the information it needs to understand and evaluate the NSA program's legal underpinnings, operational conduct, and usefulness in identifying and arresting terrorists.

On February 23, 2006, I wrote to NSA Director GEN Keith Alexander, Attorney General Alberto Gonzales and Director of National Intelligence John Negroponte requesting documents and information about the NSA program, including the Presidential orders authorizing the program, legal reviews and opinions relating to the program, procedures and guidelines on the use of information obtained through the program, and specifics about the counterterrorism benefits of the program.

This letter was followed up with a second more refined request on May 15 of 54 items based on briefings the committee had recently received.

The May letter repeated my earlier request for basic documentation and information, such as the Presidential authorization orders, which are essential in order for the Intelligence Committee to fully understand and thoroughly evaluate the NSA program, a necessary step before considering whether legislation relating to the program or amending FISA is needed.

Over 6 months have passed since I sent my original February letter and the Intelligence Committee has not received the requested information.

During this time, I and my staff director repeatedly raised the issue of the delinquent replies with White House and administration officials, including a direct appeal I made to Director Negroponte in July.

Six months and no response from the administration. This is simply unacceptable.

Three days after I met with Director Negroponte and expressed my concerns about the lack of a response to the February and May requests for documents and information, the Intelligence Committee received a fax from the NSA's Office of General Counsel forwarding ''a set of administration-approved unclassified talking points for members to use.''

The cover page of the fax included comments indicating that the talking points were prepared in response to questions from committee members about what could be said publicly about the NSA program.

When I read the talking points, I was stunned to find that the NSA provided political talking points.

Instead of providing the requested assistance in delineating what is and what is not classified about the program, the talking points contain subjective statements intended to advance a particular policy view and present the NSA program in the best possible light.

Instead of providing the committee with the documents and information requested a half year earlier and allowing the committee to complete its own review of the NSA program and to draw its own independent conclusions, the administration preferred telling committee members what to think and what to say.

The administration-approved talking points encouraged Senators to make statements such as ''I can say that the Program must continue; It is being run in a highly disciplined way,'' and ''There is strict oversight in place both at NSA and outside, now including the full congressional committees.''

The talking points also argue for changes to FISA claiming ''Current law is not agile enough to handle the threat'' and ''The FISA should be amended so that it is technologically neutral.''

These statements were intended to advocate the White House policy line rather than provide guidance on classification.

Even before the intelligence committee can finish its own review of the NSA program the administration attempted to use the members of the intelligence committee—the only committee witting of the program's details—as mouthpieces to parrot conclusive statements in support of White House policy.

These talking points are the latest examples of how the administration has co-opted an agency of the intelligence community to keep information from Congress in support of a controversial policy or program. Our committee has run into this disturbing practice with respect to the administration's program for the detention, interrogation and rendition of individuals suspected on involvement with terrorism as well.

The White House's unwillingness to provide requested information to the Congress on the detention and interrogation program for many years created a void in congressional oversight, eventually filled by the courts and the Hamdan decision earlier this year.

In this case, the administration took the calculated risk that it could go it alone, without working with Congress, and they guessed wrong.

Now faced with a court decision not to its liking, the White House is coming to Congress seeking a legislative remedy.

Evidently, the administration has failed to learn the lessons of this go-it-alone approach.

The documents I requested of the NSA, Justice Department, and Office of the DNI 6 months ago have been withheld at the direction of the White House.

The administration is trying to run out the clock on my requests in the hopes that Congress can be manipulated to pass legislation this session authorizing a program it does not fully understand.

At the same time, a simple request of the NSA to detail what is and is not classified about the warrantless surveillance program is forced to go through the White House and, as a result, turned into a litany of administration P.R. statements.

I and six other members of the Intelligence Committee wrote to NSA Director Alexander last month expressing our concerns over the appropriateness of these administration-approved talking points and objecting to the requirement that the NSA must clear with the White House any requested information about its own program before it is sent to Congress.

We also asked that Director Alexander review this incident and provided the committee in writing an explanation of by whom and on what authority these talking points were prepared, who approved of their distribution to members of the Intelligence Committee, and who made the decision that they should be cleared by the administration prior to being provided to committee members.

Mr. President, I ask unanimous consent to have printed in the RECORD the administration-approved NSA talking points, faxed to the Intelligence Committee on July 27, 2006, the August 29, 2006, letter to NSA Director Gen. Alexander signed by me and Senators LEVIN, FEINSTEIN, WYDEN, BAYH, MIKULSKI, and FEINGOLD, and the September 1, 2006, response from General Alexander.

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

From: Alonzo Robertson, Office of General Counsel.

Date: 27 July 2006.

To: Hon. PAT ROBERTS, Chairman, SSCI.

During recent Terrorist Surveillance Program (TSP) briefings, a number of members have expressed a desire to know what they can say about the TSP. Attached is a set of Administration approved, unclassified talking points for the Members to use.

We would appreciate it if you would distribute to the Members.

ALONZO ROBERTSON.

TALKING POINTS FOR INTELLIGENCE COMMITTEE MEMBERS TO USE ON TERRORIST SURVEILLANCE PROGRAM

The terrorist threat to this country is real. We need to do everything possible to make our nation safe, and we need to do it in a way that preserves our civil liberties.

As a member of an intelligence committee of Congress, I am fully committed to that goal. We are the watchdogs of the Intelligence Community, including the National Security Agency that is carrying out the Terrorist Surveillance Program.

I have been briefed on the Program and stood on the operations floor at NSA to see first-hand how vital it is to the security of our country and how carefully it is being run.

It would be irresponsible to reveal details because that would give our adversaries an advantage. My colleagues and I are very serious about protecting our nation's secrets.

I can say that the Program must continue. It has detected terrorist plots that could have resulted in death or injury to Americans both at home and abroad.

It is being run in a highly disciplined way that takes great pains to protect U.S. privacy rights. There is strict oversight in place, both at NSA and outside, now including the full congressional intelligence committees.

The Program is not ''Data mining''; it targets only international communications closely connected to al Qa'ida or an affiliated group.

I have personally met the dedicated men and women of NSA. The country owes them an enormous debt of gratitude for their superb efforts to keep us all secure.

Current law is not agile enough to handle the threat posed by sophisticated international terrorist organizations such as al Qa'ida. This is because the Foreign Intelligence Surveillance Act of 1978, or ''FISA,'' has not kept pace with communications technology and was not designed for the types of threats we now face.

Today, in part because of technological changes over the last 30 years, the FISA frequently requires judicial authority to collect the communications of non-U.S. persons outside the United States. This clogs the FISA process with applications for court orders that have little to do with protecting U.S. privacy rights.

The FISA should be amended so that it is technology neutral. This would return it to its original purpose of focusing FISA privacy protections on Americans in the United States. It would greatly improve the FISA process and relieve the massive amounts of resources currently being consumed.

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U.S. SENATE,
SELECT COMMITTEE ON INTELLIGENCE,
*Washington, DC, August 29, 2006.*

Gen. KEITH B. ALEXANDER,
*Director, National Security Agency,*
*Fort George Meade, MD.*

DEAR GENERAL ALEXANDER: If our intelligence agencies are to be successful in their mission, it is vitally important that they maintain their independence. It is the National Security Agency's (NSA) duty to make sure that policymakers and military leaders are presented with accurate, objective intelligence information. If the NSA, or any other intelligence agency, enters a policy debate, it risks the loss of policymakers' confidence and could compromise the agency's effectiveness. That is why we were so troubled by talking points that members of the Senate Select Committee on Intelligence recently received from the NSA.

The talking points at issue related to the NSA warrantless surveillance program and were accompanied by a cover page from the NSA's Office of General Counsel. The cover page included comments indicating that the talking points were prepared in response to questions from Committee members about what could be said publicly about the NSA program. Instead of providing assistance in delineating what is and is not classified about the program, the talking points contain subjective statements that appear intended to advance a particular policy view

and present certain facts in the best possible light.

The talking points include statements such as ''I can say that the Program must continue''; ''It is being run in a highly disciplined way''; and ''There is strict oversight in place, both at NSA and outside, now including the full congressional oversight committees,'' The talking points also argue for changes to the Foreign Intelligence Surveillance Act (FISA) claiming ''Current law is not agile enough to handle the threat'' and ''The FISA should be amended so that it is technologically neutral.'' These statements appear intended to advocate particular policies rather than provide guidance on classification.

As you know, the Congress is currently evaluating various aspects of the NSA program. The Senate Intelligence Committee is in the process of gathering information to understand operational aspects of the program, and the Senate Judiciary Committee has held public hearings related to the program's legal foundations. Several pieces of legislation dealing with this program and the FISA have been introduced in the Senate and the House of Representatives.

The future of the warrantless eavesdropping program and any proposed changes to the FISA are policy matters currently being considered in the political arena. We understand the Administration has a certain point of view regarding this program. The program is, however, the subject of consideration in the Congress.

We believe that it is inappropriate for the NSA to insert itself into this policy debate. In addition, we are particularly troubled by the statement on the cover page that the document is ''Administration approved, unclassified talking points for Members to use.'' We object to an intelligence agency, such as the NSA, clearing documents such as these with the Administration prior to providing them to the Congress.

We also would note that the administration has failed to provide the Committee with documents and other basic information we need to conduct the strict oversight of the NSA program that the NSA talking points suggest is happening.

We ask that you review this incident and provide the Committee in writing, no later than September 8, 2006, an explanation of by whom and on what authority these talking points were prepared, who approved of their distribution to members of the Senate Intelligence Committee, and who made the decision that they should be cleared by the Administration prior to their being provided to Committee members. We also ask that your response describe steps you intend to take to ensure that all NSA employees understand the importance of NSA maintaining its independence from policy debates.

Thank you for your attention to this matter.

JAY ROCKEFELLER.
EVAN BAYH.
RUSSELL D. FEINGOLD.
DIANNE FEINSTEIN.
CARL LEVIN.
BARBARA A. MIKULSKI.
RON WYDEN.

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NATIONAL SECURITY AGENCY,
*Fort George G. Meade, MD, 1 September 2006.*

Hon. JOHN D. ROCKEFELLER IV,
*Vice Chairman, Select Committee on Intelligence, U.S. Senate, Washington, DC.*

DEAR VICE CHAIRMAN ROCKEFELLER: I appreciated the chance to talk with you yesterday about the concerns you raised in your letter of 29 August 2006 pertaining to a set of talking points on the President's Terrorist Surveillance Program (TSP) that NSA provided to the full Senate and House intelligence committees. I regret that our effort was misperceived as political.

As I stated on the phone, my intent was to respond to requests from intelligence committee Members who visited the Agency to oversee the TSP. They cited constituent concerns and asked what they could say publicly about the Program, and we wanted to be as helpful as possible. Because we are an Executive Branch agency, it is standard practice that NSA coordinated the talking points with the Department of Justice, National Security Council staff, and the Office of the Director of National Intelligence. We were especially concerned that nothing we gave out could or would be construed as classified.

I again assure you that we intended our effort to be apolitical. We are proud of our people, and our talking points reflect the pride in our service to our nation. I want to emphasize that NSA will not permit political considerations to taint our intelligence information.

If you have any questions, please call me or Michael Lawrence, Director of Legislative Affairs.

KEITH B. ALEXANDER,
*Lieutenant General, U.S. Army,*
*Director, NSA.*

Mr. ROCKEFELLER. Mr. President, it is clear to me that the administration's withholding of documents is designed to hamper the Intelligence Committee's review of the NSA program. Up to this point, information provided to the committee in briefings held since March has been filtered and generalized through charts and slides.

My attempts to obtain original documents, such as the Presidential authorizations, and to ask questions that go beyond these administration-approved briefings have been ignored.

This refusal to respond to legitimate information requests from the Oversight Committee, combined with the administration's over-restriction of member and staff access to the NSA program, is part of a cynical White House strategy to prevent Congress from either acting or forcing it to legislate on vital national security and privacy issues in the dark.

Twenty of the 100 currently serving Senators have been briefed on the NSA program at one point or another in the past 5 years. The White House currently allows only three members of the Intelligence Committee staff—two Republican staffers and one Democrat—to have access to the NSA program.

By contrast, there are well over a thousand employees at the NSA, CIA, FBI, Justice Department, Office of DNI, Pentagon and White House briefed into the NSA program.

I want my colleagues to take note of this disparity. Twenty Senators and three staffers compared with over a thousand executive branch employees.

If, in the remaining weeks of this session, the full Senate is asked to consider legislation to revise FISA or authorize aspects of the NSA warrantless surveillance program, it is untenable—if not unprecedented—to keep four-fifths of the Senate ignorant of why the changes are justified or what intelligence activities they are authorizing.

The Senate should insist that all Members be allowed to understand the NSA wiretapping program—with the appropriate care being taken to protect the remaining classified aspects not already acknowledged by the President—and be given the chance to draw their own conclusions about whether it is justified.

Finally, General Hayden and others have publicly stated that no legal concerns have been raised within the administration about the operation of the NSA program. Limited information presented to the committee contradicts this assertion. But the committee has been prevented from understanding the details and context of these internal debates about the program's legality due to the administration's stonewalling.

I urge my colleagues—we must insist on a full accounting of the NSA's ongoing 5-year program before acting on legislation that gives the President the authority to wiretap the phone conversations of Americans where a court has not determined that a probable cause standard has been met.

Mr. President, I yield the floor.

The PRESIDENT pro tempore. The Senator from Georgia is recognized.

Mr. ISAKSON. Mr. President, I rise to speak for 8 minutes and ask the Chair to give me the signal when I have used that time.

The PRESIDENT pro tempore. The Senator has 16½ minutes.

## UNITY IN THE WAR ON TERROR

Mr. ISAKSON. Mr. President, I am really delighted, after some of the things I have read and heard this morning. I decided last night to make the speech I am about to make. This morning, I want to go back to the speech the President made on Monday evening and go back to the President's clarion call for us to unite as a nation behind our effort to win the war on terror.

During the past 3 days—first Monday, September 11, where we all honored and mourned the tragic loss of 3,000 citizens, through today—I have read constant editorials and listened to numerous speeches that imply to me that that sense of unity doesn't really exist. I think the President was right to call for unity.

This morning I rise in an effort to have us focus on what we are really all about, not to point fingers or castigate anybody but to talk about what I believe is the ultimate war between good and evil. What happened on September 11 in 2001 was one of the most tragic events in the history of mankind. What the United States did, and what this President declared, by changing our policy from one of reaction to one of preemption was precisely the right thing to do. There is no doubt that in the last 5 years mistakes have been made. But there is no doubt that the greatest mistake would have been not to respond. It is now time for us to resolve to support this country, our men and women in harm's way, our intelligence agencies, with a resolve to see

it through to its conclusion, understanding that it is going to be a long and difficult battle.

We should not forget that the Cold War lasted half a century. As a youngster at R.L. Hope Elementary School in Atlanta, GA, I remember every week we practiced climbing under our desks as we did drills because we feared a nuclear attack from the Soviet Union. It was only when the Berlin Wall came down in the 1990s and communism was finally defeated that the Cold War ended.

This war could be as long and as difficult. But it is different. We fight an enemy with no uniforms, no diplomats, and no capital. It doesn't want what we have. They don't want us to have what we have. They don't want us to have the freedom of speech—for me to do what I am doing here—or for the press to criticize it. They don't want you to be able to bear arms if you are a law-abiding citizen or to go to church on Saturday or Sunday and worship or to not worship at all or the way you want. They don't want you to have the freedom to assemble and gather.

They are using those very inalienable rights of ours against us today and, in some cases, some of us are unwitting accomplices in that criticism. By way of example, we argue and parse about issues of interrogation and some issues of intelligence and surveillance, when every day that we fail to act the other side uses that against us to try to find a way to break us and kill American citizens. How else in the 21st century, in a world of computers and digital technology and cellular technology, can we track terrorists if we cannot listen to them? How in the world can we learn about those who would kill innocent Americans if we cannot interrogate them?

There was an editorial in the Monday paper, September 11, 2006, 5 years after 9/11, in my hometown paper, the Atlanta Constitution. It said, ''Power is found in our ideals not in our weapons.'' That is a great headline. They are right. One of the great ideals that the American people have is that we don't quit. We didn't quit in our revolution or in our Civil War or in World War I and World War II, and we cannot quit now. In this editorial, criticizing us in terms of Guantanamo Bay and Abu Ghraib, who is the moral authority quoted? None other than Osama bin Laden. The man that is quoted as questioning America's values is the man that relishes cutting off the heads of innocent American citizens, the man who takes pride in calling out and charging terrorists with attacking American citizens on 9/11, and the man who to this very day plots to kill innocent Americans.

We must listen to what they are saying, track what they are doing. When we capture them, we must get the intelligence necessary to save innocent lives. We must unite as a country, a media, political parties, and as a people to stand steadfastly behind this effort and see it through to conclusion.

I personally submit that we are getting pretty close. I think the fact that they are concentrating in Baghdad, the fact that we have seen what we have seen in terms of them trying to portray a civil war is because we have had them on the run and it is their last stand. You see, terrorism doesn't have to beat us on the battlefield. They only have to make us quit and come home. Then they can declare victory. We cannot let that happen.

I conclude my remarks by admonishing all of us, myself included, to join together to find solutions to move forward and support this effort to its conclusion and to its success. We should not tie the hands of our Armed Forces or our intelligence networks behind their backs. We should instead put our arms around them and embrace them, let them charge ahead and continue to track our enemies wherever they are and find out the information that is necessary. Then, and only then, will we be equalized in the war on terror and ultimately prevail.

I yield the floor.

The PRESIDENT pro tempore. The Senator has 10½ minutes remaining.

The Senator from South Carolina is recognized for 10 minutes.

Mr. DEMINT. Mr. President, I join my colleague, Senator ISAKSON from Georgia, in calling for the ceasing of this politicizing of a very important effort and the need to unify as a nation. As we commemorate the fifth anniversary of 9/11, I was reminded of how far we have come since that terrible day in securing America's homeland against future attacks, and how much further we have left to go.

I am thankful to be part of a Republican majority that is taking real action to make America safer, to secure our borders first, to strengthen port security with background checks for workers and scan every cargo container at our busiest ports for weapons of mass destruction.

President Bush and a Republican-led Congress have also shown relentless determination in the war against radical Islamic terrorists all around the world.

We prevented further attacks by uncovering and stopping 15 major terrorist plots against America and likely many others which are not public knowledge. We have frozen $1.5 billion in terrorists' assets in the United States through economic sanctions. We have implemented 37 of 39 recommendations of the 9/11 Commission. And we have liberated more than 50 million Afghans and Iraqis from despotism, permitting the first free elections in either country.

Just this week, the Senate took another important step to keep America's families safe by voting unanimously to pass the WARN Act, an important piece of legislation that will modernize our severely outdated emergency alert system using everyday technology such as cell phones and Blackberrys.

Meanwhile, and unfortunately, Democrats are trying to kill the port security bill by tying it up with political amendments—once again proving that they are willing to put their hope of winning an election ahead of the security of our country.

Unfortunately, during this election year, many of my Democratic colleagues seem more interested in posturing and pointing fingers than in putting forward serious proposals about how to deal with the ongoing terrorist threat. They accuse President Bush and Republicans of being satisfied with the status quo. Nothing could be further from the truth.

The Republican-led Congress has actively fought to secure America's homeland by funding critical ongoing needs of our troops and by increasing funds for border security, while Democrats have blocked commonsense efforts such as stopping the catch-and-release program for illegal immigrants which encourages more and more illegal immigration in this country.

The Democrats have blocked, or tried to block, the renewing of the PATRIOT Act, but we have been able to pass it despite the Democratic leader's claims to have killed it.

The Republican Congress is defending the use of military intelligence and law enforcement resources that have led to the capture of many of al-Qaida's top leaders and have helped to degrade al-Qaida's capabilities around the world. But these very techniques were criticized by my distinguished Democratic colleague this morning on the floor. We have to use the technology available to us to track communications, to stop financing of terrorism around the world, and if we don't we put our country at risk.

The Republicans have supported strong nominees for critical national security and foreign policy positions, such as U.N. Ambassador John Bolton, despite Democratic obstruction.

Again, despite continued Democratic obstruction, Republicans will continue to push a comprehensive agenda to secure America's homeland that will strengthen our borders with additional border agents, enforce immigration laws with worker verification, secure our ports with worker background checks, and support surveillance to find and stop terrorists before they strike.

What is the Democratic plan? The latest Democratic plan to secure our country is to complain about Donald Rumsfeld, to send a letter to the President telling him to do things in Iraq that have already been implemented and, as we heard this morning, to complain about the listening or tracking of phone calls from known terrorists.

I can't put it any better than my good friend, the Senator from Kentucky, Mr. MITCH MCCONNELL, who recently said while talking about Democrats' cut-and-run strategy:

> The Democratic leadership finally agrees on something—unfortunately, it's retreat.

Whether they call it redeployment or phased withdrawal, the effect is the

same: they would leave Americans more vulnerable and Iraqis at the mercy of al-Qaida, a terrorist group whose aim toward Iraqis and Americans is clear.

If Democrats spent half as much time fighting terrorists as they do this administration, America would win this war a lot faster.

Democrats claim to be the only ones who care about what Americans think, but Americans can see through their posturing. Compassionate rhetoric without a real plan for action is nothing more than an empty promise.

Republicans are committed to securing our homeland and have backed up that talk with action. Like my colleague, Senator ISAKSON, I invite my Democratic colleagues to join us in honoring the sacrifice of those who have already given their lives for freedom by providing real hope and security for all Americans instead of just partisan rhetoric.

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

The PRESIDING OFFICER (Mr. VITTER). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mrs. MURRAY. Mr. President, what is the pending business?

## CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is now closed.

## SECURITY AND ACCOUNTABILITY FOR EVERY PORT ACT

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of H.R. 4954, which the clerk will report.

The legislative clerk read as follows:

A bill H.R. 4954) to improve maritime and cargo security through enhanced layered defenses, and for other purposes.

Pending:

Reid amendment No. 4936, to provide real national security, restore United States leadership, and implement tough and smart policies to win the war on terror.

Schumer amendment No. 4930, to improve maritime container security by ensuring that foreign ports participating in the Container Security Initiative scan all containers shipped to the United States for nuclear and radiological weapons before loading.

The PRESIDING OFFICER. Under the previous order, the time until 12:15 p.m. shall be equally divided in the usual form.

The Senator from Washington is recognized.

Mrs. MURRAY. Mr. President, I ask unanimous consent that the pending amendment be temporarily set aside in order that I may send an amendment to the desk.

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

AMENDMENT NO. 4967

Mrs. MURRAY. Mr. President, I send an amendment to the desk on behalf of Senator STABENOW and ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Washington [Mrs. MURRAY], for Ms. STABENOW, for herself, Mr. LIEBERMAN, Mr. LEVIN, Mr. SCHUMER, Mr. DURBIN, Mrs. BOXER, and Mr. DAYTON, proposes an amendment numbered 4967.

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

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

The amendment is as follows:

(Purpose: To authorize grants for interoperable communications)

At the appropriate place, insert the following:

**SEC. ___. EMERGENCY COMMUNICATIONS AND INTEROPERABILITY GRANTS.**

(a) IN GENERAL.—The Secretary, through the Office of Domestic Preparedness of the Office of State and Local Government Preparedness and Coordination, shall make grants to States, eligible regions, and local governments for initiatives necessary to improve emergency communications capabilities and to achieve short-term or long-term solutions to statewide, regional, national, and, where appropriate, international interoperability.

(b) USE OF GRANT FUNDS.—A grant awarded under subsection (a) may be used for initiatives to achieve short-term or long-term solutions for emergency communications and interoperability within the State or region and to assist with any aspect of the communication life cycle, including—

(1) statewide or regional communications planning;

(2) system design and engineering;

(3) procurement and installation of equipment;

(4) training exercises;

(5) modeling and simulation exercises for operational command and control functions; and

(6) other activities determined by the Secretary to be integral to the achievement of emergency communications capabilities and communications interoperability.

(c) DEFINITIONS.—In this section—

(1) the term ''eligible region'' means—

(A) 2 or more contiguous incorporated municipalities, counties, parishes, Indian tribes, or other general purpose jurisdictions that—

(i) have joined together to enhance emergency communications capabilities or communications interoperability between emergency response providers in those jurisdictions and with State and Federal officials; and

(ii) includes the largest city in any metropolitan statistical area or metropolitan division, as those terms are defined by the Office of Management and Budget; or

(B) any other area the Secretary determines to be consistent with the definition of a region in the national preparedness guidance issued under Homeland Security Presidential Directive 8; and

(2) the terms ''emergency response providers'' and ''local government'' have the meanings given the terms in section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101).

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

(1) $1,000,000,000 for each of fiscal years 2007 through 2011; and

(2) such sums as are necessary for each fiscal year thereafter.

The PRESIDING OFFICER. Who yields time? The Senator from Nebraska is recognized.

AMENDMENT NO. 4945

(Purpose: To provide emergency agricultural disaster assistance, and for other purposes)

Mr. NELSON of Nebraska. Mr. President, I ask unanimous consent to call up my amendment No. 4945.

The PRESIDING OFFICER. Without objection, the pending amendments are set aside. The amendment is called up, and the clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Nebraska [Mr. NELSON], for himself, Mr. CONRAD, Mr. REID, Mr. SALAZAR, Mr. JOHNSON, and Mr. DORGAN, proposes an amendment numbered 4945.

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

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

(The amendment is printed in the RECORD of Tuesday, September 12, 2006, under ''Text of Amendments.'')

Mr. NELSON of Nebraska. Mr. President, first I would like to point out the cosponsors. Senators TALENT, LEAHY, OBAMA, DURBIN, DAYTON, SCHUMER, and CLINTON have all asked to be original cosponsors of my amendment.

I rise today to offer an amendment to H.R. 4954 that will provide much needed emergency relief to farmers, ranchers, and small businesses in rural America that today and for some time have been suffering the devastating impacts of natural disasters, such as the long-running drought in my home State of Nebraska.

A few years ago, I named the drought ''David'' to make the point that a drought is a natural disaster just like hurricanes—although it seems to be in slow motion—or floods or tornadoes and should be treated by Congress in much the same way because they are disastrous. Congress provides emergency relief to those who have suffered through devastating hurricanes, and there is no excuse for not helping farmers, ranchers, and businesses suffering from this natural disaster.

Unfortunately, in parts of Nebraska, Drought David is celebrating its seventh birthday, and yet Congress has failed to provide relief. I believe this relief must be addressed before Congress heads home for the elections, and I believe it should be addressed this week. That is why I am offering my amendment.

Ordinarily, I wouldn't offer an amendment to the port security bill because I certainly want to support that. But because of the lack of other opportunities and the increasing need for relief, I am faced, along with my cosponsors and others who will join me, with the recognition that there aren't many opportunities. And waiting until after

the election just doesn't seem appropriate. I thank Senator CONRAD for his tireless efforts to get disaster assistance legislation passed through the Senate and for his work to draft and introduce the Emergency Farm Relief Act of 2006 that is the basis for this amendment.

Every time I check the U.S. Drought Monitor—and we can take a look at Drought David on this chart—showing where and how severely this drought is affecting the rural parts of America, I see the entire Central United States, as my colleagues can note from this demonstration, is suffering from drought conditions that are categorized as severe, extreme, or exceptional, including the western two-thirds of Nebraska, which is currently suffering from severe to extreme drought, Nebraska being located right here.

In the Dakotas the same thing is true, and dropping down to Texas and moving east, we find that the entire central part of our country is under these extreme to severe drought conditions.

So there is a great need for this relief. Recently, in my State of Nebraska, Professor Brad Lubben at the University of Nebraska released a report on the drought's impact on Nebraska's farmers and ranchers. He concluded that as of August 2006, this year, the drought has cost Nebraska agriculture a total of nearly $342 million—not much money by some measurements in Washington, DC, but extraordinary in the State of Nebraska. He found that the drought has thus far caused $98 million in crop losses, mostly wheat; $1 million in additional irrigation costs; and about $193 million in livestock production losses which have been incurred as well due to pasture and range conditions that are substantially below average. Grazing losses in western Nebraska are estimated to be from 50 percent to 70 percent. Pretty simple: no grass, no grazing, cattle losses.

The 2006 production year is not yet complete, so we don't know the final impact this will have on corn, soybeans, and sorghum, but I have seen many fields that are devastated by this drought and many farmers who have been given the go-ahead to cut their crop for silage rather than corn production.

Congress and the rest of Washington must understand this problem is critical and recognize the need to address the devastating impact our farmers and ranchers have suffered.

This comprehensive package provides emergency funding to farmers and ranchers who have suffered weather-related crop production shortfalls, quality losses, and damage to livestock and feed supplies. The bill also helps farmers overcome losses as a result of energy prices that spiked during last year's hurricanes—certainly an incident our Presiding Officer knows very well.

The bill would also expand funding for the Emergency Conservation Program, some of which could be made available for rehabilitating grass and ranch lands in places such as western Nebraska and, I would imagine, in the Dakotas as well that were damaged from recent wildfires.

I recently toured some of the drought-stricken regions of western Nebraska, including Lake McConaughy which for so long has been called Big Mac but which now is, unfortunately, less affectionately referred to as Little Mac, and the communities that had been devastated by the wildfires last month. When I visited firefighting officials, emergency response coordinators, and community leaders, I asked them how we could help. This amendment will provide some meaningful and immediate assistance to Nebraskans who lost so much in these fires.

Recognizing the devastating impact the disasters have had on Main Streets all over rural America, the amendment also provides assistance for thousands of small businesses simply fighting to keep their doors open. When farmers and ranchers have inadequate income, obviously it impacts the Main Street of that community. Lower purchasing power, lower sales, and fighting to keep doors open is an obvious result. Drought affects related businesses such as feed lots, grain dealers, implement dealers, and even local store fronts that service rural communities. Drought doesn't just destroy farms, it economically damages our rural communities and businesses.

Now, I know we are discussing port security, as I said before. So, ordinarily, I wouldn't offer this amendment as a part of that bill, but I am offering it at this time because it is needed, and Congress needs to accomplish this before it leaves at the end of the month.

My question is a very simple one: If not now, when? If not now, when?

Our farmers and ranchers cannot wait. The devastating impact of Drought David threatens to drive many of our farmers and ranchers in rural communities and businesses out of operation, and without them we cannot expect to secure our food supply and we cannot expect to continue to grow our domestic alternative fuel supplies, which is such a critical part of our own fuel security in America today. When agriculture suffers, the opportunities for alternative fuels such as biofuels will suffer as well. That is why we need to do this.

If we fail to act and by our inaction we allow farmers and ranchers and rural businesses to dry up under the impact of this drought, then we have failed to ensure both our food and fuel security.

Mr. President, I yield the floor.

Mrs. MURRAY. Mr. President, I yield 5 minutes to the Senator from North Dakota.

Mr. CONRAD. Mr. President, first I thank very much the Senator from Washington for her courtesy, and the Senator from Maine as well. I will be very brief.

I also recognize my colleague from Nebraska for his leadership and thank him publicly and personally for offering this amendment right now. Normally, I would never join in offering this amendment on port security, but this involves the food security of the country, and this has now become a critical matter in our part of the Nation. We just had a drought rally yesterday with farmers from all across America, joined by 14 Senators, on a fully bipartisan basis, and joined by my State's governor and joined by Members of the House of Representatives from the heartland of the country as well.

The message was clear and consistent: It is imperative that Congress act now. If there is a failure to act, literally thousands of farm families will be forced off the land. That is how acute this crisis has become. By scientific measure, they now tell us this is the third worst drought in the Nation's history.

The extraordinary irony is that last year in my State we had massive flooding—flooding that prevented 1 million acres from even being planted. I note the occupant of the Chair represents the State of Louisiana which suffered so dramatically from Hurricane Katrina. Those of us outside that area agreed to help and support disaster assistance because it was clearly needed, and we were pleased to step forward and offer our assistance. I might say to the occupant of the Chair and to others who are listening: Now we have suffered as a result of a disaster. It is different. It is not as dramatic, but for those affected, it is every bit as dire. I say to my colleagues, this is one of the worst situations I have seen in my lifetime in the State of North Dakota.

Last year, here is what the headlines said all across the State: ''Heavy Rain Leads To Crop Diseases.'' ''Area Farmers Battle Flooding And Disease.'' ''Beet Crop Could Be Smallest In Ten years.'' ''Crops, Hay Lost To Flooding.'' ''Rain Halts Harvest.''

It was a devastating year. As a result, last year I offered disaster legislation that formed the basis of this amendment. I updated that legislation on Wednesday of last week. We now have 20 cosponsors in the Senate on a fully bipartisan basis saying this legislation is needed, it is needed urgently, and it is needed now.

This is a picture from last year of a farmstead in North Dakota completely surrounded by water. I know these are remembrances to the occupant of the Chair of what happened in his own State of Louisiana. Again, we would be quick to acknowledge the disaster in the Gulf States is more dramatic, more far-reaching, but this is national legislation. This wouldn't just help those of us hurt by flooding last year and drought this year; this would help all those wherever they are situated who have suffered from a natural disaster.

This year, as the Senator from Nebraska just demonstrated, this is what

the Drought Monitor shows: Right down the center of the country, a very persistent and extreme drought. In fact, they have a schedule that goes from abnormally dry to moderate drought to severe drought to extreme drought to exceptional drought, exceptional drought being obviously the most extreme. And you can see the core of the exceptional drought is right in the heartland of America. But we are not alone because we can see areas of exceptional drought right down the center of the country, all the way over to the State of Arizona. Not only did we have extraordinary drought, we had the most incredible summer of extreme temperatures that I have ever seen in my lifetime, culminating on July 30 in my hometown when it reached 112 degrees—112 degrees. I went to a corn farm south of Bismarck, ND, that was irrigated—irrigated corn. We stripped the corn of its husk and the ears weren't filling, even though they were putting tens of thousands of gallons of water on that field a day. Why not?

The PRESIDING OFFICER. The Senator has consumed 5 minutes.

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

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

Mr. CONRAD. Mr. President, this is a farm field in North Dakota. This is supposed to be a cornfield. You can see there is nothing there; it is devastated. This is widespread in my State.

This picture is from Grant County, an alfalfa field, and you can see it is in a Moon state. There is nothing there.

Let me just conclude by saying to my colleagues, this is an urgent matter. This is a response to a disaster. If we fail to act, the bankers of my State have told me we will lose 5 to 10 percent of the farmers and ranchers in my State. South Dakota is worse, and this disaster goes right down the center of our country. The time to act is now.

I thank my colleagues, and I yield the floor.

The PRESIDING OFFICER. The Senator from Maine is recognized.

AMENDMENT NO. 4936

Ms. COLLINS. Mr. President, earlier today in morning business, the Democratic leader spoke in favor of the amendment that he has brought to the Senate floor which we will vote on shortly this afternoon. I rise in opposition to Senator REID's amendment.

Mr. President, this is Senator REID's amendment, and this is the port security bill. I can barely hold up the 507 pages of the Democratic leader's amendment. It is an interesting hodgepodge of provisions that are irrelevant to the underlying bill—to port security. It includes provisions that have already been rejected by the Senate. It includes provisions that have already been enacted by the Congress and signed into law. It includes provisions that have just recently been passed by the Senate and added to the port security bill.

What it does not include are provisions that have to do with port security. This proposal, 507 pages, includes 37 pages of findings, 16 senses of Congress, and no fewer than 95 reports, certifications, and determinations.

Let me tell my colleagues a bit about what is actually in Senator REID's amendment. Let's go first to the category of provisions which have already been rejected by the Senate. Let me give two examples. The legislation includes, word for word, the exact same language regarding the involvement of the United States in Iraq that was soundly rejected by the Senate by a vote of 39 to 60 in June of this year. This is the language that calls for a phased redeployment of U.S. forces in Iraq. It has nothing to do with port security, and it is legislation that this body has already thoroughly considered and voted against.

Let me give a second example of provisions of the Reid amendment on which the Senate has already spoken. The Reid amendment contains a first responder funding formula amendment that is almost identical to the one the Senate rejected earlier this year by a vote of 32 to 65. Indeed, the sponsor of this amendment voted against the formula change he has included in this bill, as did a total of 25 Democratic Senators, the majority of the Democratic caucus. It is not surprising that they did, for if the Reid amendment were to pass, 34 States would lose money for homeland security activities. It is also ironic that the funding formula included in Senator REID's amendment is an implicit endorsement of the funding allocation decisions that were so widely and correctly criticized earlier this summer.

This bill would give the Department of Homeland Security additional discretion in allocating homeland security funds. We know what happened when we gave the Department additional discretion. The outcome was not a good one.

I mentioned that the amendment also includes provisions that have already been signed into law. Let me give an example. Mr. President, 105 pages of this 507-page amendment have to do with implementing the 9/11 Commission's recommendations on foreign policy and public diplomacy. The proposals outlined in that section of Senator REID's amendment were signed into law as part of the Intelligence Reform Act of 2004. They are almost exactly the same as title VII of the Intelligence Reform Act of 2004. Why do we need to repeat this? It is already law. How does enacting it a second time somehow improve our national security? It makes no sense.

Let's move to the third category; that is, provisions in this amendment which have already passed the Senate. There are many good examples of that, but let me just cite two. They have to do with the rail security and mass transit security amendments which we have already adopted.

Senator MCCAIN's rail security amendment was adopted very early in the debate on this bill. The proposal offered by Senators SHELBY and SARBANES last night is identical to the mass transit security provisions in the Reid amendment. Since those two amendments have already been included in the bill, why would we want to do it all over again?

I think what most disturbs me about Senator REID's proposal is that it is clearly a partisan amendment that has been offered to a bill, the port security bill, that has been bipartisan every step of the way, from conception to introduction to committee consideration to the floor deliberations. Port security is so important. I know the Presiding Officer understands that well, coming from Louisiana. We have gone to great lengths to make sure that the port security bill was bipartisan.

PATTY MURRAY has been the leader on this bill on the Democratic side. Senator LIEBERMAN worked hard on it in the Homeland Security Committee. NORM COLEMAN, Senator COLEMAN, on our side of the aisle, worked with Senator LEVIN to investigate port security programs.

Even in the House, this has been a completely bipartisan—indeed, a nonpartisan—effort, with the legislation being authored by Representatives DAN LUNGREN and JANE HARMAN.

At every step of the consideration, this has been a bipartisan bill. When it went through the Homeland Security Committee, it was bipartisan. In the negotiations with the Commerce Committee and the Finance Committee, it was bipartisan. It is very unfortunate that we are now having a blatantly partisan amendment offered to a bill that I had hoped would be the exception to the rule, a bill we could enact in a bipartisan manner, because it is so important that we act without delay.

As I indicated, from the very beginning of the discussions on this bill, from the hearings, through the committee markups, through visits to ports around the country, it has always been bipartisan. Let's not weigh this bill down with partisan amendments. Instead, let's get the job done and send this bill, a bipartisan bill, to the President for his signature without delay.

I reserve the remainder of the time on this side.

Mr. DEMINT addressed the Chair.

The PRESIDING OFFICER. Who yields time? Who yields time to the Senator from South Carolina?

Ms. COLLINS. Mr. President, I will be happy to yield time to the Senator from South Carolina, depending on how much time he needs.

Mr. DEMINT. About 5 minutes.

Ms. COLLINS. That will be fine. I yield the Senator 5 minutes.

The PRESIDING OFFICER. The Senator is recognized.

AMENDMENT NO. 4970

Mr. DEMINT. Mr. President, I call up amendment No. 4970.

The PRESIDING OFFICER. Is there objection to the calling up of the amendment?

Mr. SALAZAR. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. SALAZAR. Mr. President, I ask my colleagues for unanimous consent that following the remarks by Senator DEMINT, I be recognized for 6 minutes on the time remaining on this side.

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

Mr. SALAZAR. Reserving the right to object, I would like to see a copy of the amendment. We may not object, but I would like to see a copy of the amendment.

Mr. DEMINT. Mr. President, I will speak on the amendment and we will call it up once the copies are available to the minority, if that is OK?

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

The Senator from South Carolina is recognized for 5 minutes.

Mr. DEMINT. Mr. President, I rise today, obviously, in support of amendment No. 4970 which we will distribute in a moment. The Maritime Transportation Security Act of 2002 required the Transportation Security Agency, which we call TSA, to develop a biometric security card for port workers to limit access to sensitive areas within a seaport. To satisfy this law, TSA is developing a transportation worker identification credential which we call a TWIC card. The law requires that the Secretary of Homeland Security issue a card to an individual requesting one unless determination can be made that they pose a terrorism threat. However, it should trouble Americans that the law specifically allows those who have been convicted of a felony more than 7 years prior to their application or have been released from incarceration 5 years prior to their application to be eligible for a TWIC card. This standard is too lax and must be strengthened. DHS officials need clear rules that prevent those convicted of serious felonies from obtaining access to our secure port areas. My amendment does just that. It takes the standards the TSA uses for airport workers with access to secure areas and applies them to maritime port workers.

Let me make that clear. The exact same standards that are used in our airports for workers are in this amendment to apply to transportation workers at our port. Just like the TSA airport safety regulations, my amendment automatically bars those convicted of serious felonies, which are listed in this amendment, including crimes of violence, fraud, bribery, and terrorism, from being allowed to obtain one of these transportation cards.

TSA's airport rules have successfully kept felons out of the airport workforce, and it is time we do the same for our seaport workforce. Because of the gravity of the threat facing our ports, we cannot afford to roll the dice by hiring convicted felons. The stakes are too high.

When setting policies that will keep our transportation system secure, we are continually told by experts that we must identify and reduce risk in every situation possible. This amendment will prevent high-risk individuals from having access to our most sensitive port areas.

Keep in mind, felonies are serious crimes that are punishable by incarceration or death. This amendment is not aimed at so-called youthful offenses or individuals who have received several traffic tickets. My amendment also does not take away the current ability of the Secretary of DHS to grant a waiver for exceptional cases. Felons, through their previous criminal activity, are more likely to be persuaded to look the other way when a suspect shipment comes through the port. This suspect system could contain a variety of dangerous items—dirty bomb, weapon, contraband to sell that would help finance terrorist operations, just to name a few. Someone who will commit extortion, fraud, or traffic in drugs should not be trusted to protect the security of our maritime cargo. While felons do need a second chance, it should not come at the expense of an extremely vulnerable part of the U.S. port infrastructure.

I know some people may object to my amendment by saying that longshoremen might be criminals but they are not terrorists. I do not believe longshoremen are criminals, by the way, but that is why we need to allow DHS to focus on crimes that specifically relate to terrorism. While it may be true that many of the criminals working in our ports do not wake up with the intent to promote terrorist activity, this does not mean they do not pose a terrorist security risk. What I and many others fear is that convicted felons could pose a security terrorist risk by working with those criminals associated with trying to sneak drugs or stolen goods into this country. It might actually turn out to be 50 grams of plutonium instead of 50 grams of cocaine that could be used as a dirty bomb that would poison—kill thousands of people, or maybe it is not part of a dirty bomb or chemical weapon. Maybe it is just ordinary contraband which could be used to help fund terrorist activity in the United States.

Some others think it is too expensive to automatically exclude individuals who have committed one of these serious felonies from working in our ports.

To those objecting colleagues I would say: please detail to us which one of the airports in their State these offenders should be working at, because the list of felonies we use was lifted right from the same list the TSA uses for airports.

Another argument I have heard is that we are not going to have enough people to work in our ports.

This is an exaggeration. The fact is, the TWIC card will be rolled out and workers who need to have access to the secure area will apply for the TWIC card. As a practical matter, felons know who they are, and they know that they will not be issued a TWIC card. The likely effect is that they will never apply for a card in the first place. The local union will immediately notice that a number of its workers are not applying for TWIC cards. They will then have the opportunity to reach out to their communities and find new union members to fill the spots.

Logistically, this is not a huge challenge. The port of Charleston has 2,000 longshoremen working there. If severe criminality, as outlined under the amendment is rampant within the workforce and is at the high level of 10 percent—which is nearly double the national average for incarceration at one point in their lifetime of 6.6 percent—that would only mean that they would need to replace 200 workers in the whole port of Charleston.

The bottom line is this applies the same protection to seaports that applies to airports. The current TWIC regulatory regime writes their security regulations to fit their workforce. It should be the other way around. The workforce regulations should be written to meet their security needs.

Mr. President, I ask we call up the amendment and have it read.

The PRESIDING OFFICER. Is there objection to setting aside the pending amendment and calling up this amendment? Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. DEMINT] proposes an amendment 4970:

(Purpose: To prohibit the issuance of transportation security cards to individuals who have been convicted of certain crimes)

At the appropriate place, insert the following:

**SEC. ____. PROHIBITION OF ISSUANCE OF TRANSPORTATION SECURITY CARDS TO CONVICTED FELONS.**

Section 70105 of title 46, United States Code, is amended—

(1) in subsection (b)(1), by striking ''decides that the individual poses a security risk under subsection (c)'' and inserting ''determines under subsection (c) that the individual poses a security risk''; and

(2) in subsection (c), by amending paragraph (1) to read as follows:

''(1) Except as provided under paragraph (2), an individual shall be deemed to pose a security risk under this section if the Secretary determines that the individual—

''(A) has been convicted (or has been found not guilty by reason of insanity) of—

''(i) destruction of a vessel or maritime facility under section 2291 of title 18;

''(ii) violence against maritime navigation under section 2280 of title 18;

''(iii) forgery of certificates of documentation, falsified vessel identification, or other vessel documentation violation under section 12507 or 12122 of this title;

''(iv) interference with maritime commerce under section 2282A of title 18;

''(v) improper transportation of a hazardous material under section 46312 of title 49;

''(vi) piracy or privateering under chapter 81 of title 18;

''(vii) firing or tampering with vessels under section 2275 of title 18;

''(viii) carrying a dangerous weapon or explosive aboard a vessel under section 2277 of title 18;

''(ix) failure to heave to, obstruction of boarding, or providing false information under section 2237 of title 18;

''(x) imparting or conveying false information under section 2292 of title 18;

''(xi) entry by false pretense to any seaport under section 1036 of title 18;

''(xii) murder;

''(xiii) assault with intent to murder;

''(xiv) espionage;

''(xv) sedition;

''(xvi) kidnapping or hostage taking;

''(xvii) treason;

''(xviii) rape or aggravated sexual abuse;

''(xix) unlawful possession, use, sale, distribution, or manufacture of an explosive or weapon;

''(xx) extortion;

''(xxi) armed or felony unarmed robbery;

''(xxii) distribution of, or intent to distribute, a controlled substance;

''(xxiii) felony arson;

''(xxiv) a felony involving a threat;

''(xxv) a felony involving illegal possession of a controlled substance punishable by a maximum term of imprisonment of more than 1 year, willful destruction of property, importation or manufacture of a controlled substance, burglary, theft, dishonesty, fraud, misrepresentation, possession or distribution of stolen property, aggravated assault, or bribery; or

''(xxvi) conspiracy or attempt to commit any of the criminal acts listed in this subparagraph;

''(B) may be denied admission to the United States or removed from the United States under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.); or

''(C) otherwise poses a terrorism security risk to the United States.''.

Mr. DEMINT. Mr. President, I allowed the amendment to be read because our critics have already suggested that this amendment would include minor offenses. I will challenge critics of this bill to point out which of these felonies they would like transportation workers in our ports to be able to commit. It makes absolutely no sense for us to spend literally hundreds of millions of dollars as a nation to protect the security of our airports and our ports if we allow the workers who are using this scanning equipment for these inspections to be of a criminal nature.

I thank the manager for allowing me to offer this amendment.

I yield the floor.

Mrs. MURRAY. Mr. President, how much time remains on our side?

The PRESIDING OFFICER. Forty-six minutes.

Mrs. MURRAY. Mr. President, I yield 6 minutes to the Senator from Colorado.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

AMENDMENT NO. 4945

Mr. SALAZAR. Mr. President, I rise today to speak in support of the emergency agricultural disaster assistance package. At the outset, I commend my colleague, Senator KENT CONRAD, for having taken the leadership role in making sure we are taking care of the needs of family farmers and ranchers across America. I also congratulate Senator NELSON for his leadership on this issue this morning.

Last night, as America went to sleep, much of America—the farmers and ranchers who bring us the food security in this country—continued to work way into the night. I can assure you that across this country, where those combines are running until 11 or 12 or 1 o'clock in the morning, those farmers are working. Today probably starting at about 3 or 4 in the morning, there were many farmers who were out there trying to bale their hay with the leftover dew from the nighttime, making sure they were baling what was left in a way that would bring them the maximum production. While the rest of America slept, America's farmers and ranchers were working very hard to make sure that the food security of this country was, in fact, maintained. As those farmers and ranchers went home to get a few hours of sleep, what was probably on their minds was whether their family farm or ranch was going to be there the following year and whether they were going to be able to pay off their operating lines of credit for the mortgage payments at the local bank.

The fact is, rural America is in trouble. Farmers and ranchers are very much in trouble because of two factors which have been totally out of their control for the last couple of years. One of them is drought and the other is the high cost of fuel. Those two factors combined create a disaster emergency that is unfolding across America today.

On this picture to my left, you will see a cornfield in Kit Carson, CO, which turned completely brown because of the severe drought in my State. This drought we see going on in Colorado has had this kind of effect not only this year but for the last 7 years. Colorado is now in its seventh year of a very severe drought that will have a very major impact on the opportunities and the economies related to these farmers and to the farm community.

Second is the high cost of fuel which has affected most Americans. The fact is that most Americans are upset by the very high cost of fuel we are paying. Farmers and ranchers consume a tremendous amount of gas and diesel as they operate these machines all across the farms in America. Today, farmers are paying twice as much as they were 2 years ago for the cost of fuel. Yet, during that same timeframe, the cost of the produce we have from these farms and ranches does not increase very much.

We are facing a disaster emergency which is very much going to affect all of rural America.

I hope all of my colleagues in the Senate will join us in passage of the emergency agricultural disaster assistance package. I am also hopeful that we can sound a loud drumbeat that will be heard all the way to the White House, all the way to President Bush because he needs to send a signal that he is going to stand up for rural America and that he is going to support us as we try to bring emergency assistance to the farmers and ranchers of America.

The last time we passed a similar bill in the Senate, it was killed in the House, frankly, because it did not have the support of the White House. Rural voters who gave support to President Bush ought to be knocking on the door of the White House and making sure the President understands that rural America is important and that this disaster emergency package is very important as well.

AMENDMENT NO. 4936

Mr. President, I wish to spend the remainder of my time speaking on behalf of and in support of the Real Security Act which was offered by Senator REID. The fact is, this legislation is a very important piece of legislation as we look forward to creating the safest America we possibly can.

The fact is that 5 years after 9/11, we are not yet safe in America. We know our ports are not secure. We know law enforcement does not have the training they should have. I would imagine most Americans frankly today are feeling that we are not living in a secure world as we were 8 or 9 or 10 years ago and that our world has continued to become increasingly dangerous.

The components of the legislation that was set forth by Senator REID are simple steps to move us in the right direction in creating greater security for the people of America here in our homeland. Very simply, the legislation first and foremost implements the recommendations of the 9/11 Commission. The 9/11 Commission has been heralded as perhaps the most successful commission in the last 50 years in America. It handled a very important question of how can we make America safe. It came up with a series of recommendations. Many of those recommendations today, some 4 years later, have not yet been implemented.

The first point that has been made with the Real Security Act is we will implement the recommendations of the 9/11 Commission.

Second, the amendment also equips our intelligence community to fight against terrorists. For the first time in 18 years, this Republican-controlled Congress has failed to pass the Intelligence authorization bill that would give the CIA the resources to conduct aggressive and effective intelligence gathering. Senator ROCKEFELLER has eloquently spoken to this issue. It is an abysmal neglect of duty on the part of the United States of America and its Government if we don't reauthorize the intelligence act as has been done in the past 28 years.

Third, the amendment as proposed by Senator REID will make sure we are investing additional money to secure our ports, our rails, our roads, our airports, our chemical and nuclear plants, and mass transit systems. We only need to look at what has happened in the United Kingdom and in Spain and

other places to know that our rails, our mass transit systems, and our ports are, in fact, not at all secure today.

Fourth, we would refocus America on the war on terror by making sure we continue to pursue Osama bin Laden and bring him to justice.

Fifth, the amendment would provide better updated tools so we can bring these terrorists to justice. Five years after 9/11, there are still hundreds of terrorists who need to be prosecuted and brought to justice. We can't afford to wait any longer.

Finally, the amendment would, in fact, bring about a new understanding of how we ought to move forward with the war in Iraq.

I believe strongly that the Real Security Act which has been proposed by Senator REID should be supported by our colleagues.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mrs. MURRAY. Mr. President, I yield 8 minutes to the Senator from Delaware.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, I thank the Senator for yielding time to me.

Mr. BIDEN. Mr. President, last Thursday I introduced a bipartisan resolution urging the President to take immediate action to avert a looming tragedy in Darfur, Sudan. I urge the Senate to pass it today. The Government of Sudan has launched an all but military offensive in Darfur that could result in hundreds of thousands of deaths. The United States must lead the international community to save those lives. It is urgent that we act.

Over the past 2 years the situation in Sudan has remained dire. As many as 400,000 people have died. Two million people have been displaced from their homes, over 200,000 are refugees in Chad, and 3 million rely on international aid. Those numbers haven't diminished over time, they have gotten worse. And now, they may be on the brink of becoming even more catastrophic.

In May of this year, the Government of Sudan and rebels in Darfur—specifically the Minni Minawi faction of the Sudan Liberation Army—signed a peace agreement. Tragically, instead of improving the security situation, the Darfur Peace Agreement has made things worse.

The agreement never had the support of the entire SLA, or the other major rebel movement in Darfur, the Justice and Equality Movement. Nor did it have the support of people living in displaced persons camps in Darfur. In the days and weeks after news of the agreement spread, violence in camps increased either because people misunderstood what was in the agreement, or they felt the agreement was flawed. And violence on the ground became worse, as the rebel factions split and fighting erupted between those who had signed the Darfur Peace Agreement and those who had not.

Tens of thousands of people have been displaced in fighting since May—50,000 in the last 2 months alone. Many of them have taken refuge in camps for the internally displaced. Attacks on humanitarian aid convoys have increased by a factor of more than 10 compared to this time last year. Twelve humanitarian workers have been killed in the past 4 months—more than during the entire previous year. Two hundred internally displaced women have been raped and another 200 violently assaulted over the course of the past 5 weeks.

The United Nations, after months of delay, finally extended the mandate of the U.N. Mission in Sudan—UNMIS—to Darfur at the end of August. And, through U.N. Security Council Resolution 1706, it authorized the deployment of over 17,000 peacekeepers and 3,000 civilian police to Darfur.

However, the Government of Sudan has categorically rejected the deployment of the U.N. force. In fact, the Sudanese Government has launched a military offensive in the region. Khartoum has sent over 10,000 troops to Darfur and has resumed aerial bombardments. Seven villages—villages, not military targets—were bombed just this weekend. African Union officials have stated that they will not extend the mission in Sudan past the end of this month. I understand that the African Union Peace and Security Council will meet in New York on September 18, just before the U.N. General Assembly meeting takes place. But it is unclear if the AU will reverse its decision to terminate its mission in Sudan. If it does terminate it, ''Katey, bar the door,'' all the carnage going on now will be increased multifold.

Even if the impediments I just mentioned did not exist, it would be months—we are talking January—before a U.N. mission could fully deploy, so we need the AU to stay in place a while longer.

In the mean time, Khartoum is doing its level best to be sure that no U.N. force comes to Darfur. The Government of Sudan's tactic seems to be to scorch enough earth—and people—such that there will be no need for the peacekeeping force because there will be no one left to protect and no peace to keep.

At this point in time, right here today, we are at a pivotal moment. Hundreds of thousands of Sudanese are in camps, vulnerable to aerial and ground attacks from government forces. We cannot stand by and do nothing.

This resolution is very straightforward. It calls on the President to undertake three key actions, some of which the Senate has asked him to do before:

First, it once again calls on him to pursue the imposition of a no-fly zone through the U.N. NATO or NATO allies. The Senate asked the President to propose that NATO consider how to implement and enforce such a no-fly zone in March of this year. If anything the need to enforce a no-fly zone has increased.

Second, it asks that the President secure the necessary support from United Nations member states to schedule a special session on Sudan in the United Nations Human Rights Council. The international community must speak out on the atrocities which continue to unfold in Sudan—and it must act.

Third, it asks the President to appoint a Special Envoy to Sudan to head the office that Senator DEWINE and I established at the State Department through the supplemental appropriations bill signed into law in June. The administration has avoided naming a Special Envoy to Sudan for years, and our diplomatic efforts have suffered as a result.

I am under no illusion that these actions alone will stop the Sudanese Government's murderous actions in Darfur. The international community must put a credible international force on the ground as soon as possible. NATO should be prepared to help the AMIS hand-off to the United Nations. The U.S. should impose targeted financial, travel, and diplomatic sanctions against the Sudanese leadership, rebel forces, and others determined to be responsible for the atrocities and pursue the immediate imposition of similar sanctions by the U.N. Security Council and the European Union as called for by U.N. Security Council Resolutions 1556 and 1564. It is long past time for the Security Council to take such action. If the Council cannot act because of threats of a Russian or Chinese veto, then the United States and Europe should do so together.

I visited the camps across the border in Chad. It is an absolute tragedy. There are tens of thousands of people in that one camp alone, with no real protection. When the appropriate time comes I will introduce this resolution. I hope it meets the approval of my colleagues. I hope the President will listen.

I thank the managers of the bill for yielding me this time.

I yield the floor.

Ms. COLLINS. Mr. President, I yield 5 minutes to the Senator from Ohio.

The PRESIDING OFFICER (Mr. GRAHAM). The Senator from Ohio is recognized.

AMENDMENT NO. 4962

(Purpose: To amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to authorize the President to carry out a program for the protection of the health and safety of residents, workers, volunteers, and others in a disaster area)

Mr. VOINOVICH. Mr. President, I ask unanimous consent to set aside the pending amendment and call up amendment No. 4962.

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

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Ohio, [Mr. VOINOVICH] proposes an amendment numbered 4962.

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

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

(The amendment is printed in the RECORD of Tuesday, September 12, 2006, under ''Text of Amendments.'')

Mr. VOINOVICH. Mr. President, I rise today to offer the Disaster Area Health and Environmental Monitoring Act, an amendment to the port security bill.

This legislation is vital because it provides for the monitoring of the health and safety of individuals exposed to harmful substances as a result of a presidentially declared disaster. The Senate passed this bill by unanimous consent in the 108th Congress, but jurisdictional disagreements between committees in the House caused it not to be passed in the House.

This issue first came to my attention during a series of Environment and Public Works Committee hearings in 2002 when we learned of the severe health problems facing thousands of workers and volunteers who heroically responded to the September 11, 2001, attacks on the World Trade Center. Perhaps some of my colleagues saw the ''60 Minutes'' segment this last Sunday that examined the problem in depth.

I will never forget Joe Allbaugh, 3 months after September 11, before the committee. I asked him: What have you found out about what folks were exposed to, those who were first responders?

And he said: I can't get the information.

This bill would give the President the right to immediately go in and do the investigation to determine what these folks were exposed to.

One of the things that we also did was discover that these first responders did not have the opportunity to have a screening. We were able to get $14 million set aside to do screening of first responders.

In the case of Ohio—we had one of the first responding units there—we found a variety of health problems, including respiratory illness, pneumonia, asthma, and many faced the possibility of long-term health issues.

I am deeply saddened to note the recent passing of New York City Police Detective James Zadroga, a rescue worker at the World Trade Center, whose tragic death was directly caused by his exposure to toxic fumes and dust at Ground Zero.

Currently, the Federal Emergency Management Agency does not hold the authority to conduct the necessary long-term monitoring of health impacts following environmental exposures in the wake of a disaster.

In 2003, Federal funding helped establish the World Trade Center Worker and Volunteer Medical Screening Program at Mount Sinai Hospital and the University of Cincinnati. I have already referred to that. At least way afterwards we started doing the screening to let the folks know what they were subjected to. According to the findings, almost 70 percent of the World Trade Center responders had a substantially worse respiratory system following their work at the World Trade Center. Among the responders who were asymptomatic before September 11, 61 percent developed respiratory symptoms while working at the World Trade Center.

In addition to that assistance at Ground Zero, OTF responded to the needs of communities around the country faced with the aftermath of natural disasters. OTF sent responders to Florida following Hurricane Dennis in July of 2005 and to Louisiana and Mississippi following Hurricane Katrina in August of 2005.

In the aftermath of Hurricane Katrina, the need for public health monitoring became clear. The CDC and EPA have identified 13 environmental health issues confronting first responders, including drinking water, wastewater, solid waste, debris and soil contamination from toxic chemicals. It is vital this legislation is enacted to address any health care needs that arise for the thousands of first responders who are active on the gulf coast. S. 1741 authorizes the President, if he determines that substances of concern have been released in a federally declared disaster area, to activate a program in a Federal partnership with appropriate medical institutions for the protection, assessment, monitoring, and study of the health and safety of individuals.

The act also would direct Federal agencies to enter into a contract with the National Academies of Sciences to study and report on disaster area health protection and monitoring.

It is extremely important we take care of these individuals because, as I stated in past hearings, whether people volunteer to be first responders depends on how we treat the first responders at the World Trade Center, the gulf coast, and other disaster areas. If they are not going to be able to find out immediately what they have been exposed to, and the President has the authority to get in there and find out what it is, we will have more and more people reluctant to come to the help in other disasters in the country.

I therefore urge my colleagues to support this bipartisan bill which is cosponsored by 16 of our Senate colleagues. It is strongly supported by the first responder community.

I thank the Senator from Maine for this opportunity to share why it is important we get it passed.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I yield myself 10 minutes.

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

AMENDMENT NO. 4936

Mr. DORGAN. Mr. President, I rise to support the Reid amendment, the Real Security Act, offered as an amendment, and I rise to say a word about the amendment offered by Senator NELSON today which Senator CONRAD and I and many others have worked on and support, dealing with farm disaster aid.

First, let me talk about this issue, the Real Security Act. I know there are some who say this is an omnibus piece of legislation offered as an amendment; it is moving too quickly. I don't think the U.S. Congress has ever been accused of speeding. I don't think we ever ought to be worried about moving too quickly. My concern with respect to security in this country is that we move too slowly.

The issue of one, two, or three areas in which we deal with the security of this country—we do it here, there, elsewhere—over a month or two, a year or two, or 5 years, there is a lot to be done, and it needs to be done in an omnibus way, in a way that is organized.

That is what my colleague, Senator REID, has offered, the Real Security Act, which we have worked on in its various pieces for a long time.

Let me describe why we need something like this and why this is a good place to begin discussing it. The fact is, it is 5 years after September 11. We just had the commemorative anniversary of that terrorist attack against our country in which thousands of Americans were murdered. We still have a circumstance where in many areas first responders cannot speak to each other. Firefighters, police officers, and so on are not able to communicate with each other. In the event of a future terrorist attack my hope is we have compatible communications.

My colleague offers an amendment that deals with a whole range of issues, including emergency preparedness, response, communications, border security, increasing the number of special forces, safeguarding nuclear materials, and increasing the Cooperative Threat Reduction Program. He describes in this amendment a new approach with respect to rail security and mass transit security, as well as aviation security.

As an aside, I point out that we have a situation with respect to aviation security that I know is very difficult for this country, for the traveling public, and for the airlines. There is no question we understand what the terrorists did. The terrorists used some box cutters and an airplane loaded with fuel to run into buildings. Both the World Trade Center attacks and the Pentagon were low-tech attacks. My understanding was that attack on September 11 cost around $500,000, with 19 people, some box cutters and some hijacked airplanes.

We have a lot to do with respect to trying to understand where the next attack might come from and how to foil that attack. I commend all of those who have been working in these areas who have been successful in uncovering conspiracies and uncovering potential attack plans against our country and

foiling those plans. They deserve our undying thanks. We need to say to them: Stay on the job. Continue to do that excellent work.

We also need to give them the tools. The Reid amendment offers those tools in a wide range of areas—the tools that will equip our first responders, the tools that will equip our intelligence community, the tools that will equip our soldiers. For example, there is a provision in the Reid amendment that talks about the funding necessary for new language capabilities in the Middle East and Asian languages in our intelligence communities. Yes, we are doing some of that, but we are not doing as much as we could.

This amendment is an omnibus amendment that, in my judgment, moves in the right direction. As I said before, I know those who say it does too much, the danger is not that we are doing too much in Congress, the danger is we will do too little. With respect to this issue of real security, this Congress, this Senate, would be well advised to accept this amendment.

I read in the paper this morning a congressional colleague on the other side of the aisle in the other body said:

> I wonder if Democrats are more interested in protecting terrorists than in protecting the American people?

That is a pathetic political statement not worthy of much response, except to say this: All Members in this Chamber care about this country. All in this Chamber are Americans who want to protect this great country of ours. There is a barrel full of politics around this; I understand that. When you read what I read in the paper this morning by someone from the other body, it is pretty pathetic.

What we ought to do, it seems to me, is not worry about trying to move too fast. Let's worry we are not moving fast enough. Let's embrace this Reid amendment and have a debate on it and add this to the port security bill and we will have done this country a significant amount of good work in protecting America's future.

AMENDMENT NO. 4945

I take a couple of minutes to say I strongly support the agricultural disaster piece offered as an amendment by Senator NELSON. I have twice offered an agricultural disaster piece that has gone through the full Senate. We have gone to conference two times. In both circumstances, once last December and once this spring, we lost it because the President threatened to veto it and the House conferees would not accept it as a result of that Presidential veto threat.

I will just show three charts very briefly. This is a soybean field that is supposed to be about a foot high at this point. There is almost nothing growing. This is a man from my State. He is walking in a creek bed. The creek is dry. We have suffered a devastating drought. When farmers lose everything, when they have no crop, when their pasture is gone and it looks like a moonscape, when they have to send their cows to market because there is nothing for a cow to eat, that is a disaster.

This country goes all over the world: You have trouble, let us help; we want to help you. Good for us. That is a good value system. How about doing that at home? When farmers and ranchers lose everything, how about us saying: We want to help you. We want to extend a helping hand.

We have not done that yet because the President has threatened a veto. I hope the President will work with us rather than against us and decide it worthy to help Americans who are in trouble.

So my colleague, Senator NELSON, has offered an amendment on this bill. My colleague, Senator CONRAD, and I, and many others have worked in a bipartisan way. This is not a partisan issue in the Senate. We passed it twice on a bipartisan basis. I hope we will add this amendment to this underlying bill as well. I hope in between now and when it gets to the White House the President will understand the urgency of this situation.

Times change. Things change. The fact is, these folks need help. We have a responsibility to do it.

Mr. President, I yield the floor.

Mrs. MURRAY. Mr. President, I yield 2 minutes to the Senator from Delaware.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. BIDEN. Mr. President, I ask unanimous consent that the pending amendment be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered. The pending amendment is laid aside.

AMENDMENT NO. 4975

(Purpose: To establish a Homeland Security and Neighborhood Safety Trust Fund and refocus Federal priorities toward securing the Homeland, and for other purposes)

Mr. BIDEN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

> The Senator from Delaware [Mr. BIDEN] proposes an amendment numbered 4975.

Mr. BIDEN. 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 printed in today's RECORD under ''Text of Amendments.'')

Mr. BIDEN. Mr. President, since I only have 2 minutes—and I am not going to ask for a vote on it now—my amendment talks about the dirty little word no one wants to talk about: How are we going to pay for all this? The fact is, we are arguing over peanuts. The fact is, we should set up a trust fund as we did with the violent crime trust fund. We should fund everything everyone knows we need to fund here, all those elements the 9/11 Commission called for, plus reinstating local law enforcement.

The whole cost of that would be less than 1 year—1 year—of the tax cut for people making over $1 million. My amendment sets up a trust fund, has $53 billion put into that trust fund, displaced over 5 years—$10 billion a year—to pay for all we are doing here.

Rich folks are just as patriotic as poor folks. It instructs the Finance Committees to go out and find the means by which they would deal with that, take it 1 year or take a piece of it over 5 years.

The bottom line is, this is crazy. We are talking about all that we do not have. We are passing amendments like the Biden-McCain amendment or the McCain-Biden amendment on rail. We know it is never going to be funded. We know the cost is about $50 billion to fund what we all need. Yet, at the same time, we are spending three times as much on a tax cut as we are spending on how we are going to do it.

This is only for people making over $1 million. Again, I floated this with millionaires. I have been with groups who are millionaires. I have asked them: Would you object to giving up 1 year of your tax cut?

The response is: No, if you guarantee me it is going to go to provide for security.

This amendment would guarantee that, set up a trust fund. For those who are skeptical about trust funds, let me remind you, we did it with the violent crime trust fund. It worked, and it reduced crime. We should step to the plate and say how we are going to pay for it.

Everyone in this body knows that we are not yet safe enough. Independent experts, law enforcement personnel, and first responders have warned us that we have not done enough to prevent an attack and we are ill-equipped to respond to one.

Hurricane Katrina, which happened just over a year ago, demonstrated this unfortunate truth and showed us the devastating consequences of our failure to act responsibly here in Washington.

And, last December, the 9/11 Commission issued their report card on the administration's and Congress's progress in implementing their recommendations. The result was a report card riddled with D's and F's. And, to add to this, the FBI reported earlier this summer that violent crime and murders are on the rise for the first time in a decade.

Given all of this, it is hard to argue that we are as safe as we should be. To turn this around, we have to get serious about our security.

If we establish the right priorities, we can do the job. We can fund local law enforcement, which the President has attempted to slash by over $2 billion. We can give the FBI an additional 1,000 agents to allow them to implement reforms without abandoning local crime. We can secure the soft targets in our critical infrastructure, to ensure that our chemical plants and electricity grids are protected from attacks. We can immediately re-allocate

spectrum from the television networks and give it to our first responders so they can talk during an emergency.

I know what many of my colleagues here will argue. They will argue that it is simply too expensive to do everything. That is malarkey. This is all about priorities. And, quite frankly, this Congress and this administration has had the wrong priorities over the past 5 years.

For example, this year the tax cut for Americans who make over $1 million is nearly $60 billion. Let me repeat that, just 1 year of the Bush tax cut for Americans making over $1 million is nearly $60 billion.

In contrast, we dedicate roughly one-half of that—approximately $32 billion—for the entire operations of the Department of Homeland Security.

We have invested twice as much for a tax cut for millionaires—less than 1 percent of the population—than we do for the Department intended to help secure the entire Nation.

For a nation that is repeatedly warned about the grave threats we face, how can this be the right priority?

The amendment that I am offering would change this by taking less than 1 year of the tax cut for millionaires—$53.3 billion—and invest it in homeland security over the next 5 years.

By investing this over the next 5 years at just over $10 billion per year, we could implement the 9/11 Commission recommendations and do those commonsense things that we know will make us safer.

For example, under this amendment, we could hire 50,000 additional police officers and help local agencies create locally based counterterrorism units.

We could hire an additional 1,000 FBI agents to help ensure that the FBI is able to implement critical reforms without abandoning its traditional crime-fighting functions.

We could also invest in security upgrades within our critical infrastructure and nearly double the funding for State homeland security grants.

And, the list goes on.

The bill that we are debating today is a good bill, and I am sure it will pass, but does anyone really believe that the $400 million in port security grants authorized in it will really be funded? A look back at our recent appropriations bills tells us that this is not likely.

Just this July we passed the Department of Homeland Security appropriations budget. In that legislation, the Senate allocated only $210 million for port security grants—just over one-half of what we are advocating be authorized in this bill.

Another example of this problem is our shameful record on providing funding for rail security. For the last two Congresses. the Senate has passed bipartisan rail security legislation sponsored by myself and Senator MCCAIN, and others.

This legislation authorizes $1.2 billion to secure the soft targets in our rail system, such as the tunnels and stations. In fact, this legislation was added as an amendment to this bill 2 days ago. I thank my colleagues for including it, but we all understand that there is no chance of fully funding it unless we change our priorities.

Indeed, this body has voted against funding rail security when I have offered it as an amendment to the Department of Homeland Security appropriations bill the past 2 years. During that time, only $150 million per year has been allocated for rail and transit security with less than $15 million allocated for Amtrak security.

So while I thank my colleagues for recognizing the need for increased rail security by adopting the McCain-Biden amendment, it is clear that it won't mean much. Unfortunately, this is an example that is repeated over and over.

We know that the murder rate is up and that there is an officer shortage in communities throughout the Nation. Yet, we provide zero funding for the COPS hiring program and we have slashed funding for the Justice Assistance Grant.

We know that our first responders can't talk because they don't have enough interoperable equipment. Yet, we have not forced the networks to turn over critical spectrum, and we vote down funding to help local agencies purchase equipment every year.

We know that only 5 percent of cargo containers are screened, yet we do not invest in the personnel and equipment to upgrade our systems.

We know that our critical infrastructure is vulnerable. Yet, we allow industry to decide what is best and provide scant resources to harden soft targets.

The 9/11 Commission's Report Card issued last December stated bluntly that ''it is time we stop talking about setting priorities and actually set some.''

With this amendment, we set some priorities.

I won't go through the entire amendment on the floor, but I would like to touch on the highlights.

First, we provide the funding necessary to implement the recommendations of the 9/11 Commission.

Next, we take the commonsense steps to make our Nation safer.

We make sure that law enforcement and first responders have the personnel, equipment, training, and are sufficiently coordinated to do the job.

With this trust fund we could provide: $1.15 billion per year for COPS grants; $160 million per year to hire 1,000 FBI agents; $200 million to hire and equip 1,000 rail police; $900 million for the Justice Assistance Grants; $1 billion per year for interoperable communications; and $1 billion for Fire Act and SAFER grants.

We could invest in screening technologies: $100 million to improve airline screening checkpoints; $100 million for research and development on improving screening technologies.

We set aside funding for our critical infrastructure: $500 million per year for general infrastructure grants; $500 million per year for port security grants; $200 million per year to harden our rail infrastructure.

And, the list goes on.

Mr. President, I will conclude where I started. This is all about setting the right priorities for America. Instead of giving a tax cut to the richest Americans who don't need it we should take some of it and dedicate it towards the security of all Americans.

Our Nation's most fortunate are just as patriotic as the middle class. They are just as willing to sacrifice for the good of our Nation. The problem is that no one has asked them to sacrifice.

If we adopt this amendment, we will be asking them to sacrifice for the good of the Nation, and I am convinced that they would gladly help us out. We have done this before with the Violent Crime Trust Fund.

This amendment is about reordering our homeland security priorities, and I urge my colleagues to support it.

Mr. President, I thank my colleague, the Senator from Washington, for yielding me the time, and I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from Alaska.

AMENDMENT NO. 4936

Mr. STEVENS. Mr. President, I want to be as constrained as possible on this concept, but I do want to talk about this amendment of Senator REID's. It is a 500-plus-page amendment to be added to our port security bill, and most of the provisions are totally unrelated to port security. It covers Iraq policy; intelligence reform; all of the 9/11 Commission reforms; troop redeployment concepts; Iraqi contractor provisions; a section regarding detainees, such as those people at Guantanamo Bay; immigration and border security; and a whole section on transportation.

Now, I do not know if the Senate realizes, but the port security bill that our committee, the Commerce Committee, reported was originally Senator INOUYE's bill. As a matter of fact, we took it and reviewed it and made some minor modifications to it, and Senator INOUYE suggested that my name go first since I was chairman. We are cochairmen of the committee. As a matter of fact, it was the Inouye, Stevens, Collins, Lieberman, Grassley, Baucus, Coleman, Murray amendment that we were talking about when we finally got to the floor and put everything together.

We worked on trying to make this bill before the Senate a bipartisan bill, and what does my good friend—he is my good friend—the Democratic leader, do? He brings us a bill, 500 pages, totally partisan. There is no bipartisanship in that bill at all. In each instance, it is the minority's position on these very controversial subjects.

We have worked 18 months to come to the floor with bills from three committees—a bipartisan approach—and

we are at the last minute supposed to vote on an amendment with 500-plus pages on a whole series of things.

I remember people used to say: It's everything but the kitchen sink. Do you know what I mean? There is so much in this bill that is totally partisan—it is awesome—when we are working to try to finish up this year and trying to reach out and be bipartisan. Above all bills, this bill we brought to the floor was bipartisan—three separate committees on a bipartisan basis. And from all three committees, the ranking members and the chairmen signed that bill.

Now, I cannot think of anything that has been done to destroy the bipartisanship we seek to have to deal with issues such as security other than this bill. Why should we be forced to have a cloture vote or raise a point of order against a bill like that? It should not have been brought to the floor.

Now, it is time we settled down and started thinking about: How can we get our work done? There are going to be elections soon, and it is a tough period for everybody. One-third of the Senate is up for election. I know that. We all know that. And we try to understand, on a bipartisan basis, we should do some things and not be offensive to people who are up for election.

I hope I am not being offensive to my friend from Nevada. But I am telling him he should not, as a leader, do this. And it is time we thought about how we can settle problems like the security at our ports. The bill we brought to the floor could have been passed with one or two amendments in a few hours. As a matter of fact, we thought that was going to happen. We really did. Because of the cooperation that was there from each committee and the work we did literally through our staffs and through the members of consolidating the work of three different committees on a bipartisan basis, we thought we had this subject covered. But the amendments that are being brought to us now have nothing to do with port security.

We thought we would emphasize port security. At the suggestion of the Senator from Arizona, Mr. MCCAIN, we put rail security in. It, too, is so interlocked with port security, it was justifiable. And, again, that portion of the bill was bipartisan. No question about it. That was part of the work of our committee on railroad and rail security.

But I say to the Senate, time is now a commodity before the election. There is very little of it left. I would hope we don't have any more of these amendments. And if we do, I think we ought to face the question of just immediately tabling them. Let's stay directed toward what our work demands of us; and that is, to take the action that is necessary to assure security in the different modes of transportation that our people must use. I hope we will have no more of these amendments.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. STEVENS. Mr. President, what is the time situation between the two parties?

The PRESIDING OFFICER. The majority has 28 minutes 41 seconds. The minority has 21 minutes 23 seconds.

Mr. STEVENS. Then, Mr. President, I ask unanimous consent that the time in the quorum call be charged equally to both sides.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Ms. COLLINS. 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. COLLINS. Mr. President, let me just add to the comments made by the distinguished chairman of the Commerce Committee about the amendment offered by the Democratic leader. I mentioned earlier that this amendment is 507 pages. This, in my hand, is the port security bill. Now, this, in my hand, is the Reid amendment. I can barely lift it. It requires no fewer than 95 reports, certifications, and determinations. It has 37 pages of findings. It has 16 sense-of-the-Congress resolutions. It requires 36 GAO reports and audits.

But what is not in there? There is virtually nothing in there that relates to port or maritime security. In fact, we have now done a search of the entire amendment. We found one—one—reference to port security and one reference to maritime and cargo security in the entire Reid amendment.

I think that makes the point. I think that says it all. This amendment is irrelevant to the underlying bill.

As I mentioned earlier, it includes provisions that the Senate has already decisively rejected on what our policy should be in Iraq and what the funding formula should be for the homeland security grant program. It is not as if those provisions were rejected years ago; they were rejected just a few months ago. So it makes no sense for this amendment to include formula changes and a change in our policy in Iraq that this body, by more than 60 votes in each case, decisively rejected.

In fact, when it comes to the funding formula for homeland security grants, the majority of the Democratic Caucus rejects the formula change that is included in the Reid amendment. As I mentioned, over 100 pages of the Reid amendment deal with foreign policy recommendations, public diplomacy recommendations of the 9/11 Commission that are already law. They are virtually identical to a title of the Intelligence Reform Act of 2004, which is already law. Other provisions in the Reid amendment we have passed during the debate on the port security bill—the proposals of Senator MCCAIN and Senators SHELBY and SARBANES on rail and mass transit security. We already adopted those. Those are redundant at best.

What it comes down to is, unfortunately, this is simply a partisan amendment. That is so unfortunate because the work on this port security bill has never been partisan—never. There have been leaders such as Senator MURRAY and Senator LIEBERMAN on the Democratic side. There have been leaders on the Republican side. The Permanent Subcommittee on Investigations of the Homeland Security Committee did investigations of the port security programs that were completely bipartisan, headed by Senators NORMAN COLEMAN and CARL LEVIN. The committee consideration both in the Homeland Security Committee and the Commerce Committee was completely bipartisan. This has been a bipartisan effort in the House of Representatives, as well, where the bill was sponsored by Representatives DAN LUNGREN and JANE HARMON. It has been bipartisan since the conception to where we are today.

It is so unfortunate to have a blatantly partisan amendment, 507 pages, that swamps the bill and has nothing to do with the bill offered by the Democratic leader. So I hope our colleagues will take a look at what is really in the Reid amendment. I fear we may well have a partisan vote. I hope we do not. I think if my friends and colleagues on the other side of the aisle actually look at what is in the Reid amendment, I would be surprised if they vote for it because they voted against large chunks of it in the past.

So I hope once we have disposed of the Democratic leader's amendment, we can return to the constructive, bipartisan approach that we have taken on this bill. This is an important bill. It is a bill that matters to the security of our country. It is a bill that is too important to be bogged down in partisan politics. It has never been bogged down in partisan politics. It has been bipartisan every step of the way. Let's conclude consideration of this bill in a bipartisan way, in a way that reflects well on this Senate, and send this important bill to the President for his signature.

I yield the floor, and I reserve the remainder of the time.

Mrs. MURRAY. Mr. President, I yield 9 minutes to the Senator from California.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. BOXER. Mr. President, I thank the Senator from Washington for her good work. I thank Senator COLLINS for her work on port security. I am proud to say that in the Commerce Committee, in a bipartisan way, we have worked over and over again to make this country safer. I was part of that

under the leadership of Senator MCCAIN at the time, and first Senator HOLLINGS and now Senator STEVENS.

I want to show you a little bit of history about what has happened in the Republican Congress every time we have voted out one of these good bills because you can say what you want about partisan politics, but the fact is, almost every single time we reported one of these bills out of our committee, it simply died and went nowhere. I want to talk about that history because, of course, Senator COLLINS is right that protecting Americans is our job. It has nothing to do with being a Democrat or a Republican.

Here is what happened. In the 107th Congress, we passed the Ship, Seafarer, and Container Security Act; no action by the full Senate. In the 108th Congress, we passed the Maritime Transportation Security Act of 2004. It passed the Senate on September 21, 2004, and was not even considered in the House of Representatives. In the 109th Congress, we passed the Transportation Security Improvement Act of 2005. Commerce passed it on November 17, 2005; no action by the full Senate.

There you have it. Do you wonder why the 9/11 Commission has given this Congress and this administration failing grades? You can talk about bipartisanship. We reported these bills out of the committee on a bipartisan basis, but the leadership never bothered. So when I heard that the last days of this session were going to be about homeland defense, I said thank God for that, thank goodness for that. Whether it is an election driving it or anything else, I could not care less. Let's get it done. This Congress and this administration have received failing grades from the 9/11 Commission.

I ask unanimous consent to have this document printed in the RECORD, which is a final report on 9/11 Commission recommendations.

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

FINAL REPORT ON 9/11 COMMISSION RECOMMENDATIONS, DECEMBER 5, 2005

PART I: HOMELAND SECURITY, EMERGENCY PREPAREDNESS AND RESPONSE

*Recommendation—Grade*

EMERGENCY PREPAREDNESS AND RESPONSE

*Provide adequate radio spectrum for first responders—F (C if bill passes)*

The pending Fiscal Year 2006 budget reconciliation bill would compel the return of the analog TV broadcast (700 Mhz) spectrum, and reserve some for public safety purposes. Both the House and Senate bills contain a 2009 handover date—too distant given the urgency of the threat. A 2007 hand over date would make the American people safer sooner.

*Establish a unified Incident Command System—C*

Although there is awareness of and some training in the ICS, hurricane Katrina demonstrated the absence of full compliance during a multi-jurisdictional/statewide catastrophe—and its resulting costs.

*Allocate homeland security funds based on risk—F (A if House provision passes)*

Congress has still not changed the underlying statutory authority for homeland security grants, or benchmarks to insure that funds are used wisely. As a result, homeland security funds continue to be distributed without regard for risk, vulnerability, or the consequences of an attack, diluting the national security benefits of this important program.

*Critical infrastructure risks and vulnerabilities assessment—D*

A draft National Infrastructure Protection Plan (November 2005) spells out a methodology and process for critical infrastructure assessments. No risk and vulnerability assessments actually made; no national priorities established; no recommendations made on allocation of scarce resources. All key decisions are at least a year away, It is time that we stop talking about setting priorities, and actually set some.

*Private sector preparedness—C*

National preparedness standards are only beginning to find their way into private sector business practices. Private sector preparedness needs to be a higher priority for DHS and for American businesses.

TRANSPORTATION SECURITY

*National Strategy for Transportation Security—C–*

DHS has transmitted its National Strategy for Transportation Security to the Congress. While the strategy reportedly outlines broad objectives, this first version lacks the necessary detail to make it an effective management tool.

*Improve airline passenger pre-screening—F*

Few improvements have been made to the existing passenger screening system since right after 9/11. The completion of the testing phase of TSA's pre-screerung program for airline passengers has been delayed. A new system, utilizing all names on the consolidated terrorist watch list, is therefore not yet in operation.

*Improve airline screening checkpoints to detect explosives—C*

While more advanced screening technology is being developed, Congress needs to provide the funding for, and TSA needs to move as expeditiously as possible with, the appropriate installation of explosives detection trace portals at more of the Nation's commercial airports.

*Checked bag and cargo screening—D*

Improvements here have not been made a priority by the Congress or the administration. Progress on implementation of in-line screening has been slow. The main impediment is inadequate funding.

BORDER SECURITY

*Better terrorist travel strategy—Incomplete*

The first Terrorist Travel Strategy is in development, due to be delivered by December 17, 2005 as required by PL 108–458.

*Comprehensive screening system—C*

We still do not have a comprehensive screening system. Although agencies are moving ahead on individual screening projects, there is lack of progress on coordination between agencies. DHS' new Screening Coordination OffIce still needs to establish and implement goals for resolving differences in biometric and traveler systems, credentialing and identification standards.

*Biometric entry-exit screening system—B*

The US–VISIT system is running at 115 airports and 15 seaports, and is performing secondary screening at the 50 busiest land borders. But border screening systems are not yet employed at all land borders, nor are these systems interoperable. The exit component of the US–VISIT system has not been widely deployed.

*International collaboration on borders and document security—D*

There has been some good collaboration between US–VISIT and Interpol, but little progress elsewhere. There has been no systematic diplomatic effort to share terrorist watchlists, nor has Congress taken a leadership role in passport security.

*Standardize secure identifications—B–*

The REAL ID Act has established by statute standards for state-issued IDs acceptable for federal purposes, though states' compliance needs to be closely monitored. New standards for issuing birth certificates (required by law by December 17, 2005) are delayed until at least spring 2006, probably longer. Without movement on the birth certificate issue, state-issued IDs are still not secure.

PART II: REFORMING THE INSTITUTIONS OF GOVERNMENT

*Recommendation—Grade*

THE INTELLIGENCE COMMUNITY

*Director of National Intelligence—B*

The framework for the DNI and his authorities are in place. Now his challenge is to exercise his authorities boldly to smash stovepipes, drive reform, and create a unity of effort—and act soon. He must avoid layering of the bureaucracy andJ focus on transformation of the Intelligence Community. The success of this office will require decisive leadership from the DNI and the president, and active oversight by the Congress.

*National Counterterrorism Center—B*

Shared analysis and evaluation of threat information is in progress; joint operational planning is beginning. But the NCTC does not yet have sufftcient resources or personnel to fulfill its intelligence and planning role.

*Create FBI national security workforce—C*

Progress is being made—but it is too slow. The FBI's shift to a counterterrorism posture is far from institutionalized, and significant deficiencies remain. Reforms are at risk from inertia and complacency; they must be accelerated, or they will fail. Unless there is improvement in a reasonable period of time, Congress will have to look at alternatives.

*New missions for CIA Director—Incomplete*

Reforms are underway at the CIA, especially of human intelligence operations. But their outcome is yet to be seen. If the CIA is to remain an effective arm of national power, Congress and CIA leadership need to be committed to accelerating the pace of reforms, and must address morale and personnel issues.

*Incentives for information sharing—D*

Changes in incentives, in favor of information sharing, have been minimal. The office of the program manager for information sharing is still a start-up, and is not getting the support it needs from the highest levels of government. There remain many complaints about lack of information sharing between federal authorities and state and local level officials.

*Government-wide information sharing—D*

Designating individuals to be in charge of information sharing is not enough. They need resources, active presidential backing, policies and procedures in place that compel sharing, and systems of performance evaluation that appraise personnel on how they carry out information sharing.

*Homeland airspace defense—B–*

Situational awareness and sharing of information has improved. But it is not routine or comprehensive, no single agency currently leads the interagency response to airspace violations, and there is no overarching

plan to secure airspace outside the National Capital region.

CIVIL LIBERTIES AND EXECUTIVE POWER

*Balance between security and civil liberties—B*

The debate surrounding reauthorization of the PATRIOT Act has been strong, and concern for civil liberties has been at the heart of it. Robust and continuing oversight, both within the Executive and by the Congress, will be essential.

*Privacy and Civil Liberties Oversight Board—D*

We see little urgency in the creation of this Board. The President nominated a Chair and Vice Chair in June 2005, and sent their names to the Senate in late September. To date, the Senate has not confirmed them. Funding is insufficient, no meetings have been held, no staff named, no work plan outlined, no work begun, no office established.

*Guidelines for government sharing of personal information—D*

The Privacy and Civil Liberties Oversight Board has not yet begun its work. The DNI just named a Civil Liberties Protection Officer (November 2005).

CONGRESSIONAL AND ADMINISTRATIVE REFORM

*Intelligence oversight reform—D*

The House and Senate have taken limited positive steps, including the creation of oversight subcommittees. However, the ability of the intelligence committees to perform oversight of the intelligence agencies and account for their performance is still undermined by the power of the Defense Appropriations subcommittees and Armed Services committees.

*Homeland Security committees—B*

The House and Senate have taken positive steps, but Secretary Chertoff and his team still report to too many bosses. The House and Senate homeland security committees should have exclusive jurisdiction over all counterterrorism functions of the Department of Homeland Security.

*Declassify overall intelligence budget—F*

No action has been taken. The Congress cannot do robust intelligence oversight when funding for intelligence programs is buried within the defense budget. Declassifying the overall intelligence budget would allow for a separate annual intelligence appropriations bill, so that the Congress can judge better how intelligence funds are being spent.

*Standardize security clearances—B*

The President put the Office of Management and Budget (OMB) in charge of standardizing security clearances. OMB issued a plan to improve the personnel security clearance process in November 2005. The Deputy Director of OMB is committed to its success. All the hard work is ahead.

PART III: FOREIGN POLICY, PUBLIC DIPLOMACY, AND NONPROLIFERATION

*Recommendation—Grade*

NONPROLIFERATION

*Maximum effort by U.S. government to secure WMD—D*

Countering the greatest threat to America's security is still not the top national security priority of the President and the Congress.

FOREIGN POLICY

*Long-term commitment to Afghanistan—B*

Progress has been made, but attacks Taliban and other extremists continue and the drug situation has worsened. The U.S. and its partners must commit to a long-term economic plan in order to ensure the country's stability.

*Support Pakistan against extremists—C+*

U.S. assistance to Pakistan has not moved sufficiently beyond security assistance to include significant funding for education efforts. Musharraf has made efforts to take on the threat from extremism, but has not shut down extremist-linked madrassas or terrorist camps. Taliban forces still pass freely across the Pakistan-Afghanistan border and operate in Pakistani tribal areas.

*Support reform in Saudi Arabia—D*

Saudi authorities have taken initial steps but need to do much more to regulate charities and control the flow of funds to extremist groups, and to promote tolerance and moderation. A U.S.-Saudi strategic dialogue to address topics including reform and exchange programs has just started; there are no results to report.

*Identify and prioritize terrorist sanctuaries—B*

Strategies have been articulated to address and eliminate terrorist sanctuaries, but they do not include a useful metric to gauge progress. There is little sign of long-term efforts in place to reduce the conditions that allow the formation of terrorist sanctuaries.

*Coalition strategy against Islamist terrorism—C*

Components of a common strategy are evident on a bilateral basis, and multilateral policies exist in some areas. But no permanent contact group of leading governments has yet been established to coordinate a coalition counterterrorism strategy.

*Coalition standards for terrorist detention—F*

The U.S. has not engaged in a common coalition approach to developing standards for detention and prosecution of captured terrorists. Indeed, U.S. treatment of detainees has elicited broad criticism, and makes it harder to build the necessary alliances to cooperate effectively with partners in a global war on terror.

*Economic policies—B+*

There has been measurable progress in reaching agreements on economic reform in the Middle East, including a free trade agreement with Bahrain and the likely admission of Saudi Arabia to the WTO before long. However, it is too early to judge whether these agreements will lead to genuine economic reform.

*Vigorous effort against terrorist financing—A–*

The U.S. has won the support of key countries in tackling terrorism finance—though there is still much to do in the Gulf States and in South Asia. The government has made significant strides in using terrorism finance as an intelligence tool. However, the State Department and Treasury Department are engaged in unhelpful turf battles, and the overall effort lacks leadership.

PUBLIC DIPLOMACY

*Define the U.S. message—C*

Despite efforts to offer a vision for U.S. leadership in the world based on the expansion of democratic governance, public opinion approval ratings for the U.S. throughout the Middle East remain at or near historic lows. Public diplomacy initiatives need to communicate our values, way of life, and vision for the world without lecturing or condescension.

*International broadcasting—B*

Budgets for international broadcasting to the Arab and Muslim world and U.S.-sponsored broadcasting hours have increased dramatically, and audience shares are growing. But we need to move beyond audience size, expose listeners to new ideas and accurate information about the U.S. and its policies, and measure the impact and influence of these ideas.

*Scholarship, exchange, and library programs—D*

Funding for educational and cultural exchange programs has increased. But more American libraries (Pakistan, for example) are closing rather than opening. The number of young people coming to study in the U.S. from the Middle East continues to decline (down 2% this year, following declines of 9% and 10% in the previous two years).

*Support secular education in Muslim countries—D*

An International Youth Opportunity Fund has been authorized, but has received no funding; secular education programs have been initiated across the Arab world, but are not integrated into a broader counterterrorism strategy. The U.S. has no overarching strategy for educational assistance, and the current level of education reform funding is inadequate.

Mrs. BOXER. Mr. President, here are some of the things on which we received bad grades: We are not providing adequate radio spectrum for first responders. We are not establishing a unified incident command system. We are not allocating homeland security funds based on risk. We are not protecting the critical infrastructure. We don't have a private sector that is prepared. We don't have a national strategy for transportation security. We are not prescreening passengers like we should be. We don't have screening checkpoints detecting explosives. We are still not screening the cargo that goes into passenger planes, even though they are taking away our lip gloss. I don't care about giving up my lip gloss, believe me. I would give up my lip gloss and everything else, but how about protecting the cargo that goes underneath that passenger plane? How about making sure it is safe, making sure it won't explode?

I have an amendment that I will offer to this bill—unless the majority shuts me down—to say that until we are screening all of the cargo, let's make sure there is a blast-resistant container on these aircrafts. That is a recommendation of the 9/11 Commission that has not been followed. So when you have a suspect piece of cargo and you are not sure about it, put it into the blast-resistant cargo container. We pushed this in the Commerce Committee. TSA tested it and we know it works. But it is not happening.

I could go on, page after page of this document, where this Congress and this administration have failed. I say they have been soft on homeland defense. Why? I say two reasons: They cannot afford it because they are spending our money in Iraq instead of protecting us from the terrorists at home, instead of going after Osama bin Laden in Afghanistan. The President says over and over again that it is one

and the same. Do you know what? The bipartisan Senate Intelligence Committee was right out there and said Saddam Hussein—the tyrant though he is, and he deserves whatever fate awaits him—had not one thing to do with al-Qaida. As a matter of fact, he was threatened by them because he had a secular government. He was fearful of them, and rumors were that he wanted some of them assassinated.

The war in Iraq has strengthened Iran. It is a recruiting tool for Osama bin Laden. It is busting the budget. It is causing the debt to explode, not to mention the deaths of close to 3,000 of our service men and women, and 20,000 have been severely injured. The money going there is about $10 billion a month. We could protect every single American aircraft today from the threat of shoulder-fired missiles with the cost of Iraq in 1 month.

Then there is the other priority of this administration—tax breaks for billionaires. That is costing trillions. Look at every other President in the history of our country; they didn't do that in a time of war. So you have the war in Iraq, and the only strategy we have from this President is that we are going to be there ''as long as I am the President.'' Well, that is not a strategy; that is a recipe for more death, more destruction. That is clear.

There are many ways that we could begin reducing the cost over there—the cost to our troops. We can say to the Iraqi people that our people have fought and died for you; now take the reins of your own government and protect yourselves. If you cannot figure out how to protect neighbor from neighbor, you have a problem. Nobody did it for us. Everybody always says compare what happened in Iraq to the American Revolution. I don't get the comparison, but if we go with that for a minute, it is true that other countries helped us in that battle—France, for example—but at the end of the day, we had to take over the security on the ground and make our new country a success. So we cannot force democracy and force people to love each other at the point of a gun. It is their business.

We have spent our treasure and are spending our treasure to the point where we cannot afford a comprehensive bill. You heard Senator COLLINS say, ''I hope you will vote against this broad bill.'' Why? We have been condemned by the 9/11 Commission for not doing enough in a broad way. This bill just does port security. Thank goodness we have amendments to add rail and transit. It is moving toward the Reid bill. Let this go on because the more we debate and the more we offer amendments, the more this bill looks like the Democratic alternative. It has taken a big step in that direction.

We know what happened in Madrid. We saw what happened in London. We know our infrastructure is at risk. But 5 years after 9/11, we get failing grades. It is a sad moment.

I thank my colleague, Senator COLLINS, and I thank my colleague, Senator MURRAY, two fantastic women who fought hard to get a port security bill to the floor. But let's welcome this as an opportunity to protect our people, not just focus narrowly on one problem.

I hate to say it, we have an array of problems. We have 41 problems and 41 recommendations of the 9/11 Commission, the bipartisan Commission we have not listened to, and that is what the Reid bill does. It is very important.

I thank my colleagues for going as far as they have gone, but I hope we will go even further and change this truth that this Congress has been soft on homeland defense. We can change that, and I welcome the fact that we will be debating security from now until we get out of here because if ever there were a place we have neglected, it is homeland security.

I am very happy to be part of this debate. I look forward to supporting the Reid amendment and all the other amendments that will make our country safer. We can scare people. We can make speeches and frighten them. That is not our job. Our job is to protect them, not to scare them. We haven't done that, and we have an opportunity to do that between now and the time we get out of here and go home.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maine.

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

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mrs. MURRAY. Mr. President, how much time is remaining on the Democratic side?

The PRESIDING OFFICER. There is 6½ minutes remaining.

Mrs. MURRAY. Mr. President, I yield all our remaining time to Senator DURBIN.

The PRESIDING OFFICER. The Senator from Illinois is recognized for 6½ minutes.

Mr. DURBIN. I thank the Chair. Mr. President, I thank my colleague from the State of Washington for her leadership on this bill relative to port security. It is a very important bill.

Of course, the Port of Chicago is concerned about these issues, as many are around the country. We understand this is basically an authorization bill and that before things will happen, money has to be appropriated. So an authorization is a promise; an appropriation is a reality. I hope we can follow through with the good promises that are included in this bill, many important good promises, with the reality of appropriating money for that particular effort. But what we have offered in addition to the port security bill is the Real Security Act which has been proposed by the Democratic side.

In just the few moments I have, I wish to outline what we do.

First, we are going to rely on the expertise of a bipartisan group that has gained great respect across the Nation, and that, of course, is the 9/11 Commission. The 9/11 Commission, with Governor Kean of New Jersey, a Republican, and Congressman Hamilton, a Democrat, came up with 41 recommendations to make America safer. They published those recommendations more than 2 years ago. It was a blueprint for making this a safer nation.

This Commission has stayed in business long enough to grade the administration and Congress on its response. The results of their last report card were alarming. Last December, they graded our Government's progress as follows: 5 F's, 12 D's, 9 C's, and one A-minus. That is it. For 41 recommendations, we ended up being told by this Commission that we are not paying attention.

The Real Security Act, which the Democrats propose, basically says as a starting point that we need to establish a comprehensive system to make certain the 9/11 recommendations are followed. That, to me, should be a bipartisan starting point. But the President's budget and the actions of Congress have not allowed us to reach that goal.

We also believe we cannot talk about a secure America without speaking about the obvious: 145,000 Americans are risking their lives in Iraq today as we stand in the safety of this Chamber; 2,671 of our bravest soldiers have died, 19,000 seriously injured; and a war that has cost us $325 billion with no end in sight. That is the reality.

We believe that if we learned the lessons of 9/11, we need to bring our troops home with their mission truly accomplished. That means a partial redeployment of troops this year so the Iraqis take responsibility for their own defense and their own future.

There is also an element in this bill that is near and dear to me, and it relates to the issue of transportation. We are just not doing enough. We know at the airports, when we have to take off our shoes, they go through our luggage, and we hand over our toothpaste, what is going on there. What is happening in other places? We are not doing enough when it comes to making Amtrak safer.

Three million Illinoisans ride Amtrak each year. Yet neither Amtrak's tracks nor its Midwest hub, Chicago's Union Station, is as secure as it should be. The Chicago Transit Agency alone has over $500 million in unmet security needs. And the Port of Chicago, as I mentioned earlier, needs more funds for homeland security.

I am afraid that the Bush administration and this Republican-led Congress have also done little or nothing

to deal with the potential threats at our nuclear powerplants and our chemical industry plants. These, I am afraid, could be a tempting terrorist target.

In our bill, the Real Security Act, on the Democratic side, proposes we spend money to make certain they are safer, that we authorize this expenditure. We want to equip our intelligence community to fight the war against terrorism. Intelligence is our first line in defense. For the first time in 28 years, the Republican Congress has failed to pass an intelligence authorization act. Our amendment does that, to make sure the intelligence agencies have the authorizations they need and the guidance they need to keep America safe.

We also need to provide better tools to bring terrorists to justice. We believe we can do this without abandoning the Constitution or the rule of law.

I salute the Presiding Officer, who has shown extraordinary leadership in this area. His background in the Air Force and his service in the Judge Advocate General Service Corps has made him a very valuable voice in this debate.

I am hopeful that we can show we can keep America safe without abandoning our values, that we can fight terrorism while still honoring those basic principles, those constitutional principles we have all sworn to uphold. We can bring these terrorists to justice. We can do it in a way that we can point to with pride, that the world can judge was a fair proceeding and, in so doing, we can demonstrate to the world that the rule of law is worth following, even when a nation is under attack and threat of terrorism.

This Real Security Act of 2006 is a comprehensive effort on the Democratic side to complement the underlying bill and to make sure we don't do just part of the job but do the entire job, that we move forward to make America safer.

We understand the threat. We live in a dangerous world. The fifth anniversary of 9/11 was a reminder to all of us where we were on that fateful day. If we are going to look forward and say to the American people: We can make your country and our country safer, then we should enact the Real Security Act, the amendment pending before the Senate.

Wouldn't it be refreshing if our Republican colleagues would join us in supporting this amendment, if we could return to the bipartisan spirit that followed 9/11 and do something in concert without partisan division? It really makes America safer.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Ms. MURKOWSKI). Who yields time?

Mrs. MURRAY. Madam President, how much time is remaining?

The PRESIDING OFFICER. There is 17 minutes 28 seconds for the majority and 29 seconds for the minority.

The Senator from Maine.

Ms. COLLINS. Madam President, I yield 5 minutes to the Senator from Kansas, the distinguished chairman of the Intelligence Committee.

The PRESIDING OFFICER. The Senator is recognized for 5 minutes.

Mr. ROBERTS. Madam President, I rise today in opposition to the amendment that is proposed by Senator REID. The title of the act Senator REID has proposed is called Real Security. If my colleagues on the other side of the aisle actually believe this amendment is real security, I encourage every American to go home and simply lock their doors.

There are provisions in the amendment that I like. In particular, I support the passage of the Intelligence Authorization Act as it was reported by the Intelligence and the Armed Services Committees. I hope the Senate can act on that bill by unanimous consent without insisting on needless partisan debate on a bill that has bipartisan support.

But now, on the other hand, I oppose the sense-of-Congress language Senator REID has inserted in that bill that suggests the terrorist surveillance program is unlawful. Talk about the sense of the Congress—that means the Congress would not have any sense.

Like most Americans, I believe the President should use all the authority provided by the Constitution and laws of the United States to prevent terrorists from killing innocent Americans. If terrorists outside the United States are placing calls to individuals in the United States, as many people have said over and over and over and over and over again, our intelligence agencies should know about it.

The terrorist surveillance program is lawful. It has been effective. I will oppose any legislation that does not support the continuation of that very valuable program. The bottom line on the terrorist surveillance program is this: The men and women of the NSA are working hard to protect our country day in and day out. We should let these patriotic Americans get back to doing their job.

Beyond that, I am convinced that my colleagues consulted perhaps a group of tenth grade English teachers in preparing this amendment. I haven't seen so many assigned reports since I was in high school.

Instead of providing flexible authorities to protect our Nation, my colleagues on the other side of the aisle have proposed approximately 52—a deck of cards, 52—I say that again, 52 new and continuing reporting requirements. That is one new reporting requirement for every 9 pages of the amendment.

The U.S. Government should be focused on securing our borders, disrupting terrorists, and protecting our ports. This amendment does nothing but divert focus to reporting requirements.

My colleagues have also resorted to an old standby: If you don't have any ideas, throw money and people at a problem. There are about 29 sections that propose new or additional ways to spend our limited resources. We haven't had any committee hearings on these, but they are reported. There are three provisions that increase the size of our Government by adding more personnel.

As a substitute for congressional consideration of legislation to respond to the Supreme Court's Hamdan decision, my colleagues have proposed yet another national commission—yet another national commission. I am not going to go through the trouble of listing all of the commissions that we have had in the last 4 or 5 years. This one, however, is to focus on the detention and interrogation of terrorists captured in the war on terror. Let me give my colleagues the bottom line on the Government's detention and interrogation programs—and there will be legislation that already is reported from the Senate Judiciary Committee to take care of that—they have kept this Nation safe. I think we can forego another commission.

Finally, Senator REID's amendment would authorize three new administrative subpoenas: one for the new commission, one for the Privacy and Civil Liberties Oversight Board, and one for a new Senate committee.

If Senator REID and his colleagues want real security, they should strip out these provisions and simply give the FBI an administrative subpoena to track terrorists and spies. But that is the point of this bill; it is not about real security. This bill is about real Monday morning quarterbacking. It is about tying the hands of our homeland security and intelligence professionals as they attempt to protect this Nation.

The only way this amendment would make the Nation safer is if we made copies of all of the reports that it requires and carpet-bombed Osama bin Laden. I am certain he would suffocate.

I will not support this amendment. I urge my colleagues to oppose it as well.

Mr. LIEBERMAN. Madam President, I am voting today to remove the budgetary point of order in order to consider the REAL security amendment offered by Senator REID. In doing so, I am following through on my longstanding commitment to pass and adequately fund all of the key recommendations of the 9/11 Commission for preventing future terrorist attacks and protecting our country and our people.

If the Senate votes to allow consideration of the amendment, I will introduce a second-degree amendment to strike the provisions on Iraq from the REAL security proposal because they contain language calling for a deadline-driven withdrawal of troops from Iraq, which I have consistently opposed.

I yield the floor.

Ms. COLLINS. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Ms. COLLINS. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Ms. COLLINS. Madam President, it is interesting to hear my friends on the other side of the aisle talk about the 9/11 Commission and then imply that the Reid amendment would finish the job of the 9/11 Commission. In fact, as I pointed out earlier, over 100 pages of the 507-page Reid amendment already are law. They are the foreign policy and public diplomacy recommendations that were recommended by the 9/11 Commission and included in the Intelligence Reform Act which became law 2 years ago—2 years ago. Many of the other recommendations of the 9/11 Commission were enacted as part of that legislation.

Now, there is one area where the 9/11 Commission did recommend changes that have not been completely made, and that is in the area of congressional oversight and the reorganization of committees. Instead, the Senate and the House adopted some, but not all, of those recommendations. But, ironically, the amendment proposed by the Democratic leader does not deal with that unfinished recommendation of the 9/11 Commission. So I don't want to leave the impression that the 9/11 Commission's recommendations are what are largely found in this amendment; they are not, other than the more than 100 pages on the foreign policy and public diplomacy recommendations, which are already law and have been for almost 2 years.

The fact is, our country has made tremendous progress in strengthening our security since 9/11. We have taken many actions, and if we talk to the experts, they will all tell us that those actions have made a difference. Are we completely safe? Of course not. We can never say that we are completely safe, but we are clearly safer than we were 5 years ago due to actions taken by this Congress, this administration, and State and local law enforcement. We have a ways to go, and the underlying bill on port security will help advance the security of this country.

So for the reasons I have already spoken on extensively today, I hope that our colleagues will vote to sustain the point of order which I will shortly be raising against Senator REID's amendment. It does violate the Budget Act, and I will be raising a point of order against it.

But aside from the budget issues, the procedural objections, I hope my colleagues will actually look at the Reid amendment and look at what it does contain. If they do, they will find only one reference in it to port security—only one reference in it to maritime and cargo security. They will instead find page after page of policy that this Senate has already rejected with regard to our engagement in Iraq and the policy on the formula for homeland security grants. They will also find legislation that is already law, and they will find amendments that we have already adopted having to do with rail and mass transit security.

So, unfortunately—and I mean this—sadly, this amendment is simply a partisan hodgepodge of provisions that have been cobbled together. I hope we can dispense with it quickly and then move back to the port security bill, an enormously important bill, a bill that many of us have worked on for years, a bill that has been bipartisan from the very start in both the House and the Senate. That is unusual, as the Presiding Officer knows. This bill is an exception to the rule. But, apparently, we couldn't quite get through the floor debate without having a partisan bomb lobbed at this bill, and I think that is unfortunate. But I hope once we get through this, we can go back to bipartisan consideration of relevant and germane amendments and we can get this work done.

This is a gap in our homeland security. When we talk to the experts, they all tell us they are worried about the security of our seaports and the 11 million shipping containers that come into this country each year. We have a carefully crafted, balanced bill that strikes the right balance between the need to strengthen security and the need to facilitate trade.

Again, I recognize the work that Senator MURRAY has done on this bill. She originated a lot of the concepts in this bill. It has been that kind of bipartisan partnership that has brought us to where we are today. So let's get this partisanship out of the way, and let's return to a bipartisan debate. This bill is so important to the security of people living near our seaports, to those working on our seaports, to the retailers in this country that rely on the cargo brought into our seaports, to our farmers who rely on shipping their crops out of our seaports. Let's remember the impact of this bill on communities not just on our coasts where the seaports are located but communities all across this country that rely on the products brought to our shores by cargo ships, or rely on the cargo ships to export these products.

So I hope we can return to the underlying bill. It is a good bill, and it deserves continued bipartisan support.

Could the Presiding Officer inform me how many minutes are remaining on our side?

The PRESIDING OFFICER. There are 3½ minutes remaining on the majority side.

Ms. COLLINS. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Ms. COLLINS. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Ms. COLLINS. Madam President, has all time expired under the time agreement?

The PRESIDING OFFICER. All time has expired.

Ms. COLLINS. Madam President, I raise a point of order against the Reid amendment because it violates section 302(f) of the Budget Act.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Madam President, pursuant to section 904 of the Congressional Budget Act, I move to waive the applicable sections of that act for purposes of the pending amendment.

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 clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. The following Senator was necessarily absent: the Senator from Rhode Island (Mr. CHAFEE).

Mr. DURBIN. I announce that the Senator from Hawaii (Mr. AKAKA) is necessarily absent.

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

The result was announced—yeas 41, nays 57, as follows:

[Rollcall Vote No. 243 Leg.]

YEAS—41

| | | |
|---|---|---|
| Baucus | Feingold | Lincoln |
| Bayh | Feinstein | Menendez |
| Biden | Harkin | Mikulski |
| Bingaman | Inouye | Murray |
| Boxer | Jeffords | Obama |
| Byrd | Johnson | Reed |
| Cantwell | Kennedy | Reid |
| Carper | Kerry | Rockefeller |
| Clinton | Kohl | Salazar |
| Conrad | Landrieu | Sarbanes |
| Dayton | Lautenberg | Schumer |
| Dodd | Leahy | Stabenow |
| Dorgan | Levin | Wyden |
| Durbin | Lieberman | |

NAYS—57

| | | |
|---|---|---|
| Alexander | Dole | Murkowski |
| Allard | Domenici | Nelson (FL) |
| Allen | Ensign | Nelson (NE) |
| Bennett | Enzi | Pryor |
| Bond | Frist | Roberts |
| Brownback | Graham | Santorum |
| Bunning | Grassley | Sessions |
| Burns | Gregg | Shelby |
| Burr | Hagel | Smith |
| Chambliss | Hatch | Snowe |
| Coburn | Hutchison | Specter |
| Cochran | Inhofe | Stevens |
| Coleman | Isakson | Sununu |
| Collins | Kyl | Talent |
| Cornyn | Lott | Thomas |
| Craig | Lugar | Thune |
| Crapo | Martinez | Vitter |
| DeMint | McCain | Voinovich |
| DeWine | McConnell | Warner |

NOT VOTING—2

| | |
|---|---|
| Akaka | Chafee |

The motion was rejected.

The PRESIDING OFFICER. On this question, the yeas are 41, the nays are 57. 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. The amendment falls.

The Senator from Alaska.

Mr. STEVENS. Is that a vote subject to reconsideration?

The PRESIDING OFFICER. Yes.

Mr. STEVENS. I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 4975

Mr. STEVENS. The Biden amendment is now the pending business?

The PRESIDING OFFICER. The Biden amendment is pending.

Mr. STEVENS. Madam President, I wish to discuss this for a few minutes.

I call to the attention of the Senate that this, too, is an all-inclusive amendment. It restores the cuts for law enforcement. It deals with all of the 9/11 Commission recommendations. It deals with requiring 100 percent screening of cargo containers, which is our objective. But we cannot do it all at once. It seeks to bring about screening technologies for liquid explosives and other hazardous materials. It has some interoperable language in it.

This represents a 32-percent annual increase over the current allocation of funds for the Department of Homeland Security. It requires a substantial addition to the Department of Homeland Security.

The interesting thing—and my friend from Delaware is innovative in terms of this—is it does not appropriate the money, but it requires the committee to come forward with a bill to provide $53 billion additional for the Department of Homeland Security.

It is a very interesting amendment, there is no question about that. This is another one of those things everyone would like to do if they had the money to do it. Beyond that, the way it is done, it is a difficult amendment to deal with.

It is not necessary to carry out the port security bill or the real portion of this bill. It deals with an enormous number of issues beyond the scope of the bill. Under the circumstances, I have no alternative but to move to table this amendment. I give my friend from Delaware a chance if he wishes to make a final statement. I move to table the Senator's amendment, but I ask that there be consideration of a period of time prior to voting on that so the Senator may express his point of view; I would say 4 minutes equally divided, or something like that, before the vote.

I have been requested to state that we would like to have that vote take place at 2 p.m. today and prior to the vote have 4 minutes equally divided, with no amendments or other motions in order, and the motion to table subject only to the provision of 4 minutes before a vote is taken on that motion.

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

The Senator from New York.

AMENDMENT NO. 4930, AS MODIFIED

Mr. SCHUMER. Madam President, I call for the regular order with respect to amendment No. 4930.

The PRESIDING OFFICER. That amendment is pending.

Mr. SCHUMER. I have a modification at the deck.

The PRESIDING OFFICER. The Senator has that right. The amendment is so modified.

The amendment (No. 4930), as modified, is as follows:

(Purpose: To improve maritime container security by ensuring that foreign ports participating in the Container Security Intiative scan all containers shipped to the United States for nuclear and radiological weapons before loading)

On page 5, strike line 21 and all that follows through page 62, line 11, and insert the following:

(9) INTEGRATED SCANNING SYSTEM.—The term ''integrated scanning system'' means a system for scanning containers with the following elements:

(A) The container passes through a radiation detection device.

(B) The container is scanned using gamma-ray, x-ray, or another internal imaging system.

(C) The container is tagged and catalogued using an on-container label, radio frequency identification, or global positioning system tracking device.

(D) The images created by the scans required under subparagraph (B) are reviewed and approved by the Secretary, or the designee of the Secretary.

(E) Every radiation alarm is resolved according to established Department procedures.

(F) The information collected is utilized to enhance the Automated Targeting System or other relevant programs.

(G) The information is stored for later retrieval and analysis.

(10) INTERNATIONAL SUPPLY CHAIN.—The term ''international supply chain'' means the end-to-end process for shipping goods to or from the United States from a point of origin (including manufacturer, supplier, or vendor) through a point of distribution.

(11) RADIATION DETECTION EQUIPMENT.—The term ''radiation detection equipment'' means any technology that is capable of detecting or identifying nuclear and radiological material or nuclear and radiological explosive devices.

(12) SCAN.—The term ''scan'' means utilizing nonintrusive imaging equipment, radiation detection equipment, or both, to capture data, including images of a container.

(13) SCREENING.—The term ''screening'' means a visual or automated review of information about goods, including manifest or entry documentation accompanying a shipment being imported into the United States, to determine the presence of misdeclared, restricted, or prohibited items and assess the level of threat posed by such cargo.

(14) SEARCH.—The term ''search'' means an intrusive examination in which a container is opened and its contents are devanned and visually inspected for the presence of misdeclared, restricted, or prohibited items.

(15) SECRETARY.—The term ''Secretary'' means the Secretary of Homeland Security.

(16) TRANSPORTATION DISRUPTION.—The term ''transportation disruption'' means any significant delay, interruption, or stoppage in the flow of trade caused by a natural disaster, labor dispute, heightened threat level, an act of terrorism, or any transportation security incident defined in section 70101(6) of title 46, United States Code.

(17) TRANSPORTATION SECURITY INCIDENT.—The term ''transportation security incident'' has the meaning given the term in section 70101(6) of title 46, United States Code.

**TITLE I—SECURITY OF UNITED STATES SEAPORTS**

**Subtitle A—General Provisions**

**SEC. 101. AREA MARITIME TRANSPORTATION SECURITY PLAN TO INCLUDE SALVAGE RESPONSE PLAN.**

Section 70103(b)(2) of title 46, United States Code, is amended—

(1) in subparagraph (E), by striking ''and'' after the semicolon;

(2) by redesignating subparagraph (F) as subparagraph (G); and

(3) by inserting after subparagraph (E) the following:

''(F) include a salvage response plan—

''(i) to identify salvage equipment capable of restoring operational trade capacity; and

''(ii) to ensure that the waterways are cleared and the flow of commerce through United States ports is reestablished as efficiently and quickly as possible after a maritime transportation security incident.''.

**SEC. 102. REQUIREMENTS RELATING TO MARITIME FACILITY SECURITY PLANS.**

Section 70103(c) of title 46, United States Code, is amended—

(1) in paragraph (3)—

(A) in subparagraph (C)(ii), by striking ''facility'' and inserting ''facility, including access by individuals engaged in the surface transportation of intermodal containers in or out of a port facility'';

(B) in subparagraph (F), by striking ''and'' at the end;

(C) in subparagraph (G), by striking the period at the end and inserting ''; and''; and

(D) by adding at the end the following:

''(H) in the case of a security plan for a facility, be resubmitted for approval of each change in the ownership or operator of the facility that may substantially affect the security of the facility.''; and

(2) by adding at the end the following:

''(8)(A) The Secretary shall require that the qualified individual having full authority to implement security actions for a facility described in paragraph (2) shall be a citizen of the United States.

''(B) The Secretary may waive the requirement of subparagraph (A) with respect to an individual if the Secretary determines that it is appropriate to do so based on a complete background check of the individual and a review of all terrorist watch lists to ensure that the individual is not identified on any such terrorist watch list.''.

**SEC. 103. UNANNOUNCED INSPECTIONS OF MARITIME FACILITIES.**

Section 70103(c)(4)(D) of title 46, United States Code, is amended to read as follows:

''(D) subject to the availability of appropriations, verify the effectiveness of each such facility security plan periodically, but not less than twice annually, at least 1 of which shall be an inspection of the facility that is conducted without notice to the facility.''.

**SEC. 104. TRANSPORTATION SECURITY CARD.**

(a) IN GENERAL.—Section 70105 of title 46, United States, Code is amended by adding at the end the following:

''(g) APPLICATIONS FOR MERCHANT MARINER'S DOCUMENTS.—The Assistant Secretary of Homeland Security for the Transportation Security Administration and the Commandant of the Coast Guard shall concurrently process an application from an individual for merchant mariner's documents under chapter 73 of title 46, United States Code, and an application from that individual for a transportation security card under this section.

''(h) FEES.—The Secretary shall ensure that the fees charged each individual obtaining a transportation security card under this section who has passed a background check under section 5103a of title 49, United States

Code, and who has a current and valid hazardous materials endorsement in accordance with section 1572 of title 49, Code of Federal Regulations, and each individual with a current and valid Merchant Mariner Document—

''(1) are for costs associated with the issuance, production, and management of the transportation security card, as determined by the Secretary; and

''(2) do not include costs associated with performing a background check for that individual, unless the scope of said background checks diverge.

''(i) IMPLEMENTATION SCHEDULE.—In implementing the transportation security card program under this section, the Secretary shall—

''(1) conduct a strategic risk analysis and establish a priority for each United States port based on risk; and

''(2) implement the program, based upon risk and other factors as determined by the Secretary, at all facilities regulated under this chapter at—

''(A) the 10 United States ports that are deemed top priority by the Secretary not later than July 1, 2007;

''(B) the 40 United States ports that are next in order of priority to the ports described in subparagraph (A) not later than January 1, 2008; and

''(C) all other United States ports not later than January 1, 2009.

''(j) TRANSPORTATION SECURITY CARD PROCESSING DEADLINE.—Not later than January 1, 2009, the Secretary shall process and issue or deny each application for a transportation security card under this section for individuals with current and valid merchant mariner's documents on the date of enactment of the Port Security Improvement Act of 2006.

''(k) VESSEL AND FACILITY CARD READER ASSESSMENTS.—

''(1) PILOT PROGRAMS.—

''(A) VESSEL PILOT PROGRAM.—The Secretary shall conduct a pilot program in 3 distinct geographic locations to assess the feasibility of implementing card readers at secure areas of a vessel in accordance with the Notice of Proposed Rulemaking released on May 22, 2006, (TSA–2006–24191; USCG–2006–24196).

''(B) FACILITIES PILOT PROGRAM.—In addition to the pilot program described in subparagraph (A), the Secretary shall conduct a pilot program in 3 distinct geographic locations to assess the feasibility of implementing card readers at secure areas of facilities in a variety of environmental settings.

''(C) COORDINATION WITH TRANSPORTATION SECURITY CARDS.—The pilot programs described in subparagraphs (A) and (B) shall be conducted concurrently with the issuance of the transportation security cards as described in subsection (b), of this section to ensure card and card reader interoperability.

''(2) DURATION.—The pilot program described in paragraph (1) shall commence not later than 180 days after the date of the enactment of the Port Security Improvement Act of 2006 and shall terminate 1 year after commencement.

''(3) REPORT.—Not later than 90 days after the termination of the pilot program described under subparagraph (1), the Secretary shall submit a comprehensive report to the appropriate congressional committees (as defined in section 2(2) of the Homeland Security Act of 2002 (6 U.S.C. 101(2)) that includes—

''(A) the actions that may be necessary to ensure that all vessels and facilities to which this section applies are able to comply with the regulations promulgated under subsection (a);

''(B) recommendations concerning fees and a statement of policy considerations for alternative security plans; and

''(C) an analysis of the viability of equipment under the extreme weather conditions of the marine environment.

''(l) PROGRESS REPORTS.—Not later than 6 months after the date of the enactment of the Port Security Improvement Act 2006 and every 6 months thereafter until the requirements under this section are fully implemented, the Secretary shall submit a report on progress being made in implementing such requirements to the appropriate congressional committees (as defined in section 2(2) of the Homeland Security Act of 2002 (6 U.S.C. 101(2)).''.

(b) CLARIFICATION OF ELIGIBILITY FOR TRANSPORTATION SECURITY CARDS.—Section 70105(b)(2) of title 46, United States Code, is amended—

(1) by striking ''and'' after the semicolon in subparagraph (E);

(2) by striking ''Secretary.'' in subparagraph (F) and inserting ''Secretary; and''; and

(3) by adding at the end the following:

''(G) other individuals as determined appropriate by the Secretary including individuals employed at a port not otherwise covered by this subsection.''.

(c) DEADLINE FOR SECTION 70105 REGULATIONS.—The Secretary shall promulgate final regulations implementing section 70105 of title 46, United States Code, no later than January 1, 2007.

**SEC. 105. LONG-RANGE VESSEL TRACKING.**

(a) REGULATIONS.—Section 70115 of title 46, United States Code, is amended in the first sentence by striking ''The Secretary'' and inserting ''Not later than April 1, 2007, the Secretary''.

(b) VOLUNTARY PROGRAM.—The Secretary may issue regulations to establish a voluntary long-range automated vessel tracking system for vessels described in section 70115 of title 46, United States Code, during the period before regulations are issued under such section.

**SEC. 106. ESTABLISHMENT OF INTERAGENCY OPERATIONAL CENTERS FOR PORT SECURITY.**

(a) IN GENERAL.—Chapter 701 of title 46, United States Code, is amended by inserting after section 70107 the following:

**''§ 70107A. Interagency operational centers for port security**

''(a) IN GENERAL.—The Secretary shall establish interagency operational centers for port security at all high-priority ports not later than 3 years after the date of the enactment of the Port Security Improvement Act of 2006.

''(b) CHARACTERISTICS.—The interagency operational centers established under this section shall—

''(1) utilize, as appropriate, the compositional and operational characteristics of centers, including—

''(A) the pilot project interagency operational centers for port security in Miami, Florida; Norfolk/Hampton Roads, Virginia; Charleston, South Carolina; San Diego, California; and

''(B) the virtual operation center of the Port of New York and New Jersey;

''(2) be organized to fit the security needs, requirements, and resources of the individual port area at which each is operating;

''(3) provide, as the Secretary determines appropriate, for participation by representatives of the United States Customs and Border Protection, the Transportation Security Administration, the Department of Justice, the Department of Defense, and other Federal agencies, and State and local law enforcement or port security personnel, members of the Area Maritime Security Committee, and other public and private sector stakeholders; and

''(4) be incorporated in the implementation and administration of—

''(A) maritime transportation security plans developed under section 70103;

''(B) maritime intelligence activities under section 70113 and information sharing activities consistent with section 1016 of the National Security Intelligence Reform Act of 2004 (6 U.S.C. 485) and the Homeland Security Information Sharing Act (6 U.S.C. 481 et seq.);

''(C) short and long range vessel tracking under sections 70114 and 70115;

''(D) protocols under section 201(b)(10) of the Port Security Improvement Act of 2006;

''(E) the transportation security incident response plans required by section 70104; and

''(F) other activities, as determined by the Secretary.

''(c) SECURITY CLEARANCES.—The Secretary shall sponsor and expedite individuals participating in interagency operational centers in gaining or maintaining their security clearances. Through the Captain of the Port, the Secretary may identify key individuals who should participate. The port or other entities may appeal to the Captain of the Port for sponsorship.''.

(b) 2005 ACT REPORT REQUIREMENT.—Nothing in this section or the amendments made by this section relieves the Commandant of the Coast Guard from complying with the requirements of section 807 of the Coast Guard and Maritime Transportation Act of 2004 (118 Stat. 1082). The Commandant shall utilize the information developed in making the report required by that section in carrying out the requirements of this section.

(c) BUDGET AND COST-SHARING ANALYSIS.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to the appropriate congressional committees a proposed budget analysis for implementing section 70107A of title 46, United States Code, as added by subsection (a), including cost-sharing arrangements with other Federal departments and agencies involved in the interagency operation of the centers to be established under such section.

(d) CLERICAL AMENDMENT.—The chapter analysis for chapter 701 of title 46, United States Code, is amended by inserting after the item relating to section 70107 the following:

''70107A. Interagency operational centers for port security.''.

**Subtitle B—Port Security Grants; Training and Exercise Programs**

**SEC. 111. PORT SECURITY GRANTS.**

(a) BASIS FOR GRANTS.—Section 70107(a) of title 46, United States Code, is amended by striking ''for making a fair and equitable allocation of funds'' and inserting ''for the allocation of funds based on risk''.

(b) MULTIPLE-YEAR PROJECTS, ETC.—Section 70107 of title 46, United States Code, is amended by redesignating subsections (e), (f), (g), (h), and (i) as subsections (i), (j), (k), (l), and (m), respectively, and by inserting after subsection (d) the following:

''(e) MULTIPLE-YEAR PROJECTS.—

''(1) LETTERS OF INTENT.—The Secretary may execute letters of intent to commit funding to such authorities, operators, and agencies.

''(2) LIMITATION.—Not more than 20 percent of the grant funds awarded under this subsection in any fiscal year may be awarded for projects that span multiple years.

''(f) CONSISTENCY WITH PLANS.—The Secretary shall ensure that each grant awarded under subsection (e)—

''(1) is used to supplement and support, in a consistent and coordinated manner, the applicable Area Maritime Transportation Security Plan; and

''(2) is coordinated with any applicable State or Urban Area Homeland Security Plan.

''(g) APPLICATIONS.—Any entity subject to an Area Maritime Transportation Security Plan may submit an application for a grant under this subsection, at such time, in such form, and containing such information and assurances as the Secretary, working through the Directorate for Preparedness, may require.''.

(c) AUTHORIZATION OF APPROPRIATIONS.—Subsection (l) of section 70107 of title 46, United States Code, as redesignated by subsection (b) is amended to read as follows:

''(1) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $400,000,000 for each of the fiscal years 2007 through 2011 to carry out this section.''.

**SEC. 112. PORT SECURITY TRAINING PROGRAM.**

(a) IN GENERAL.—The Secretary, acting through the Under Secretary for Preparedness and in coordination with the Commandant of the Coast Guard, may establish a Port Security Training Program (referred to in this section as the ''Program'') for the purpose of enhancing the capabilities of each of the Nation's commercial seaports to prevent, prepare for, respond to, mitigate against, and recover from threatened or actual acts of terrorism, natural disasters, and other emergencies.

(b) REQUIREMENTS.—The Program shall provide validated training that—

(1) reaches multiple disciplines, including Federal, State, and local government officials, commercial seaport personnel and management, and governmental and nongovernmental emergency response providers;

(2) provides training at the awareness, performance, and management and planning levels;

(3) utilizes multiple training mediums and methods;

(4) addresses port security topics, including—

(A) seaport security plans and procedures, including how security plans and procedures are adjusted when threat levels increase;

(B) seaport security force operations and management;

(C) physical security and access control at seaports;

(D) methods of security for preventing and countering cargo theft;

(E) container security;

(F) recognition and detection of weapons, dangerous substances, and devices;

(G) operation and maintenance of security equipment and systems;

(H) security threats and patterns;

(I) security incident procedures, including procedures for communicating with governmental and nongovernmental emergency response providers; and

(J) evacuation procedures;

(5) is consistent with, and supports implementation of, the National Incident Management System, the National Response Plan, the National Infrastructure Protection Plan, the National Preparedness Guidance, the National Preparedness Goal, the National Maritime Transportation Security Plan, and other such national initiatives;

(6) is evaluated against clear and consistent performance measures;

(7) addresses security requirements under facility security plans; and

(8) educates, trains, and involves populations of at-risk neighborhoods around ports, including training on an annual basis for neighborhoods to learn what to be watchful for in order to be a ''citizen corps'', if necessary.

**SEC. 113. PORT SECURITY EXERCISE PROGRAM.**

(a) IN GENERAL.—The Secretary, acting through the Under Secretary for Preparedness and in coordination with the Commandant of the Coast Guard, may establish a Port Security Exercise Program (referred to in this section as the ''Program'') for the purpose of testing and evaluating the capabilities of Federal, State, local, and foreign governments, commercial seaport personnel and management, governmental and nongovernmental emergency response providers, the private sector, or any other organization or entity, as the Secretary determines to be appropriate, to prevent, prepare for, mitigate against, respond to, and recover from acts of terrorism, natural disasters, and other emergencies at commercial seaports.

(b) REQUIREMENTS.—The Secretary shall ensure that the Program—

(1) conducts, on a periodic basis, port security exercises at commercial seaports that are—

(A) scaled and tailored to the needs of each port;

(B) live, in the case of the most at-risk ports;

(C) as realistic as practicable and based on current risk assessments, including credible threats, vulnerabilities, and consequences;

(D) consistent with the National Incident Management System, the National Response Plan, the National Infrastructure Protection Plan, the National Preparedness Guidance, the National Preparedness Goal, the National Maritime Transportation Security Plan, and other such national initiatives;

(E) evaluated against clear and consistent performance measures;

(F) assessed to learn best practices, which shall be shared with appropriate Federal, State, and local officials, seaport personnel and management; governmental and nongovernmental emergency response providers, and the private sector; and

(G) followed by remedial action in response to lessons learned; and

(2) assists State and local governments and commercial seaports in designing, implementing, and evaluating exercises that—

(A) conform to the requirements of paragraph (2); and

(B) are consistent with any applicable Area Maritime Transportation Security Plan and State or Urban Area Homeland Security Plan.

(c) IMPROVEMENT PLAN.—The Secretary shall establish a port security improvement plan process to—

(1) identify and analyze each port security exercise for lessons learned and best practices;

(2) disseminate lessons learned and best practices to participants in the Program;

(3) monitor the implementation of lessons learned and best practices by participants in the Program; and

(4) conduct remedial action tracking and long-term trend analysis.

**Subtitle C—Port Operations**

**SEC. 121. DOMESTIC RADIATION DETECTION AND IMAGING.**

(a) EXAMINING CONTAINERS.—Not later than December 31, 2007, all containers entering the United States through the busiest 22 seaports of entry shall be examined for radiation.

(b) STRATEGY.—The Secretary shall develop a strategy for the deployment of radiation detection capabilities that includes—

(1) a risk-based prioritization of ports of entry at which radiation detection equipment will be deployed;

(2) a proposed timeline of when radiation detection equipment will be deployed at each port of entry identified under paragraph (1);

(3) the type of equipment to be used at each port of entry identified under paragraph (1), including the joint deployment and utilization of radiation detection equipment and nonintrusive imaging equipment;

(4) standard operating procedures for examining containers with such equipment, including sensor alarming, networking, and communications and response protocols;

(5) operator training plans;

(6) an evaluation of the environmental health and safety impacts of nonintrusive imaging technology;

(7) the policy of the Department for using nonintrusive imagining equipment in tandem with radiation detection equipment; and

(8) a classified annex that—

(A) details plans for covert testing; and

(B) outlines the risk-based prioritization of ports of entry identified under paragraph (1).

(c) REPORT.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall submit the strategy developed under subsection (b) to the appropriate congressional committees.

(d) UPDATE.—Not later than 180 days after the date of the enactment of this Act, the Secretary may update the strategy submitted under subsection (c) to provide a more complete evaluation under subsection (b)(6).

(e) OTHER WEAPONS OF MASS DESTRUCTION THREATS.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit a strategy for the development of equipment to detect chemical, biological, and other weapons of mass destruction at all ports of entry into the United States to the appropriate congressional committees.

(f) STANDARDS.—The Secretary, in conjunction with the National Institute of Standards and Technology, shall publish technical capability standards and recommended standard operating procedures for the use of nonintrusive imaging and radiation detection equipment in the United States. Such standards and procedures—

(1) should take into account relevant standards and procedures utilized by other Federal departments or agencies as well as those developed by international bodies; and

(2) shall not be designed so as to endorse specific companies or create sovereignty conflicts with participating countries.

(g) IMPLEMENTATION.—Not later than 3 years after the date of the enactment of this Act, the Secretary shall fully implement the strategy developed under subsection (b).

**SEC. 122. PORT SECURITY USER FEE STUDY.**

The Secretary shall conduct a study of the need for, and feasibility of, establishing a system of ocean-borne and port-related transportation user fees that may be imposed and collected as a dedicated revenue source, on a temporary or continuing basis, to provide necessary funding for legitimate improvements to, and maintenance of, port security. Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit a report to the appropriate congressional committees that contains—

(1) the results of the study;

(2) an assessment of the annual amount of customs fees and duties collected through ocean-borne and port-related transportation and the amount and percentage of such fees and duties that are dedicated to improve and maintain security;

(3)(A) an assessment of the fees, charges, and standards imposed on United States ports, port terminal operators, shippers, and persons who use United States ports, compared with the fees and charges imposed on ports and port terminal operators in Canada and Mexico and persons who use those foreign ports; and

(B) an assessment of the impact on the competitiveness of United States ports, port terminal operators, and shippers; and

(4) the Secretary's recommendations based upon the study, and an assessment of the consistency of such recommendations with the international obligations and commitments of the United States.

**SEC. 123. INSPECTION OF CAR FERRIES ENTERING FROM ABROAD.**

Not later than 120 days after the date of the enactment of this Act, the Secretary, acting through the Commissioner, and in coordination with the Secretary of State, and in cooperation with appropriate foreign government officials, shall seek to develop a plan for the inspection of passengers and vehicles before such passengers board, or such vehicles are loaded onto, a ferry bound for a United States seaport.

**SEC. 124. RANDOM SEARCHES OF CONTAINERS.**

Not later than 1 year after the date of the enactment of this Act, the Secretary, acting through the Commissioner, shall develop and implement a plan, utilizing best practices for empirical scientific research design and random sampling, to conduct random searches of containers in addition to any targeted or preshipment inspection of such containers required by law or regulation or conducted under any other program conducted by the Secretary. Nothing in this section shall be construed to mean that implementation of the random sampling plan precludes additional searches of containers not inspected pursuant to the plan.

**SEC. 125. WORK STOPPAGES AND EMPLOYEE-EMPLOYER DISPUTES.**

Section 70101(6) of title 46, United States Code, is amended by adding at the end the following: ''In this paragraph, the term 'economic disruption' does not include a work stoppage or other nonviolent employee-related action not related to terrorism and resulting from an employee-employer dispute.''.

## TITLE II—SECURITY OF THE INTERNATIONAL SUPPLY CHAIN

### Subtitle A—General Provisions

**SEC. 201. STRATEGIC PLAN TO ENHANCE THE SECURITY OF THE INTERNATIONAL SUPPLY CHAIN.**

(a) STRATEGIC PLAN.—The Secretary, in consultation with appropriate Federal, State, local, and tribal government agencies and private-sector stakeholders responsible for security matters that affect or relate to the movement of containers through the international supply chain, shall develop, implement, and update, as appropriate, a strategic plan to enhance the security of the international supply chain.

(b) REQUIREMENTS.—The strategic plan required under subsection (a) shall—

(1) describe the roles, responsibilities, and authorities of Federal, State, local, and tribal government agencies and private-sector stakeholders that relate to the security of the movement of containers through the international supply chain;

(2) identify and address gaps and unnecessary overlaps in the roles, responsibilities, or authorities described in paragraph (1);

(3) identify and make recommendations regarding legislative, regulatory, and organizational changes necessary to improve coordination among the entities or to enhance the security of the international supply chain;

(4) provide measurable goals, including objectives, mechanisms, and a schedule, for furthering the security of commercial operations from point of origin to point of destination;

(5) build on available resources and consider costs and benefits;

(6) provide incentives for additional voluntary measures to enhance cargo security, as determined by the Commissioner;

(7) consider the impact of supply chain security requirements on small and medium size companies;

(8) include a process for sharing intelligence and information with private-sector stakeholders to assist in their security efforts;

(9) identify a framework for prudent and measured response in the event of a transportation security incident involving the international supply chain;

(10) provide protocols for the expeditious resumption of the flow of trade in accordance with section 202, including—

(A) the identification of the appropriate initial incident commander, if the Commandant of the Coast Guard is not the appropriate initial incident commander, and lead departments, agencies, or offices to execute such protocols;

(B) a plan to redeploy resources and personnel, as necessary, to reestablish the flow of trade in the event of a transportation disruption; and

(C) a plan to provide training for the periodic instruction of personnel of the United States Customs and Border Protection in trade resumption functions and responsibilities following a transportation disruption;

(11) consider the linkages between supply chain security and security programs within other systems of movement, including travel security and terrorism finance programs; and

(12) expand upon and relate to existing strategies and plans, including the National Response Plan, National Maritime Transportation Security Plan, and the 8 supporting plans of the Strategy, as required by Homeland Security Presidential Directive 13.

(c) CONSULTATION.—In developing protocols under subsection (b)(10), the Secretary shall consult with Federal, State, local, and private sector stakeholders, including the National Maritime Security Advisory Committee and the Commercial Operations Advisory Committee.

(d) COMMUNICATION.—To the extent practicable, the strategic plan developed under subsection (a) shall provide for coordination with, and lines of communication among, appropriate Federal, State, local, and private-sector stakeholders on law enforcement actions, intermodal rerouting plans, and other strategic infrastructure issues.

(e) UTILIZATION OF ADVISORY COMMITTEES.—As part of the consultations described in subsection (a), the Secretary shall, to the extent practicable, utilize the Homeland Security Advisory Committee, the National Maritime Security Advisory Committee, and the Commercial Operations Advisory Committee to review, as necessary, the draft strategic plan and any subsequent updates to the strategic plan.

(f) INTERNATIONAL STANDARDS AND PRACTICES.—In furtherance of the strategic plan required under subsection (a), the Secretary is encouraged to consider proposed or established standards and practices of foreign governments and international organizations, including the International Maritime Organization, the World Customs Organization, and the International Organization for Standardization, as appropriate, to establish standards and best practices for the security of containers moving through the international supply chain.

(g) REPORT.—

(1) INITIAL REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to the appropriate congressional committees a report that contains the strategic plan required by subsection (a).

(2) FINAL REPORT.—Not later than 3 years after the date on which the strategic plan is submitted under paragraph (1), the Secretary shall submit a report to the appropriate congressional committees that contains an update of the strategic plan.

**SEC. 202. POST INCIDENT RESUMPTION OF TRADE.**

(a) IN GENERAL.—Except as otherwise determined by the Secretary, in the event of a maritime transportation disruption or a maritime transportation security incident, the initial incident commander and the lead department, agency, or office for carrying out the strategic plan required under section 201 shall be determined by the protocols required under section 201(b)(10).

(b) VESSELS.—The Commandant of the Coast Guard shall, to the extent practicable and consistent with the protocols and plans required under paragraphs (10) and (12) of section 201(b), ensure the safe and secure transit of vessels to ports in the United States after a maritime transportation security incident, with priority given to vessels carrying cargo determined by the President to be critical for response and recovery from such a disruption or incident, and to vessels that—

(1) have either a vessel security plan approved under section 70103(c) of title 46, United States Code, or a valid international ship security certificate, as provided under part 104 of title 33, Code of Federal Regulations;

(2) are manned by individuals who are described in section 70105(b)(2)(B) of title 46, United States Code, and who—

(A) have undergone a background records check under section 70105(d) of title 46, United States Code; or

(B) hold a transportation security card issued under section 70105 of title 46, United States Code; and

(3) are operated by validated participants in the Customs-Trade Partnership Against Terrorism program.

(c) CARGO.—Consistent with the protocols and plans required under paragraphs (10) and (12) of section 201(b), the Commissioner shall give preference to cargo—

(1) entering a port of entry directly from a foreign seaport designated under Container Security Initiative;

(2) determined by the President to be critical for response and recovery;

(3) that has been handled by a validated C–TPAT participant; or

(4) that has undergone (A) a nuclear or radiological detection scan, (B) an x-ray, density or other imaging scan, and (C) an optical recognition scan, at the last port of departure prior to arrival in the United States, which data has been evaluated and analyzed by United States Customs and Border Protection personnel.

(d) COORDINATION.—The Secretary shall ensure that there is appropriate coordination among the Commandant of the Coast Guard, the Commissioner, and other Federal officials following a maritime disruption or maritime transportation security incident in order to provide for the resumption of trade.

(e) COMMUNICATION.—Consistent with section 201 of this Act, the Commandant of the Coast Guard, Commissioner, and other appropriate Federal officials, shall promptly communicate any revised procedures or instructions intended for the private sector following a maritime disruption or maritime transportation security incident.

**SEC. 203. AUTOMATED TARGETING SYSTEM.**

(a) IN GENERAL.—The Secretary, acting through the Commissioner, shall—

(1) identify and seek the submission of data related to the movement of a shipment of cargo through the international supply chain; and

(2) analyze the data described in paragraph (1) to identify high-risk cargo for inspection.

(b) CONSIDERATION.—The Secretary, acting through the Commissioner, shall—

(1) consider the cost, benefit, and feasibility of—

(A) requiring additional nonmanifest documentation;

(B) reducing the time period allowed by law for revisions to a container cargo manifest;

(C) reducing the time period allowed by law for submission of certain elements of entry data, for vessel or cargo; and

(D) such other actions the Secretary considers beneficial for improving the information relied upon for the Automated Targeting System and any successor targeting system in furthering the security and integrity of the international supply chain; and

(2) consult with stakeholders, including the Commercial Operations Advisory Committee, and identify to them the need for such information, and the appropriate timing of its submission.

(c) DETERMINATION.—Upon the completion of the process under subsection (b), the Secretary, acting through the Commissioner, may require importers to submit certain elements of non-manifest or other data about a shipment bound for the United States not later than 24 hours before loading a container on a vessel at a foreign port bound for the United States.

(d) SYSTEM IMPROVEMENTS.—The Secretary, acting through the Commissioner, shall—

(1) conduct, through an independent panel, a review of the effectiveness and capabilities of the Automated Targeting System;

(2) consider future iterations of the Automated Targeting System;

(3) ensure that the Automated Targeting System has the capability to electronically compare manifest and other available data for cargo entered into or bound for the United States to detect any significant anomalies between such data and facilitate the resolution of such anomalies; and

(4) ensure that the Automated Targeting System has the capability to electronically identify, compile, and compare select data elements for cargo entered into or bound for the United States following a maritime transportation security incident, in order to efficiently identify cargo for increased inspection or expeditious release.

(e) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to the United States Customs and Border Protection in the Department of Homeland Security to carry out the Automated Targeting System for identifying high-risk ocean-borne container cargo for inspection—

(A) $33,200,000 for fiscal year 2008;

(B) $35,700,000 for fiscal year 2009; and

(C) $37,485,000 for fiscal year 2010.

(2) SUPPLEMENT FOR OTHER FUNDS.—The amounts authorized by this subsection shall be in addition to any other amount authorized to be appropriated to carry out the Automated Targeting System.

**SEC. 204. CONTAINER SECURITY STANDARDS AND PROCEDURES.**

(a) ESTABLISHMENT.—

(1) IN GENERAL.—Not later than 60 days after the date of the enactment of this Act, the Secretary shall initiate a rulemaking proceeding to establish minimum standards and procedures for securing containers in transit to an importer in the United States.

(2) INTERIM RULE.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall issue an interim final rule pursuant to the proceeding described in paragraph (1).

(3) MISSED DEADLINE.—If the Secretary is unable to meet the deadline established pursuant to paragraph (2), the Secretary shall transmit a letter to the appropriate congressional committees explaining why the Secretary is unable to meet that deadline and describing what must be done before such minimum standards and procedures can be established.

(b) REVIEW AND ENHANCEMENT.—The Secretary shall regularly review and enhance the standards and procedures established pursuant to subsection (a).

(c) INTERNATIONAL CARGO SECURITY STANDARDS.—The Secretary, in consultation with the Secretary of State, the Secretary of Energy, and other government officials, as appropriate, and with the Commercial Operations Advisory Committee, the Homeland Security Advisory Committee, and the National Maritime Security Advisory Committee, is encouraged to promote and establish international standards for the security of containers moving through the international supply chain with foreign governments and international organizations, including the International Maritime Organization and the World Customs Organization.

**SEC. 205. CONTAINER SECURITY INITIATIVE.**

(a) ESTABLISHMENT.—The Secretary, acting through the Commissioner, shall establish and implement a program (referred to in this section as the ''Container Security Initiative'') to identify and examine or search maritime containers that pose a security risk before loading such containers in a foreign port for shipment to the United States, either directly or through a foreign port.

(b) ASSESSMENT.—The Secretary, acting through the Commissioner, may designate foreign seaports to participate in the Container Security Initiative after the Secretary has assessed the costs, benefits, and other factors associated with such designation, including—

(1) the level of risk for the potential compromise of containers by terrorists, or other threats as determined by the Secretary;

(2) the volume and value of cargo being imported to the United States directly from, or being transshipped through, the foreign seaport;

(3) the results of the Coast Guard assessments conducted pursuant to section 70108 of title 46, United States Code;

(4) the commitment of the government of the country in which the foreign seaport is located to cooperate with the Department to carry out the Container Security Initiative; and

(5) the potential for validation of security practices at the foreign seaport by the Department.

(c) NOTIFICATION.—The Secretary shall notify the appropriate congressional committees of the designation of a foreign port under the Container Security Initiative or the revocation of such a designation before notifying the public of such designation or revocation.

(d) NEGOTIATIONS.—The Secretary, in cooperation with the Secretary of State and in consultation with the United States Trade Representative, may enter into negotiations with the government of each foreign nation in which a seaport is designated under the Container Security Initiative to ensure full compliance with the requirements under the Container Security Initiative.

(e) OVERSEAS INSPECTIONS.—The Secretary shall enter into agreements with the governments of foreign countries participating in the Container Security Initiative that establish criteria and procedures for an integrated scanning system and shall monitor operations at foreign seaports designated under the Container Security Initiative to ensure the use of such criteria and procedures. Such criteria and procedures—

(1) shall be consistent with relevant standards and procedures utilized by other Federal departments or agencies, or developed by international bodies if the United States consents to such standards and procedures;

(2) shall not apply to activities conducted under the Megaports Initiative of the Department of Energy;

(3) shall not be designed to endorse the product or technology of any specific company or to conflict with the sovereignty of a country in which a foreign seaport designated under the Container Security Initiative is located;

(4) shall be applied to the equipment operated at each foreign seaport designated under the Container Security Initiative, except as provided under paragraph (2); and

(5) shall prohibit, beginning on October 1, 2008, the shipment of any container from a foreign seaport designated under Container Security Initiative to a port in the United States unless the container has passed through an integrated scanning system.

(f) SAVINGS PROVISION.—The authority of the Secretary under this section shall not affect any authority or duplicate any efforts or responsibilities of the Federal Government with respect to the deployment of radiation detection equipment outside of the United States under any program administered by the Department.

(g) COORDINATION.—The Secretary shall coordinate with the Secretary of Energy to—

(1) provide radiation detection equipment required to support the Container Security Initiative through the Department of Energy's Second Line of Defense and Megaports programs; or

(2) work with the private sector to obtain radiation detection equipment that meets the Department's technical specifications for such equipment.

(h) STAFFING.—The Secretary shall develop a human capital management plan to determine adequate staffing levels in the United States and in foreign seaports including, as appropriate, the remote location of personnel in countries in which foreign seaports are designated under the Container Security Initiative.

(i) ANNUAL DISCUSSIONS.—The Secretary, in coordination with the appropriate Federal officials, shall hold annual discussions with foreign governments of countries in which foreign seaports designated under the Container Security Initiative are located regarding best practices, technical assistance, training needs, and technological developments that will assist in ensuring the efficient and secure movement of international cargo.

(j) LESSER RISK PORT.—The Secretary, acting through the Commissioner, may treat cargo loaded in a foreign seaport designated under the Container Security Initiative as presenting a lesser risk than similar cargo loaded in a foreign seaport that is not designated under the Container Security Initiative, for the purpose of clearing such cargo into the United States.

(k) REPORT.—

(1) IN GENERAL.—Not later than September 30, 2007, the Secretary, acting through the Commissioner, shall, in consultation with other appropriate government officials and the Commercial Operations Advisory Committee, submit a report to the appropriate congressional committee on the effectiveness of, and the need for any improvements to, the Container Security Initiative. The report shall include—

(A) a description of the technical assistance delivered to, as well as needed at, each designated seaport;

(B) a description of the human capital management plan at each designated seaport;

(C) a summary of the requests made by the United States to foreign governments to conduct physical or nonintrusive inspections of

cargo at designated seaports, and whether each such request was granted or denied by the foreign government;

(D) an assessment of the effectiveness of screening, scanning, and inspection protocols and technologies utilized at designated seaports and the effect on the flow of commerce at such seaports, as well as any recommendations for improving the effectiveness of screening, scanning, and inspection protocols and technologies utilized at designated seaports;

(E) a description and assessment of the outcome of any security incident involving a foreign seaport designated under the Container Security Initiative; and

(F) a summary and assessment of the aggregate number and extent of trade compliance lapses at each seaport designated under the Container Security Initiative.

(2) UPDATED REPORT.—Not later than September 30, 2010, the Secretary, acting through the Commissioner, shall, in consultation with other appropriate government officials and the Commercial Operations Advisory Committee, submit an updated report to the appropriate congressional committees on the effectiveness of, and the need for any improvements to, the Container Security Initiative. The updated report shall address each of the elements required to be included in the report provided for under paragraph (1).

(l) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the United States Customs and Border Protection in the Department of Homeland Security to carry out the provisions of this section—

(1) $144,000,000 for fiscal year 2008;

(2) $146,000,000 for fiscal year 2009; and

(3) $153,300,000 for fiscal year 2010.

**Subtitle B—Customs-Trade Partnership Against Terrorism**

**SEC. 211. ESTABLISHMENT.**

(a) ESTABLISHMENT.—The Secretary, acting through the Commissioner is authorized to establish a voluntary government-private sector program (to be known as the ''Customs-Trade Partnership Against Terrorism'' or ''C–TPAT'') to strengthen and improve the overall security of the international supply chain and United States border security, and to facilitate the movement of secure cargo through the international supply chain, by providing benefits to participants meeting or exceeding the program requirements. Participants in C–TPAT shall include tier 1 participants, tier 2 participants, and tier 3 participants.

(b) MINIMUM SECURITY REQUIREMENTS.—The Secretary, acting through the Commissioner, shall review the minimum security requirements of C–TPAT at least once every year and update such requirements as necessary.

**SEC. 212. ELIGIBLE ENTITIES.**

Importers, customs brokers, forwarders, air, sea, land carriers, contract logistics providers, and other entities in the international supply chain and intermodal transportation system are eligible to apply to voluntarily enter into partnerships with the Department under C–TPAT.

**SEC. 213. MINIMUM REQUIREMENTS.**

An applicant seeking to participate in C–TPAT shall—

(1) demonstrate a history of moving cargo in the international supply chain;

(2) conduct an assessment of its supply chain based upon security criteria established by the Secretary, acting through the Commissioner, including—

(A) business partner requirements;

(B) container security;

(C) physical security and access controls;

(D) personnel security;

(E) procedural security;

(F) security training and threat awareness; and

(G) information technology security;

(3) implement and maintain security measures and supply chain security practices meeting security criteria established by the Commissioner; and

(4) meet all other requirements established by the Commissioner in consultation with the Commercial Operations Advisory Committee.

**SEC. 214. TIER 1 PARTICIPANTS IN C–TPAT.**

(a) BENEFITS.—The Secretary, acting through the Commissioner, shall offer limited benefits to a tier 1 participant who has been certified in accordance with the guidelines referred to in subsection (b). Such benefits may include a reduction in the score assigned pursuant to the Automated Targeting System of not greater than 20 percent of the high risk threshold established by the Secretary.

(b) GUIDELINES.—Not later than 180 days after the date of the enactment of this Act, the Secretary, acting through the Commissioner, shall update the guidelines for certifying a C–TPAT participant's security measures and supply chain security practices under this section. Such guidelines shall include a background investigation and extensive documentation review.

(c) TIME FRAME.—To the extent practicable, the Secretary, acting through the Commissioner, shall complete the tier 1 certification process within 90 days of receipt of an application for participation in C–TPAT.

**SEC. 215. TIER 2 PARTICIPANTS IN C–TPAT.**

(a) VALIDATION.—The Secretary, acting through the Commissioner, shall validate the security measures and supply chain security practices of a tier 1 participant in accordance with the guidelines referred to in subsection (c). Such validation shall include on-site assessments at appropriate foreign locations utilized by the tier 1 participant in its supply chain and shall, to the extent practicable, be completed not later than 1 year after certification as a tier 1 participant.

(b) BENEFITS.—The Secretary, acting through the Commissioner, shall extend benefits to each C-TPAT participant that has been validated as a tier 2 participant under this section, which may include—

(1) reduced scores in the Automated Targeting System;

(2) reduced examinations of cargo; and

(3) priority searches of cargo.

(c) GUIDELINES.—Not later than 180 days after the date of the enactment of this Act, the Secretary, acting through the Commissioner, shall develop a schedule and update the guidelines for validating a participant's security measures and supply chain security practices under this section.

**SEC. 216. TIER 3 PARTICIPANTS IN C–TPAT.**

(a) IN GENERAL.—The Secretary, acting through the Commissioner, shall establish a third tier of C–TPAT participation that offers additional benefits to participants who demonstrate a sustained commitment to maintaining security measures and supply chain security practices that exceed the guidelines established for validation as a tier 2 participant in C–TPAT under section 215 of this Act.

(b) CRITERIA.—The Secretary, acting through the Commissioner, shall designate criteria for validating a C–TPAT participant as a tier 3 participant under this section. Such criteria may include—

(1) compliance with any additional guidelines established by the Secretary that exceed the guidelines established pursuant to section 215 of this Act for validating a C–TPAT participant as a tier 2 participant, particularly with respect to controls over access to cargo throughout the supply chain;

(2) voluntary submission of additional information regarding cargo prior to loading, as determined by the Secretary;

(3) utilization of container security devices and technologies that meet standards and criteria established by the Secretary; and

(4) compliance with any other cargo requirements established by the Secretary.

(c) BENEFITS.—The Secretary, acting through the Commissioner, in consultation with the Commercial Operations Advisory Committee and the National Maritime Security Advisory Committee, shall extend benefits to each C–TPAT participant that has been validated as a tier 3 participant under this section, which may include—

(1) the expedited release of a tier 3 participant's cargo in destination ports within the United States during all threat levels designated by the Secretary;

(2) in addition to the benefits available to tier 2 participants—

(A) further reduction in examinations of cargo;

(B) priority for examinations of cargo; and

(C) further reduction in the risk score assigned pursuant to the Automated Targeting System;

(3) notification of specific alerts and post-incident procedures to the extent such notification does not compromise the security interests of the United States; and

(4) inclusion in joint incident management exercises, as appropriate.

(d) DEADLINE.—Not later than 2 years after the date of the enactment of this Act, the Secretary, acting through the Commissioner, shall designate appropriate criteria pursuant to subsection (b) and provide benefits to validated tier 3 participants pursuant to subsection (c).

**SEC. 217. CONSEQUENCES FOR LACK OF COMPLIANCE.**

(a) IN GENERAL.—If at any time a C–TPAT participant's security measures and supply chain security practices fail to meet any of the requirements under this subtitle, the Commissioner may deny the participant benefits otherwise available under this subtitle, in whole or in part.

(b) FALSE OR MISLEADING INFORMATION.—If a C–TPAT participant knowingly provides false or misleading information to the Commissioner during the validation process provided for under this subtitle, the Commissioner shall suspend or expel the participant from C–TPAT for an appropriate period of time. The Commissioner may publish in the Federal Register a list of participants who have been suspended or expelled from C–TPAT pursuant to this subsection, and may make such list available to C–TPAT participants.

(c) RIGHT OF APPEAL.—

(1) IN GENERAL.—A C–TPAT participant may appeal a decision of the Commissioner pursuant to subsection (a). Such appeal shall be filed with the Secretary not later than 90 days after the date of the decision, and the Secretary shall issue a determination not later than 180 days after the appeal is filed.

(2) APPEALS OF OTHER DECISIONS.—A C–TPAT participant may appeal a decision of the Commissioner pursuant to subsection (b). Such appeal shall be filed with the Secretary not later than 30 days after the date of the decision, and the Secretary shall issue a determination not later than 180 days after the appeal is filed.

**SEC. 218. REVALIDATION.**

The Secretary, acting through the Commissioner, shall develop and implement—

(1) a revalidation process for tier 2 and tier 3 participants;

(2) a framework based upon objective criteria for identifying participants for periodic

revalidation not less frequently than once during each 5-year period following the initial validation; and

(3) an annual plan for revalidation that includes—

(A) performance measures;

(B) an assessment of the personnel needed to perform the revalidations; and

(C) the number of participants that will be revalidated during the following year.

**SEC. 219. NONCONTAINERIZED CARGO.**

The Secretary, acting through the Commissioner, shall consider the potential for participation in C–TPAT by importers of noncontainerized cargoes that otherwise meet the requirements under this subtitle.

**SEC. 220. C–TPAT PROGRAM MANAGEMENT.**

(a) IN GENERAL.—The Secretary, acting through the Commissioner, shall establish sufficient internal quality controls and record management to support the management systems of C–TPAT. In managing the program, the Secretary shall ensure that the program includes:

(1) STRATEGIC PLAN.—A 5-year plan to identify outcome-based goals and performance measures of the program.

(2) ANNUAL PLAN.—An annual plan for each fiscal year designed to match available resources to the projected workload.

(3) STANDARDIZED WORK PROGRAM.—A standardized work program to be used by agency personnel to carry out the certifications, validations, and revalidations of participants. The Secretary shall keep records and monitor staff hours associated with the completion of each such review.

(b) DOCUMENTATION OF REVIEWS.—The Secretary, acting through the Commissioner, shall maintain a record management system to document determinations on the reviews of each C–TPAT participant, including certifications, validations, and revalidations.

(c) CONFIDENTIAL INFORMATION SAFEGUARDS.—In consultation with the Commercial Operations Advisory Committee, the Secretary, acting through the Commissioner, shall develop and implement procedures to ensure the protection of confidential data collected, stored, or shared with government agencies or as part of the application, certification, validation, and revalidation processes.

**SEC. 221. RESOURCE MANAGEMENT STAFFING PLAN.**

The Secretary, acting through the Commissioner, shall—

(1) develop a staffing plan to recruit and train staff (including a formalized training program) to meet the objectives identified in the strategic plan of the C–TPAT program; and

(2) provide cross-training in post-incident trade resumption for personnel who administer the C–TPAT program.

**SEC. 222. ADDITIONAL PERSONNEL.**

In each of the fiscal years 2007 through 2009, the Commissioner shall increase by not less than 50 the number of full-time personnel engaged in the validation and revalidation of C–TPAT participants (over the number of such personnel on the last day of the previous fiscal year), and shall provide appropriate training and support to such additional personnel.

**SEC. 223. AUTHORIZATION OF APPROPRIATIONS.**

(a) C-TPAT.—There are authorized to be appropriated to the United States Customs and Border Protection in the Department of Homeland Security to carry out the provisions of sections 211 through 221 to remain available until expended—

(1) $65,000,000 for fiscal year 2008;

(2) $72,000,000 for fiscal year 2009; and

(3) $75,600,000 for fiscal year 2010.

(b) ADDITIONAL PERSONNEL.—In addition to any monies hereafter appropriated to the United States Customs and Border Protection in the Department of Homeland Security, there are authorized to be appropriated for the purpose of meeting the staffing requirement provided for in section 222, to remain available until expended—

(1) $8,500,000 for fiscal year 2007;

(2) $17,600,000 for fiscal year 2008;

(3) $27,300,000 for fiscal year 2009;

(4) $28,300,000 for fiscal year 2010; and

(5) $29,200,000 for fiscal year 2011.

**SEC. 224. REPORT TO CONGRESS.**

In connection with the President's annual budget submission for the Department of Homeland Security, the Secretary shall report to the appropriate congressional committees on the progress made by the Commissioner to certify, validate, and revalidate C–TPAT participants. Such report shall be due on the same date that the President's budget is submitted to the Congress.

**Subtitle C—Miscellaneous Provisions**

**SEC. 231. PILOT INTEGRATED SCANNING SYSTEM.**

(a) DESIGNATIONS.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall designate 3 foreign seaports through which containers pass or are transshipped to the United States for the establishment of pilot integrated scanning systems that couple nonintrusive imaging equipment and radiation detection equipment. The equipment may be provided by the Megaports Initiative of the Department of Energy. In making the designations under this paragraph, the Secretary shall consider 3 distinct ports with unique features and differing levels of trade volume.

(b) COLLABORATION AND COOPERATION.—The Secretary shall collaborate with the Secretary of Energy and cooperate with the private sector and the foreign government of each country in which a foreign seaport is designated pursuant to subsection (a) to implement the pilot systems.

(c) IMPLEMENTATION.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall achieve a full-scale implementation of the pilot integrated screening system, which shall—

(1) scan all containers destined for the United States that transit through the port; and

(2) electronically transmit the images and information to the container security initiative personnel in the host country and customs personnel in the United States for evaluation and analysis.

(d) REPORT.—Not later than 120 days after achieving full-scale implementation under subsection (c), the Secretary, in consultation with the Secretary of Energy and the Secretary of State, shall submit a report to the appropriate congressional committees, that includes—

(1) an evaluation of the lessons derived from the pilot system implemented under this subsection;

(2) an analysis of the efficacy of the Automated Targeting System or other relevant programs in utilizing the images captured to examine high-risk containers;

(3) an evaluation of software that is capable of automatically identifying potential anomalies in scanned containers;

(4) an analysis of the need and feasibility of expanding the integrated scanning system to other container security initiative ports, including—

(A) an analysis of the infrastructure requirements;

(B) a projection of the effect on current average processing speed of containerized cargo;

(C) an evaluation of the scalability of the system to meet both current and future forecasted trade flows;

(D) the ability of the system to automatically maintain and catalog appropriate data for reference and analysis in the event of a transportation disruption;

(E) an analysis of requirements to install and maintain an integrated scanning system;

(F) the ability of administering personnel to efficiently manage and utilize the data produced by a non-intrusive scanning system;

(G) the ability to safeguard commercial data generated by, or submitted to, a non-intrusive scanning system; and

(H) an assessment of the reliability of currently available technology to implement an integrated scanning system.

(e) IMPLEMENTATION.—Not later than October 1, 2010, an integrated scanning system shall be implemented to scan all containers entering the United States prior to arrival in the United States.

Mr. SCHUMER. I thank the Senator from Alaska.

The PRESIDING OFFICER. The Senator from New York.

Mrs. CLINTON, Madam President, I will yield a few minutes to Senator KERRY in a moment, but I ask unanimous consent to temporarily set aside the pending amendment to call up an amendment.

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

AMENDMENT NO. 4957

Mrs. CLINTON. I ask unanimous consent to call up Senate amendment 4957.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from New York [Mrs. CLINTON] for herself and Mrs. DOLE, proposes an amendment numbered 4957.

Mrs. CLINTON. I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To facilitate nationwide availability of 2–1–1 telephone service for information on and referral to human services, including volunteer opportunities related to human services, and for other purposes)

At the end, insert the following:

**TITLE __—2-1-1 SERVICE**

**SEC. __1. GRANTS TO FACILITATE NATIONWIDE AVAILABILITY OF 2–1–1 SERVICE FOR INFORMATION ON AND REFERRAL TO HUMAN SERVICES.**

(a) GRANTS REQUIRED.—The Secretary of Health and Human Services, acting through the Assistant Secretary for Children and Families, shall award a grant to each eligible State to carry out a program for the purpose of making 2–1–1 telephone service available to all residents of the State with phone service for information on and referral to human services. The grant, and the service provided through the grant, shall supplement existing (as of the date of the award) funding streams or services.

(b) PERIOD AND AMOUNT OF GRANTS.—The Secretary of Health and Human Services shall award the grants for periods determined by the Secretary. The Secretary shall award the grants in amounts that are not less than a minimum amount determined by the Secretary.

(c) REQUIREMENT ON SHARE OF ACTIVITIES.—

(1) REQUIREMENT.—A State may not be awarded a grant under this section unless the State ensures that at least 50 percent of the resources of the program funded by the grant will be derived from other sources.

(2) IN-KIND CONTRIBUTIONS.—The requirement specified in paragraph (1) may be satisfied by in-kind contributions of goods or services.

(d) LEAD ENTITY.—

(1) IN GENERAL.—A State seeking a grant under this section shall carry out this section through a lead entity (also known as a ''2–1–1 Collaborative'') meeting the requirements of this subsection.

(2) 2–1–1 COLLABORATIVE.—An entity shall be treated as the 2–1–1 Collaborative for a State under this subsection if the entity—

(A) exists for such purpose under State law;

(B) exists for such purpose by order of the State public utility commission; or

(C) is a collaborative entity established by the State for such purpose from among representatives of—

(i) an informal existing (as of the date of establishment of the entity) 2–1–1 statewide collaborative, if any, in the State;

(ii) State agencies;

(iii) community-based organizations;

(iv) faith-based organizations;

(v) not-for-profit organizations;

(vi) comprehensive and specialized information and referral providers, including current (as of the date of establishment of the entity) 2–1–1 call centers;

(vii) foundations; and

(viii) businesses.

(3) REQUIREMENTS FOR PREEXISTING LEAD ENTITIES.—An entity described by subparagraph (A) or (B) of paragraph (2) may be treated as a lead entity under this subsection only if such entity collaborates, to the extent practicable, with the organizations and entities listed in subparagraph (C) of that paragraph.

(e) APPLICATION.—

(1) IN GENERAL.—The lead entity for each State seeking a grant under this section shall submit to the Secretary an application in such form as the Secretary shall require.

(2) INFORMATION.—An application for a State under this subsection shall contain information as follows:

(A) Information, on the program to be carried out by the lead entity for the State so that every resident of the State with phone service may call the 2–1–1 telephone service at no charge to the caller, describing how the lead entity plans to make available throughout the State 2–1–1 telephone service information and referral on human services, including information on the manner in which the lead entity will develop, sustain, and evaluate the program.

(B) Information on the sources of resources for the program for purposes of meeting the requirement specified in subsection (c).

(C) Information describing how the entity shall provide, to the extent practicable, a statewide database available to all residents of the State as well as all providers of human services programs, through the Internet, that will allow them to search for programs or services that are available according to the data gathered by the human services programs in the State.

(D) Any additional information that the Secretary may require for purposes of this section.

(f) SUBGRANTS.—

(1) AUTHORITY.—In carrying out a program to make 2–1–1 telephone service available to all residents of a State with phone service, the lead entity for the State may award subgrants to such persons or entities as the lead entity considers appropriate for purposes of the program, including subgrants to provide funds—

(A) for the provision of 2–1–1 telephone service;

(B) for the operation and maintenance of 2–1–1 call centers; and

(C) for the collection and display of information for the statewide database.

(2) CONSIDERATIONS.—In awarding a subgrant under this subsection, a lead entity shall consider—

(A) the ability of the person or entity seeking the subgrant to carry out activities or provide services consistent with the program;

(B) the extent to which the award of the subgrant will facilitate equitable geographic distribution of subgrants under this section to ensure that rural communities have access to 2–1–1 telephone service; and

(C) the extent to which the recipient of the subgrant will establish and maintain cooperative relationships with specialized information and referral centers, including Child Care Resource Referral Agencies, crisis centers, 9–1–1 call centers, and 3–1–1 call centers, if applicable.

(g) USE OF GRANT AND SUBGRANT AMOUNTS.—

(1) IN GENERAL.—Amounts awarded as grants or subgrants under this section shall be used solely to make available 2–1–1 telephone service to all residents of a State with phone service for information on and referral to human services, including telephone connections between families and individuals seeking such services and the providers of such services.

(2) PARTICULAR MATTERS.—In making 2–1–1 telephone service available, the recipient of a grant or subgrant shall, to the maximum extent practicable—

(A) abide by the highest quality existing (as of the date of the award of the grant or subgrant) Key Standards for 2–1–1 Centers; and

(B) collaborate with human services organizations, whether public or private, to provide an exhaustive database of services with which to provide information or referrals to individuals utilizing 2–1–1 telephone service.

(3) USE OF FUNDS.—Amounts of a subgrant under subsection (f) may be used by subgrant recipients for statewide and regional planning, start-up costs (including costs of software and hardware upgrades and telecommunications costs), training, accreditation, public awareness activities, evaluation of activities, Internet hosting and site development and maintenance for a statewide database, database integration projects that incorporate data from different 2–1–1 programs into a single statewide database, and the provision of 2–1–1 telephone service. The amounts may not be used for maintenance activities or any other ongoing activity that promotes State reliance on the amounts.

(h) REQUIREMENT ON ALLOCATION OF GRANT AMOUNTS.—Of the amounts awarded under this section, an aggregate of not more than 15 percent shall be allocated for evaluation, training, and technical assistance, and for management and administration of subgrants awarded under this section.

(i) REPORTS.—The lead entity for each State awarded a grant under this section for a fiscal year shall submit to the Secretary, not later than 60 days after the end of such fiscal year, a report on the program funded by the grant. Each report shall—

(1) describe the program funded by the grant;

(2) assess the effectiveness of the program in making available, to all residents of the State with phone service, 2–1–1 telephone service, for information on and referral to human services in accordance with the provisions of this section; and

(3) assess the effectiveness of collaboration with human services resource and referral entities and service providers.

(j) DEFINITIONS.—In this section:

(1) HUMAN SERVICES.—The term ''human services'' means services as follows:

(A) Services that assist individuals in becoming more self-sufficient, in preventing dependency, and in strengthening family relationships.

(B) Services that support personal and social development.

(C) Services that help ensure the health and well-being of individuals, families, and communities.

(2) INFORMATION AND REFERRAL CENTER.—The term ''information and referral center'' means a center that—

(A) maintains a database of providers of human services in a State or locality;

(B) assists individuals, families, and communities in identifying, understanding, and accessing the providers of human services and the human services offered by the providers; and

(C) tracks types of calls referred and received to document the demands for services.

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

**SEC. __2. AUTHORIZATION OF APPROPRIATIONS.**

(a) IN GENERAL.—There are authorized to be appropriated to carry out this title, $75,000,000 for fiscal year 2007 and such sums as may be necessary for each of fiscal years 2008 through 2012.

(b) AVAILABILITY.—Amounts appropriated pursuant to the authorization of appropriations specified in subsection (a) shall remain available until expended.

AMENDMENT NO. 4943

Mrs. CLINTON. Madam President, I ask unanimous consent to temporarily set aside the pending amendment to call up an amendment.

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

Mrs. CLINTON. I ask unanimous consent to call up Senate amendment 4943.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from New York [Mrs. CLINTON] proposes an amendment numbered 4943.

Mrs. CLINTON. 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 fund additional research to improve the detection of explosive materials at airport security checkpoints)

At the end, insert the following:

**TITLE V—AIRPORT SECURITY**

**SEC. 501. AVIATION RESEARCH AND DEVELOPMENT FOR EXPLOSIVE DETECTION.**

(a) ADVANCED EXPLOSIVES DETECTION SYSTEMS.—The Secretary of Homeland Security, through the Under Secretary for Science and Technology and the Assistant Secretary of the Transportation Security Administration, and in consultation with the Secretary of Transportation, shall, in carrying out research and development on the detection of explosive materials at airport security checkpoints, focus on the detection of explosive materials, including liquid explosives, in a manner that—

(1) improves the ability of airport security technologies to determine which items could—

(A) threaten safety;

(B) be used as an explosive; or

(C) assembled into an explosive device; and

(2) results in the development of an advanced screening technology that incorporates existing technologies into a single screening system.

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to the Secretary of Homeland Security to carry out this section—

(A) $200,000,000 for fiscal year 2008; and

(B) $250,000,000 for fiscal year 2009.

(2) AVAILABILITY.—Amounts appropriated pursuant to paragraph (1) shall remain available until expended.

AMENDMENT NO. 4958

Mrs. CLINTON. I ask unanimous consent that the pending amendment be temporarily set aside, and I call up amendment No. 4958.

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

The bill clerk read as follows:

The Senator from New York [Mrs. CLINTON], for herself and Mr. SCHUMER, proposes an amendment numbered 4958.

Mrs. CLINTON. I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To establish a grant program for individuals still suffering health effects as a result of the September 11, 2001, attacks in New York City)

At the appropriate place, insert the following:

**SEC. ___. GRANTS FOR 9/11-RELATED HEALTH CARE.**

(a) IN GENERAL.—The Secretary of Health and Human Services (referred to in this section as the ''Secretary''), acting through the Director of the Centers for Disease Control and Prevention, shall award grants to eligible entities to provide medical and mental health monitoring, tracking, and treatment to individuals whose health has been directly impacted as a result of the attacks on New York City on September 11, 2001.

(b) ELIGIBILITY.—

(1) IN GENERAL.—To be eligible to receive a grant under subsection (a), an entity shall—

(A) be an entity—

(i) that serves individuals described in subsection (a), including entities providing baseline and follow-up screening, clinical examinations, or long-term medical or mental health monitoring, analysis, or treatment to such individuals such as the Mount Sinai Center for Occupational and Environmental Medicine of New York City, the New York City Fire Department's Bureau of Health Services and Counseling Services Unit, the New York City Police Foundation's Project COPE, the Police Organization Providing Peer Assistance of New York City, and the New York City Department of Health and Mental Hygiene's World Trade Center Health Registry; or

(ii) an entity not described in clause (i) that provides similar services to the individuals described in such clause; and

(B) submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

(2) ELIGIBLE INDIVIDUALS.—Individuals eligible to receive assistance from an entity under a grant under this section shall include firefighters, police officers, paramedics, workers, volunteers, residents, and any other individual who worked at Ground Zero or Fresh Kills, or who lived or worked in the vicinity of such areas, and whose health has deteriorated as a result of the attacks described in subsection (a).

(c) PRIORITY IN AWARDING ASSISTANCE.—An eligible entity that receives a grant under this section shall use amounts provided under such grant to provide assistance to individuals in the following order of priority:

(1) Individuals who are not covered under health insurance coverage.

(2) Individuals who need health care assistance beyond what their health insurance coverage provides.

(3) Individuals with insufficient health care insurance coverage.

(4) Individuals who are in need of health care coverage and who are not described in any of paragraphs (1) through (3).

(d) REPORT.—Not later than 30 days after the date of enactment of this Act, and monthly thereafter, the Director of the Centers for Disease Control and Prevention shall submit to the Majority and Minority Leaders of the Senate, the Speaker of the House of Representatives, and the Minority Leader of the House of Representatives, a report on the use of funds under this section.

(e) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to carry out this section, $1,914,000,000 for fiscal years 2007 through 2011.

(2) STAFF AND ADMINISTRATION.—The Secretary may use not to exceed $10,000,000 of the amount appropriated under paragraph (1) for staffing and administrative expenses related to the implementation of this section.

(3) USE OF OTHER FUNDS.—The Secretary may use any funds appropriated to the Department of Health and Human Services, or any other funds specifically designated, to carry out this section.

Mrs. CLINTON. I ask unanimous consent to add Senator SCHUMER as a cosponsor to 4958.

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

Mrs. CLINTON. At this time, I ask that we return to the regular order. I am going to yield 2 minutes to Senator KERRY and then reclaim the remainder of the time set aside for me on the Democratic side with unanimous consent.

Mr. STEVENS. I object. Just a minute. We do not want to have a whole schedule here through one Senator having the floor.

What amendment is now pending before the Senate?

The PRESIDING OFFICER. The Schumer amendment. The amendment numbered 4930 is now pending.

Mr. STEVENS. Is the Senator from New York yielding time on Senator SCHUMER's amendment?

Mrs. CLINTON. I ask unanimous consent to set aside Senator SCHUMER's amendment and return to the regular order.

Mr. STEVENS. What is the request for time limitation on this amendment?

The PRESIDING OFFICER. The Schumer amendment is the regular order. There is no time agreement on this amendment.

Mr. STEVENS. I am not objecting to her setting aside the Schumer amendment. She has made a request beyond that for a limitation of time on some amendment.

Mrs. CLINTON. Madam President, I ask to speak on amendment 4958, which I ask to be pending at this time. The Senator from Massachusetts asked for a 2-minute timeframe. I was trying to accommodate the Senator. I had been told by our side I would have 20 minutes to speak on amendment No. 4958.

Mrs. MURRAY. Madam President, if I could clarify for the Senate, on our side, what we would like to be able to do over the next half hour, Senator KERRY of Massachusetts would like 2 minutes, the Senator from New York would like 20 minutes, and we are willing to work with you in order to accommodate both those Senators.

Mr. STEVENS. I don't know who has the floor. I think the Senator from New York does.

Madam President, we are perfectly willing to enter into a time agreement on the Senator's amendment, but we want some allocated to this side, too. We would like to know what the request is for time.

Mrs. CLINTON. Madam President, could I ask unanimous consent that Senator KERRY be given 2 minutes and I follow with 20 minutes and then we go back to the other side with their procedure as to their speakers?

Mr. STEVENS. We have no objection to the Senator requesting time for herself and the Senator from Massachusetts. I just don't think it is right to have a time allocation without consideration of the Senators, that is all.

Ms. COLLINS. And without checking with the managers of the bill. We have a great number of Senators who are seeking to bring up their amendments or speak on the bill, and it would be helpful if the Senator from New York would work through the managers of the bill.

Mrs. CLINTON. Madam President, I spoke with the Senator from Washington who is managing the bill on our side. That was the direction I received from the Senator from Washington. I would like the record to reflect that I am following the direction of the manager of the bill on our side.

I hope we can move forward now with a unanimous consent order as to how we will proceed going forward.

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

The Senator from Massachusetts.

Mr. KERRY. Madam President, I thank the Senator from New York, and I thank the Senate.

Madam President, I would like to speak as in morning business.

(The remarks of Mr. KERRY are printed in today's RECORD under ''Morning Business.'')

The PRESIDING OFFICER (Mr. DEMINT). The Senator's time has expired.

The Senator from New York.

AMENDMENT NO. 4958

Mrs. CLINTON. Mr. President, is the pending business before the Senate amendment No. 4958?

The PRESIDING OFFICER. That is the pending amendment.

Mrs. CLINTON. Thank you, Mr. President.

Mr. President, this amendment goes to the heart of our obligations to one

another with respect to homeland security. It arises out of the attacks of 9/11, the extraordinary physical damage that has been done to thousands and thousands of New Yorkers and other Americans because they responded to that disaster, because they worked in the area of Ground Zero, because they lived or volunteered there.

Each of us is marked in our own way by the events of 5 years ago. I need not recount them. We have just gone through a very painful anniversary of those attacks. My hope is we would not mark this 5-year anniversary merely by replayings and speeches and solemn readings of the names of the victims but that it would serve as a reminder of our unfinished business and a call to action on behalf of the service and sacrifice of first responders, workers, and volunteers who participated in the rescue and recovery at Ground Zero.

I have worked over the past 5 years to honor the memories of those who died, to take care of their families, and to help rebuild New York. I have fought for the funding that has generously been offered by the American people to support the economic recovery of downtown New York, building new buildings, helping to support small businesses, creating new transportation infrastructure to replace that which was obliterated. And I have worked to secure funding, starting in the fall of 2001, to monitor those who were affected by the exposure to the toxic gases and substances in the air as a result of the attacks and the implosion of the buildings.

I believe we have a moral obligation as a nation to take care of those who both took care of us and who attempted to return to their ordinary lives as a way of demonstrating solidarity and commitment, resilience and courage, in the face of the terrorist attacks.

There is much we have to do, which is why we are debating this bill about port security. But there is so much more than port security. Democrats offered a comprehensive amendment to this bill that contained the recommendations of many experts, including the 9/11 Commission. Sadly, it was unsuccessful. But that does not mean it was not merited. We cannot rest until we have a comprehensive, well-funded strategy to deal with the threats we face.

But I rise today to talk about a very specific issue. The toll of that fateful day goes beyond the families and friends and colleagues, the brave responders who saved 25,000 people in the greatest rescue mission in the history of the world. Their lives will always stand in our memory and in honor. But thousands of others rushed into that burning inferno. Thousands of others were there when that enormous, devastating cloud of death and destruction covered much of lower Manhattan, crossed the river to Brooklyn, crossed the river to New Jersey.

We have been working to understand the health implications for the people who breathed that air. That is why I fought to get money for a monitoring and screening program that was established, both at the fire department to take care of our firefighters and also at one of our great hospitals, Mount Sinai, to figure out what happened to everybody else.

The work that commenced from the moment the first plane hit was hazardous and difficult. For as long as 9 months, we had firefighters and police officers, trade and construction workers, other workers, volunteers, residents—we had probably at least 40,000 people coming and going and staying on that site. They worked and lived amidst the dust and the fog and the smog—a toxic mix of debris, smoke, and chemicals.

I first visited the site about 24 hours after the attacks. I was within blocks of the epicenter of the attack, and I could not see anything. But I could smell it. I could taste it. I could literally feel it. And as I watched that curtain of darkness part and the firefighters walking out, covered in black soot, dragging their fire axes, barely able to stand after being on duty for probably 24 hours, I had the first inkling that the damaging effects of 9/11 would last far beyond the actual attack.

Now, unfortunately, our Government officials in charge of making sure health and working conditions did not negatively impact our first responders sent mixed signals, at best. I would go further. They misled people. They said the air was safe. They made no effort to reach out and share the dangers that people knew were in this air.

It was not only people from New York who responded; it was people from all over the country. My colleague, Senator VOINOVICH from Ohio, and I have a bill that would set up a system for the President to carry out a program for the monitoring of the health and safety of first responders who are exposed to harmful substances as a result of the disaster, rather than reacting on ad hoc basis, as we have had to do in the wake of 9/11.

Because of what I witnessed firsthand, and what people started to tell me, the trademark World Trade Center cough appeared within days. People had trouble breathing. They had trouble swallowing. They were coughing. That is why I was so insistent upon getting $12 million to establish the World Trade Center Worker and Volunteer Medical Screening Program at Mount Sinai. We quickly realized they would need a lot more workers because thousands and thousands of people were signing up and coming. So we secured an additional $90 million, and we expanded the number of workers and volunteers, and that was in addition to what we did for the fire department, which ran its own program.

Well, last week, Mount Sinai released a report that confirmed our worst fears. It confirmed an earlier report of the New York City Fire Department study. Tens of thousands of firefighters and all the others who were there were not only exposed but were suffering from significant medical and mental health problems. We are seeing young men and women in the prime of their lives, who were in excellent physical health, experiencing asthma, bronchitis, persistent sinusitis, laryngitis. They are suffering from serious diseases, reactive airwave disease. Their lungs are collapsing. Their livers are polluted. In fact, we are now seeing the first deaths.

It is not enough to say we stand with the brave men and women who responded when we needed them. We have to do more. We appropriated $125 million. And after a year and a half of struggle, money that was meant to go for the workers' comp system—because so many of these people cannot work anymore. They are on disability. They are forced into retirement. And so many of them—about 40 percent of them—who were screened at Mount Sinai had no insurance, so they cannot even get the treatment which they now know they need.

We have met with the Secretary of Health and Human Services, who has promised to get the money released to begin treating these brave men and women. We have worked with Dr. John Howard, the Director of NIOSH, who has documented so many of the diseases and chronic conditions we have seen. But we have a long way to go, and we need to start now.

I cannot give you an exact amount of money that it will take to take care of these thousands of people, but we know it is going to be a lot more than the $75 million we are waiting to be released on October 1. That is why this amendment would authorize $1.9 billion in grants to begin the process of setting up the system and over the next 5 years implementing a system to take care of thousands of people who are getting sick and who are dying.

We had a bipartisan, bicameral hearing in New York City last week. One of the witnesses, Steve Cetrone, who is a Federal employee, sat before us—his skin yellowed from the disease of his liver, his memory shot, his lungs collapsing—and described in detail how his Government has let him down and left him behind.

If we do not take care of these people now and start putting up a system we can have in place for the next several years, we are going to betray a fundamental responsibility to those whom we salute whenever it is convenient, when it is political. But enough with that. They do not want our speeches; they do not want our flowery rhetoric; they want our help.

My amendment uses rough estimates of about $5,800 per individual per year to provide for the continuing monitoring, but, more importantly, to provide for the treatment of these individuals. These are the rough estimates, the best we have right now from the fire department and Mount Sinai.

But we already know there are people on lung transplant lists who were on that pile. We already know people who have been disabled are unable to work and therefore have no insurance any longer. We know there are those who have died because of these exposures.

Now, did everybody get sick? No. Will everybody who got sick die? No. Much of it depends upon where you were, what you were exposed to, what the intensity and the length of the exposure was. Some of it also depends upon your predisposition, your susceptibility, your genetic makeup.

But take the case of Detective James Zadroga, a 34-year-old detective who joined the NYPD in 1992.

He did not smoke. He had no known history of asthma. He was an exemplary New York PD detective, the kind they make TV shows about, someone with a shelf full of commendations, who put himself in harm's way time and time again to protect the people of New York. I spent time with his father Joseph, a retired police chief. You will hear about the 450 hours that this decorated detective spent working on recovery efforts on the pile at Ground Zero in 2001. It filled his lungs with fiberglass, with pulverized concrete, and other toxic chemicals that destroyed his lungs. The stress and strain of his deteriorating physical condition was followed by the death of his wife, leaving him responsible for his 2-year-old daughter. He died on the floor of his bedroom with his little girl trying to wake him.

I know this is an authorization bill, and I know that it doesn't appropriate money, but it does something equally important: it sets a marker, makes a statement, and it takes all of the words and claims of concern and puts them into action. It says we are not only with you in word and deed, but we will not abandon you in your time of need.

If, as we hear, September 11 was a day that changed our Nation forever, and it is one that Americans will always remember, then let's not lose sight of its lessons. Let's finally heed the recommendations of the 9/11 Commission by fully implementing them. Let's do everything we can to make our bridges, tunnels, transit systems, rail lines, our entire infrastructure as safe as possible; otherwise, we are going to have a lot of autopsy reports like we had for James Zadroga. We are going to read about the deaths and disability of thousands of our bravest, most courageous men and women. We are going to see construction workers who, before 9/11, could lift three times their body weight in steel and do whatever was necessary to construct those skyscrapers but are now bent over in pain, unable to breathe and sleep. I don't think that is what we want as our legacy as a Nation coming out of 9/11.

This country has been supportive of New York, and I am extremely grateful. But we were on the end of the spear when it came to absorbing the attack and reacting. Now we have to continue to keep faith with those who did our country proud in the hours, days, weeks, and months following that horrific attack on our Nation.

Mr. President, I ask for the consideration of this amendment to honor those who honored us and to create a system to make sure that they do not go without care, that they get the treatment they need, that their life can be saved and prolonged, that we don't lose any more like that 34-year-old detective. In his autopsy report, the pathologist said:

> It is felt with a reasonable degree of medical certainty that the cause of death in this case was directly related to the 9/11 incident.

Let's not have any more victims of the terrorists. Let's not let bin Laden and al-Qaida claim any more Americans who die as a result of their evil attack on us. Let's band together and support those who need us in their hour. I hope we can make such a statement with this amendment today.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Ms. COLLINS. Mr. President, the reports recently released by the Mount Sinai Center did reveal disturbing news about the long-term health effects suffered by those working in recovery efforts after September 11. It is very disturbing because, clearly, we should make every effort to respond to and monitor the health problems of those who were at or near Ground Zero on that day—the heroes who risked their own lives and, apparently, their long-term health by rushing in to rescue others.

This amendment would direct the Secretary of HHS, acting through the Director of the Centers for Disease Control and Prevention, to award grants to entities to provide medical and mental health monitoring, tracking, and treatment to individuals whose health has been directly affected as a result of the attacks on New York City on September 11.

I do have some questions about the amendment, however. For one—and I see the sponsors otherwise engaged, but I am going to pose the question anyway. Again, I am very sympathetic. I think we have an obligation to those rescue workers, firefighters, emergency medical personnel, police officers, and others who risked their own lives and health to respond to the needs of others.

I am concerned that the amendment only applies to those first responders in New York City. There may well be health impacts that were suffered by the rescue workers, firefighters, police officers, and others who responded to the Pentagon. I am concerned that the Senator limits the nearly $2 billion in funding to only New York, and that doesn't seem fair to me. It seems to me that it should apply to both jurisdictions. I don't know whether there were similar problems in Pennsylvania, as well, but it seems to me it should be broader.

Mrs. CLINTON. Mr. President, may I respond to the Senator?

Ms. COLLINS. I am happy to yield to the Senator from New York to respond to the question.

Mrs. CLINTON. I greatly appreciate the Senator's awareness and commitment to doing something to help those who were affected. Certainly, from her position as chair of the Homeland Security Committee, she knows as much or more about these issues than any one of us. I appreciate greatly the suggestion that we include everyone. I make the following two additional points: Apparently, the rescue workers at the Pentagon were given respiratory equipment, given appropriate garb to wear, and were put into decontamination showers. They had the kind of worksite I wish we had had after a couple of days when the emergency immediately passed. So I wish we had that at Ground Zero. If there are those suffering from ill effects, I completely agree with the Senator. That is one of the reasons Senator VOINOVICH and I have joined together to try to expand the ability to treat first responders who come from anywhere. He had a rescue unit that went back to Ohio and they are sick.

The final point in response to the Senator's question is, our issue in New York is somewhat complicated by the fact that the EPA, under then-Administrator Christine Todd Whitman, consistently stated that the air was safe, told the city, the State, and the workers that, and that there was no effort made to try to even obtain the respiratory equipment and other protective coverings the workers might have needed. I agree that we should not leave any of our responders behind, no matter where they came from or who they are.

Ms. COLLINS. Mr. President, I appreciate the comments of the Senator from New York. The conditions in New York, as far as respiratory equipment, may have been different. But I have worked closely with Senator VOINOVICH on his broader bill. We reported it from the Homeland Security Committee. He offered it today as an amendment. I hope, perhaps, we can have a meeting of the minds on what is a real problem. We do not want those who were so brave that horrible day to not receive assistance, care, and monitoring for health problems associated with their bravery, regardless of which environment they were in.

The second issue I have to raise is the extent of the resources that will be needed to deal with this issue. I don't know the basis for the nearly $2 billion authorization that the Senator has come up with, so I cannot comment on it.

That leads me to my third point, which is the way the Senator has drafted this amendment, directing the Secretary of HHS, through the Director of the CDC, to allocate the funds. That means it is not in the jurisdiction of the Homeland Security Committee, or

even the Commerce Committee or Finance Committee. It is in the jurisdiction of the HELP Committee. So I have asked staff to notify the HELP Committee of this amendment so that they have an opportunity to review it.

With that, let me again repeat that I think the Senator from New York has identified a real problem. It is not germane to the underlying port security bill, but it is an urgent and real problem. It is in another committee's jurisdiction. We have a different approach that the Homeland Security Committee has taken in working with Senator VOINOVICH because this even goes beyond 9/11.

I know the Senator from New York has also worked with Senator VOINOVICH on his amendment, which is under the Homeland Security Committee's jurisdiction. So I suggest that we get some input from Senator ENZI and Senator KENNEDY, since they are the committee of jurisdiction.

Thank you, Mr. President.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. BOXER. Mr. President, I rise to speak in strong favor of the amendment offered by the Senator from New York. I have listened carefully to the reasons the other side is objecting. At this stage, it sounds as if they are objecting. I hope they will accept this amendment.

Ms. COLLINS. Will the Senator yield?

Mrs. BOXER. Yes.

Ms. COLLINS. There is not necessarily an objection. I don't know because it is not under the jurisdiction of the committee that I am privileged to chair. So I don't want to prejudge whether there is an objection from the HELP Committee or not because I don't know. I have saluted the Senator from New York for bringing a very real problem to our attention, although I wish it were on a different bill. I wish we would move the Voinovich bill separately, which has been on the calendar for a long time. I don't know that there is an objection on this side.

Mrs. CLINTON. A point of clarification, Mr. President. I believe the amendment builds on the World Trade Center monitoring program which did go through Homeland Security. That may not be the best way to proceed in the future, but that is an existing structure.

I absolutely agree with the Senator from Maine that the Voinovich bill will give us an opportunity to avoid these problems in the future, which has to be one of our primary goals.

I thank the Chair.

Mrs. BOXER. Mr. President, I am glad that I said what I did because maybe we have a chance to see this amendment get a favorable response in the Senate. It is true that this is broader than a port security bill, but so was Senator MCCAIN's amendment and Senator SHELBY's amendment. We are broadening this bill because I believe this is our last opportunity to address the issue of homeland defense.

This is a great opportunity to look back at what we have done right and what we have done wrong. And one of the things that was wrong was when Christie Todd Whitman, then head of the Environmental Protection Agency, came before my committee, the Environment Committee, and said the air was safe. She said the air was safe. People were down there at that site. The Senators from New York, Senator CLINTON and Senator SCHUMER, know best how people are suffering, but I can tell you, in California, when we had fierce fires and we had horrible problems that befell our first responders, I wrote a bill. At that time, we could not get a bill through that said that these first responders, these bravest of the brave, deserve to have health care. Many of them were working part time and didn't have health benefits. Many of them lost their jobs and lost their health benefits. That is what is happening to those who worked at the World Trade Center site.

Senator COLLINS makes some good points about jurisdiction, but I don't think the families who are seeing their loved ones wheeze and cough—and one I just read about died literally holding the hand of his 4-year-old—care that this bill before us is about the Department of Homeland Security but the amendment deals with the first responders through another agency. That is why politicians get such bad names sometimes, because we come up with the craziest reasons for saying we can't support something. I am encouraged that Senator COLLINS said not necessarily, that she may, in fact, support this bill.

Words are cheap. We can say anything we want; it is free. But if you mean what you say, that the first responders are heroes, if you mean what you say when you say they should be lauded, remembered, their families protected, and all the rest, then do something about it.

I am so pleased that the Senator from New York has given this Senate a chance to say thank you and to say we are sorry because some of the people were told the air was fine when it wasn't.

I hope we will stand up and be counted. As I said earlier today, I am so glad we have the subject of homeland defense before this Senate. It comes in the form of a port security bill that Senators COLLINS and MURRAY worked on and on which many members of the Commerce Committee and other committees have also worked.

This is a good bill, but we can't leave here thinking that because we did a port security bill, we have addressed the issue of homeland security and all the ramifications that followed from 9/11. We are making this bill better. We are making it more like the Reid amendment. We are going after rail security. We are going after transit security. And now with the Clinton amendment, we have a chance to help those who deserve to be helped—the heroes of 9/11.

We were just reminded—we saw the scenes, we saw their selflessness, and this is a chance for everyone who spoke about them to cast a ''yea'' vote for them. That is an opportunity we should not miss today.

Again, my thanks go to the Senator from New York and my colleagues for allowing debate on this very important amendment.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. 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. BYRD. Mr. President, what is the business before the Senate?

The PRESIDING OFFICER. The Clinton amendment is the pending amendment.

Mr. BYRD. Mr. President, I ask unanimous consent to speak out of order for as long as I may consume, not to exceed 30 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Mr. President, I ask unanimous consent that I may proceed for not to exceed 20 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from West Virginia is recognized.

IRAQ

Mr. BYRD. Mr. President, September 11 has come and gone, and as we remember those who were lost, those lives that were lost on that awful day, that fateful day, and contemplate events since the horrific attack, one truth stands out: The war in Iraq has backfired, producing more recruits for terrorism and deep divisions within even our own country. It is a war we should never have begun.

The detour from our attack on bin Laden and his minions hiding in the cracks and crevices of the rough terrain of Afghanistan, to the unwise and unprovoked attack on Iraq, has been a disastrous one.

Mr. Bush's war has damaged the country because he drove our blessed land into an unnecessary conflict, utterly misreading the consequences, with the result now being a daily display of America's vulnerabilities to those who wish us ill. The United States is a weaker power now, especially in the Middle East but also in the court of world opinion. Where, where, where is the America of restraint? Where is the America of peace and of inspiration to millions? Where is the America respected not only for her military might but also for her powerful—her powerful—ideas and her reasonable diplomacy?

Our country may have deviated occasionally from its positive global image in the past, but Abu Ghraib, the body snatching for torture, euphemistically called rendition, Presidential directives which unilaterally altered conditions of the Geneva Conventions—these

are not the stuff of mere slight deviations from the America of peacefulness, the America of fairness, and the America of goodwill. These are major policy and attitudinal changes of tsunami-sized proportions—tsunami-sized proportions. Our friends shake their heads in disbelief. Our enemies nod wisely and claim they knew all the while. I cannot remember a time in our history when our elected leaders have failed the people so completely, and yet, so far, are not held accountable for costly misjudgments and outright deceptions.

Take our Secretary of Defense, Donald Rumsfeld, for example. He misread the Iraqi situation completely and entirely. He adamantly dismisses suggestions for a larger force in Iraq. He failed to object when the White House's Coalition Provisional Authority disbanded the Iraqi Army, only to have them go underground and provide fodder for the insurgency. Yes, he insisted that the Iraqi people would view our soldiers as liberators, not occupiers, and even failed to properly anticipate the equipment needs of our men and women in harm's way. Who am I talking about? Defense Secretary Rumsfeld.

He continues to insist that we are not facing a civil war in Iraq, despite convincing evidence to the contrary. Yet he sits comfortably in his office as the echo of his errors in judgment and strategy continue to cost thousands of lives—thousands of lives.

Then there is President Bush and Vice President DICK CHENEY. These men continue to try to make the American public swallow whole the line that the war in Iraq is the frontline of a global war on terror which must be continued at all costs. Stay the course, they say, stay the course despite 3 years of discouragingly little progress in Iraq. The body count is approaching 2,700 for our side, tens of thousands for the beleaguered Iraqi people. We ought to think of them, too. Tens of thousands of men, women, and children, the Iraqi people, and billions—billions, I say—billions of American tax dollars of which an embarrassingly large chunk has been wasted by irresponsible contractors and Government officials who lack the proper respect for the public purse. Many of our allies have left the field, recognizing the truth that the administration fails to see; namely, we had the weapons to win the war but not the wisdom to secure the peace.

Yet too many in the public are utterly complacent about the numerous violations of the public trust and the continuing loss of human life in Iraq. Some of our citizens have apparently been convinced that it is unpatriotic to criticize one's country when that country is engaged in an armed conflict. In fact, in our land today, there is a troubling tolerance for Government overreaching on fronts at home as well as abroad. This administration has repeatedly used fear and flag-waving to blunt the traditional American insistence on the Bill of Rights: personal freedom of thought and action, privacy, and one's right to speak and write as one pleases. Such a cynical exercise on the part of high officials of our Government is unconscionable. It is shameful behavior for which there is no excuse—no excuse, none.

The Congress, under the control of the President's party, has been submissive—submissive, a lap dog wagging its tail in appreciation of White House secrecy and deception. Yes, a lap dog Congress. Yes, we. Even the vast majority of the opposition party has been too quiet for too long, unable to find its voice, stunted by the demand to support the troops. We forget too often that there is a very real difference between support for the troops and support for an unnecessary war. The men and women of our military did not ask to go—no, they didn't ask to go to those faraway places, but they were willing. They went. They answered their country's call. We have an obligation to support them, but we do not need to follow blindly the unthinking policies that keep them mired in a country that is in the middle of a civil war.

The American public is our last best hope now. You out there who are watching through those lenses, you are our last great hope, the American people. Our people must demand more from their representatives—from me, for one—their representatives in Congress, and from their leaders in the White House. Donald Rumsfeld should be replaced by the President because he has made so many grievous errors in judgment on Iraq and because a new voice—hear me now—a new voice at the helm at the Department of Defense could be a breath of fresh air—fresh air—yes, fresh air for our policies in Iraq. Mr. Rumsfeld's replacement would be good—good—for our country. Yet even a sense-of-the-Senate vote of no confidence in Mr. Rumsfeld's leadership has been blocked by the President's party in the Senate. Personal accountability has been long absent from this administration, and I would like to see it returned.

One would hope that men and women who rise to positions of awesome responsibility would have the grace, the dignity, and the honor to know in their own hearts when a well-timed resignation would advance patriotic goals. But too often, the selfish love of power or some misguided show of toughness wins the day to the detriment of our country's fortunes. Donald Rumsfeld ought to step down or his President, Mr. Bush, ought to ask him to step down. There is too much at stake for any other course.

Personally, I believe the President is being derelict in his duties if he does not ask for Mr. Rumsfeld's latchkey. The bungling and the loss of life attendant to this tragic—this tragic—3-year-long debacle in Iraq have hurt this country, hurt its public image, and hurt its ability to achieve numerous other national and international goals. That kind of dangerous ineptitude should not be excused. It should not be excused. But like so many things, when it comes to Iraq and the Middle East in general, the United States of America is stuck in neutral, with the only thing showing vigorous movement—the ever-spiraling price of gasoline. We have destabilized the Middle East and handed the Mullahs a way to affect the daily lives and livelihood of every American, and the efficacy of our military might: the oil supply lines upon which our own economy and our own military depend.

Now that oil supply is the favorite target for terrorists who have learned the joys of bombing pipelines and listening to America bite its nails about the high cost of gasoline while it laments its lack of foresight in developing alternative fuels.

Now we have passed yet another anniversary of the bloody attacks which precipitated the disastrous situation in which our country finds itself today. Yet while we mourn, there are hard truths to confront. Our attention has been shifted by design and deception too quickly from the war in Afghanistan, a war that we needed to fight, a war that we needed to win. Now the Taliban is on the rise in that country. Al-Qaida continues to find sanctuary in the mountains, violence is on the rise, and peace and stability are in jeopardy.

North Korea, probably reacting to our doctrine of preemption—a very unconstitutional-on-its-face doctrine—North Korea, probably reacting to our doctrine of preemption and our newfound bellicosity, has increased its nuclear capability. Iran has been emboldened by our inability to stop the violence in Iraq and by the lukewarm support that we have garnered from traditional allies. Even the people of Turkey—even the people of Turkey, one of the United States's staunchest allies, Turkey, a member of NATO, and a model, yes, a model of secular Muslim democracy—have turned against us.

A survey, conducted by the German Marshall Fund of the United States, indicates that Iran has become one of the most popular countries in Turkey and that there is a growing willingness to identify with radical Islam. A display of ineptitude and spectacular miscalculation in Iraq has cost us dearly. Disenchantment at home with the dismal results in Iraq will have reverberations for years, much like the failure in Vietnam did in the 1960s.

President Bush insists that his war must go on. He defends warrantless wiretapping of our own citizens as essential to his cause, despite a Court decision that the President has no such authority under our Constitution—our Constitution, this Constitution. He defends torture and rendition and says that they have produced valuable evidence which has subverted several terror attacks on our country. But his

credibility is so damaged that it is difficult to believe him. He demands the authority to hold terror suspects indefinitely and then to try them using military tribunals which deny basic rights, also in defiance of a Supreme Court ruling. He seems convinced that he can win a global war on terror despite the demonstrated failure of his policies of unilateralism, militarism, overheated rhetoric, and a pathological dislike of diplomacy.

So it is up to the Congress—up to us, the Congress, the people's branch—to change course and to stop the heinous raiding of constitutionally protected liberties by a White House which does not fully appreciate the true meaning of the word liberty, the true meaning of the word freedom.

My fellow Senators, I hope that we may find the courage.

I yield the floor.

AMENDMENT NO. 4975

The PRESIDING OFFICER (Mr. SUNUNU). Under the previous order, there will now be 4 minutes of debate equally divided on the motion to table the Biden amendment.

The Senator from Alaska.

Mr. STEVENS. Mr. President, I would like to take 1 minute and reserve 1 minute. I make this motion to table because I believe this amendment is so comprehensive, it really doesn't belong on this bill. The concept of the funding for the activities recommended by the Biden amendment is the amendment mandates the committee to bring out a bill to provide the funding. It would be an increase of $32.8 billion for the Homeland Security Department; that is a 19-percent increase over the amount that has already been allocated. We do not need that. This is not the place to consider that, anyway. This deals with restoring the cuts that have taken place in law enforcement areas. It is looking at liquid explosives and hazardous materials concepts. It has a whole series of things in here that deal with funding—money for more FBI agents, more money for Justice Assistance grants, more money for Customs agents. A whole series of things are involved. It is two pages long.

The money that would be authorized by the funds that the Biden amendment would mandate we provide under the appropriate procedures.

Being essentially a sense-of-the-Senate resolution, it is difficult to deal with, but that kind of resolution becomes a mandate in the next year.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. STEVENS. Parliamentary inquiry, Mr. President. What happens if the Senator does not arrive and the time comes?

The PRESIDING OFFICER. There remains approximately 20 seconds in opposition to the motion.

Mr. STEVENS. Let me use the remainder of my other minute, then.

I point out to the Senate that this amendment would create a new trust fund, and into that trust fund would go the moneys that would come from the mandate to the Finance Committee to reduce the scheduled and existing income tax reductions enacted since the taxable year 2001 with respect to what taxpayers earn in excess of $1 million a year. That is a laudable thing, but this is not just a sense-of-the-Senate resolution; it is a mandate to the Senate to do this.

The PRESIDING OFFICER. All time for debate has expired.

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

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

Under the previous order, the question occurs on the motion to table the Biden amendment. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. The following Senator was necessarily absent: the Senator from Rhode Island (Mr. CHAFEE).

Mr. DURBIN. I announce that the Senator from Hawaii (Mr. AKAKA) is necessarily absent.

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

The result was announced—yeas 57, nays 41, as follows:

[Rollcall Vote No. 244 Leg.]

YEAS—57

| | | |
|---|---|---|
| Alexander | DeMint | McCain |
| Allard | DeWine | McConnell |
| Allen | Dole | Murkowski |
| Baucus | Domenici | Nelson (NE) |
| Bennett | Ensign | Roberts |
| Bond | Enzi | Santorum |
| Brownback | Frist | Sessions |
| Bunning | Graham | Shelby |
| Burns | Grassley | Smith |
| Burr | Gregg | Snowe |
| Chambliss | Hagel | Specter |
| Coburn | Hatch | Stevens |
| Cochran | Hutchison | Sununu |
| Coleman | Inhofe | Talent |
| Collins | Isakson | Thomas |
| Conrad | Kyl | Thune |
| Cornyn | Lott | Vitter |
| Craig | Lugar | Voinovich |
| Crapo | Martinez | Warner |

NAYS—41

| | | |
|---|---|---|
| Bayh | Harkin | Mikulski |
| Biden | Inouye | Murray |
| Bingaman | Jeffords | Nelson (FL) |
| Boxer | Johnson | Obama |
| Byrd | Kennedy | Pryor |
| Cantwell | Kerry | Reed |
| Carper | Kohl | Reid |
| Clinton | Landrieu | Rockefeller |
| Dayton | Lautenberg | Salazar |
| Dodd | Leahy | Sarbanes |
| Dorgan | Levin | Schumer |
| Durbin | Lieberman | Stabenow |
| Feingold | Lincoln | Wyden |
| Feinstein | Menendez | |

NOT VOTING—2

| | |
|---|---|
| Akaka | Chafee |

The motion was agreed to.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

SENATOR BAUCUS'S 10,000TH VOTE

Mr. REID. Mr. President, with this last vote, the senior Senator from Montana, MAX BAUCUS, casts his 10,000th vote. He has entered into very good company having cast his 10,000th vote. Senator SARBANES, Senator LUGAR, and Senator HATCH are in the company with him.

I applaud and congratulate my friend, MAX BAUCUS. He has served a lifetime representing the people of the State of Montana. He was elected to the Montana State Legislature in 1973, the House of Representatives of the United States the next year, in 1978 elected to the Senate. He has a compelling background. He was raised on a ranch near Helena, MT.

One of the fascinating things that speaks of Senator BAUCUS's personality, he did not know as a young man what he wanted to do. So to get his thoughts together and his head on straight, as he said, he decided he would travel the world. And he did that, by himself, hitchhiking and catching rides, and when he had a few dollars, he would catch some type of public transportation. He traveled the world over. He got very sick on an occasion or two drinking water that was not like water in Helena, MT.

I repeat, it speaks of who MAX BAUCUS is. He has an outstanding education. He was educated in one of the finest university's in the world, Stanford, for both his undergraduate work and for his law degree.

When I was elected to the Senate, the first person to reach out to me socially was MAX BAUCUS. He invited me to his home, where I met his lovely wife Wanda. Now, in the years since, because of our Senate schedules being as busy as they are, we have not done a lot of things socially. I speak to Wanda a lot on the telephone, trying to find Senator BAUCUS. She is, to me, a fascinating woman—whether she is doing her painting or writing a book, she is always doing something intriguing. They have a wonderful son Zeno.

We all shared in the tragedy that occurred in Senator BAUCUS's life during the past few weeks when his nephew—who to Senator BAUCUS was like a son—United States Marine Corpsman Phillip Baucus, was killed in Iraq serving our country.

I am almost embarrassed to talk about MAX's athletic accomplishments because mine so pale in comparison. I always feel kind of good about the fact that I have run a lot of marathons. Marathons are nothing for MAX BAUCUS. He has run 50-mile races, 100-mile races. Remember, a marathon is only a little over 26 miles. But in one race, he has run four times the marathon that I and others run.

Senator BAUCUS has been chairman of the Environment and Public Works Committee, chairman of the Committee on Finance, ranking member now. He set a great example to me as I

was then a junior member of the Environment and Public Works Committee on the first highway transportation bill, working with him and Senator Moynihan.

One of the things I recognize with Senator BAUCUS is he has been a great leader for our caucus and the Senate, from Social Security to the economy. Generally, we look to him for guidance.

One of the things I also appreciate and admire in Senator BAUCUS is the working relationship that he has with Senator GRASSLEY. They do not always agree on issues, but they have a real partnership in that Committee on Finance. I think they set an example for what all Senators should do, and certainly all chairman and ranking members. I so appreciate their working together. I repeat, they do not always agree, but they never are disagreeable in their disagreements.

I know I speak for all Montanans, and I know I speak for all Democratic Senators, and I am sure Republican Senators, in expressing our admiration and respect for Senator BAUCUS in casting his 10,000th vote.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, if I could follow on in the same vein in order to associate myself with the remarks of the distinguished Democratic leader, knowing Senator BAUCUS, I bet he is so busy that he probably didn't even realize he was casting his 10,000th vote. I know it is a very major accomplishment; very few Members do that.

I congratulate him. That signifies a lot of hard work in and of itself, but I think of the really hard work that Senator BAUCUS does working as a member of the Senate Committee on Finance—sometimes as chairman, sometimes as ranking member—and, more importantly, not just working hard but working in a cooperative way to get things done.

I honor him. I didn't know anything about it. I am glad to hear about it. He should be recognized, and I thank him for the cooperation he has given to me over the years.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, I thank my friend from Iowa. I thank all my friends, especially Senator REID and Senator GRASSLEY. I had no idea I cast 10,000 votes until someone said it was the 10,000th about 15 minutes ago.

I have several thoughts. No. 1, it is such a privilege to represent the State of Montana. I have 900,000 of the world's best bosses. You could not ask for better employers than the people of the State of Montana. I am so grateful to have the privilege to serve my 900,000 constituents.

Second, I am reminded a little bit of years past. There have been very great Senators serving this body, a time when there was more agreement, more bipartisanship. It was not quite as partisan as it is today. I hope over the next 1,000 votes, or however many are cast, we move to a time of more bipartisanship; that we do work together.

Senator GRASSLEY and I are very lucky to work closely together. I am honored to work with him. There have been a lot of major votes I am proud of. There are a couple, as I look back, I wish I had not cast. But that's life. We do the very best we can, and most of us do a pretty good job.

I thank my friends. I thank my colleagues. I thank everyone else who is part of the larger Senate for all that you do. It means a lot to me.

Mr. NELSON of Florida. Before I call up an amendment, I will say a word about Senator BAUCUS. It is a measure of the man in times of tragedy how one will stand tall and be a healing force among the bereaved. In this terrible tragedy his family has had, the son of his brother being killed in Iraq, Senator BAUCUS was able to bring comfort to his family, and particularly to his brother, by going to the Air Force Base and receiving the body of his nephew and then escorting the coffin all the way to Montana, and returning that body, as the Good Book says, from dust to dust.

I want to add my personal comments of appreciation for the life of Senator BAUCUS and especially for his public service.

AMENDMENT NO. 4968

Mr. President, I call up amendment No. 4968.

The PRESIDING OFFICER. The pending amendments are set aside.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Florida [Mr. NELSON] proposes an amendment numbered 4968.

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

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

The amendment is as follows:

(Purpose: To require the Department of Homeland Security provide Congress with a strategy for deploying radiation detection capabilities to all United States ports of entry)

On page 27, between lines 20 and 21, insert the following:

(h) EXPANSION TO OTHER UNITED STATES PORTS OF ENTRY.—

(1) IN GENERAL.—As soon as practicable after—

(A) implementation of the program for the examination of containers for radiation at ports of entry described in subsection (a), and

(B) submission of the strategy developed under subsection (b) (and updating, if any, of that strategy under subsection (c)),

but no later than December 31, 2008, the Secretary shall expand the strategy developed under subsection (b), in a manner consistent with the requirements of subsection (b), to provide for the deployment of radiation detection capabilities at all other United States ports of entry not covered by the strategy developed under subsection (b).

(2) RISK ASSESSMENT.—In expanding the strategy under paragraph (1), the Secretary shall identify and assess the risks to those other ports of entry in order to determine what equipment and practices will best mitigate the risks.

Mr. NELSON of Florida. Mr. President, the 9/11 Commission Report said:

[O]pportunities for terrorists to do us harm are as great—or greater—in our shipping ports as they are in commercial aviation.

We have done a pretty good job in tightening up the security of our airports but not so in our seaports. That is the purpose of this whole bill on port security.

A respected policy center that studies terrorism looked at what would happen if a 10-kiloton bomb was detonated in a seaport—in this particular simulation, the Port of Long Beach, CA. They pointed out that 60,000 people would die instantly, and another 150,000 would suffer radiation poisoning, and some 2 to 3 million people would have to be relocated as a result of the contaminated land. Of course, the cost to our Nation's economy would be enormous—about $1 trillion under that scenario.

Most experts agree that our ports are not only vulnerable but also the damage resulting from an attack could be catastrophic. Where are most of the ports located? Mostly, they are snuggled up to, close to, a downtown, a highly dense urban community.

The State I represent, Florida, is home to 14 deepwater ports, so we have the task we are trying to address in this bill of protecting these ports and protecting the peace and security of our people.

The outcome of this fight has very broad implications for our country. All of our Nation's 88 ports that handle cargo containers still remain vulnerable. Only—we are estimating—6 percent of all the cargo coming into these ports is fully inspected.

Our own Department of Homeland Security says three out of four American ports do not have the equipment to screen for nuclear weapons or for a dirty bomb, which is a conventional weapon designed to spread radioactive material. And the Congressional Budget Office says the President's proposed plan falls about $130 million short of what is needed to protect these ports.

I recall my former colleague from Florida, the former chairman of the Intelligence Committee, former Senator Bob Graham, recently warned that the increase in Federal spending was not enough to adequately protect ports. This former chairman of the Senate Intelligence Committee said that if he were a terrorist, he would know exactly how to go about wreaking havoc—he would head for a port with lax security and then do his dirty work.

In the legislation before us, we have taken a giant step in the right direction. We are proposing to secure 22 of our Nation's busiest container ports. But what about the other 66 domestic container ports? Shouldn't they receive the scrutiny? And shouldn't we protect the additional 273 secondary sea and river ports in the United States?

Certainly, we should. That is why I offer this amendment today, which will direct the Homeland Security Secretary to develop a strategy for the deployment of radiation detection capabilities at every U.S. port. I believe it is going to make all of us a little bit safer. There has been enough delay. Now it is time to do this. And we should do it right. So this legislation is the implementation of a program for the examination of containers for radiation at ports of entry described in the bill, not just the 22 major ports.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, the port security legislation we are considering requires that radiation detection equipment be installed in the busiest 22 ports of entry by the end of next year. That would result in 98 percent of all cargo coming into this country being screened for radiation or radiological devices.

The Senator's amendment raises the question of, What about those smaller ports? Doesn't this invite, for example, terrorists, knowing they will be screened at the 22 largest ports, to instead divert dangerous cargo to a small port?

The Department of Homeland Security wants to make sure it has flexibility to do, perhaps, handheld devices for screening rather than the expensive, large radiation portal monitors that are at big ports, such as Seattle.

I would pose a question, through the Chair, to the Senator from Florida, whether there is anything in his amendment that speaks to the type of equipment that must be installed, because obviously, if you have a very small port that only gets a couple of cargo ships per year, it may not make sense to invest in radiation portal monitors, but it may make sense to, instead, assume that the Customs and Border Patrol agents are equipped with handheld screening devices, which still screen.

So I would ask, through the Chair, my colleague from Florida whether his amendment, as I read it, gives flexibility to the Department as to the types of equipment, in keeping with the fact there are different needs and different volumes?

The PRESIDING OFFICER. Without objection, the Senator from Florida will be given the opportunity to reply.

Mr. NELSON of Florida. Well, indeed, thank you, Mr. President.

The Senator from Maine is exactly correct. There is the flexibility in the amendment for the Department to make that determination because it is specifying the implementation of a program for examination of containers for radiation at ports of entry.

Ms. COLLINS. Mr. President, I thank the Senator from Florida for his clarification.

With that understanding, I am pleased to recommend that the Senate adopt his amendment.

I yield to the Democratic manager of the bill to see if we could clear this amendment.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Mr. President, we have cleared this amendment on the Democratic side, and we are happy to move forward with its adoption right now.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 4968) was agreed to.

The PRESIDING OFFICER. The Senator from New Jersey.

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

The PRESIDING OFFICER. Is there objection? Is there objection to setting aside the pending amendment?

The Senator from Maine.

Ms. COLLINS. Mr. President, we have had a lot of amendments offered on the Democratic side, and there are Republican Senators who are eager to come to the floor—Senator COBURN, Senator DEMINT, Senator VOINOVICH—to complete the action on their amendments. I thought we had an understanding that we were going back and forth, but instead we seem to be doing Democratic amendment after Democratic amendment after Democratic amendment. So until I get some clarification on how we are going to proceed, I do object.

The PRESIDING OFFICER. Objection is heard.

The Senator from Washington.

Mrs. MURRAY. Mr. President, I totally understand the concerns of the Senator from Maine. I just would like to request—we only have one Senator on our side at this time who wants to bring up an amendment, and there are no Republicans here at this time. He is the only one I am aware of right now who is here in the Chamber ready to go. If it would not be objectionable, if it would be all right that he could just offer his amendment, he just wants to call it up.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, it would be helpful if the Democratic manager of the bill or the sponsor of the amendment gave us some idea as to the subject of the amendment and whether the Senator from New Jersey is seeking a full debate on it or just wants to call it up briefly—or what his intentions are.

The Senator from New Jersey has an amendment that we are trying to put in a block of amendments to deal with the issue of scanning cargo. There are three such amendments that are pending: the amendment of the Senator from New York, Mr. SCHUMER; the amendment of the Senator from New Jersey; and the amendment of the Senator from Minnesota. I need more information about the Senator's intentions, given he has filed more than one amendment.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Mr. President, I believe the Senator from New Jersey just wants to call up his amendment and speak for a few minutes, if I am not incorrect.

I say to the Senator from New Jersey, if you could just tell us—I believe it has been shared on both sides.

I say to the Senator from Maine, I know your staff has a copy of it.

But if the Senator could just explain his intentions.

The PRESIDING OFFICER. Without objection, the Senator from New Jersey.

Mr. MENENDEZ. Mr. President, my amendment is amendment No. 4999. It is to ultimately have a plan to move toward the scanning of cargo. I intend to speak for about 10 minutes on the amendment.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, then I am going to have to object to the Senator proceeding at this time because we have proposed that all three amendments that deal with the scanning or screening of cargo be considered together, including the amendment of the Senator from New Jersey. If we can get an agreement where we could consider and debate all three amendments and then have three consecutive votes on those amendments, then I would not object. But if we cannot get that agreement, then I do object.

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

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

Ms. COLLINS. Mr. President, I ask unanimous consent that at 4 p.m. today, the Senate proceed to a vote in relation to the Coleman amendment No. 4982, to be followed by a vote in relation to the Menendez amendment No. 4999, with no amendment in order to either amendment prior to the vote; finally, that the time until the vote be equally divided between the two managers or their designees, and that there will be 2 minutes equally divided of debate prior to each vote.

The PRESIDING OFFICER. Is there objection?

The Senator from Washington is recognized.

Mrs. MURRAY. Mr. President, we have no objection to this agreement. I thank the manager for working through this with us.

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

Who yields time?

Mrs. MURRAY. Mr. President, I yield time to the Senator from New Jersey.

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

Mr. MENENDEZ. Mr. President, I ask unanimous consent that the pending amendment be set aside.

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

AMENDMENT NO. 4999

Mr. MENENDEZ. I ask unanimous consent that amendment No. 4999 be called up at this time.

The PRESIDING OFFICER. The clerk will report.

The Senator from New Jersey [Mr. MENENDEZ] proposes an amendment numbered 4999.

The PRESIDING OFFICER. I ask unanimous consent that reading of the amendment be dispensed with.

Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To improve the security of cargo containers destined for the United States)

On page 30, between lines 8 and 9, insert the following:

**SEC. 126. PLAN FOR 100 PERCENT SCANNING OF CARGO CONTAINERS.**

(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall develop an initial plan to scan—

(1) 100 percent of the cargo containers destined for the United States before such containers arrive in the United States; and

(2) cargo containers before such containers leave ports in the United States.

(b) PLAN CONTENTS.—The plan developed under this section shall include—

(1) specific annual benchmarks for—

(A) the percentage of cargo containers destined for the United States that are scanned at a foreign port; and

(B) the percentage of cargo containers originating in the United States and destined for a foreign port that are scanned in a port in the United States before leaving the United States;

(2) annual increases in the benchmarks described in paragraph (1) until 100 percent of the cargo containers destined for the United States are scanned before arriving in the United States;

(3) a description of the consequences to be imposed on foreign ports or United States ports that do not meet the benchmarks described in paragraphs (1) and (2), which may include the loss of access to United States ports and fines;

(4) the use of existing programs, including CSI and C–TPAT, to reach annual benchmarks;

(5) the use of scanning equipment, personnel, and technology to reach the goal of 100 percent scanning of cargo containers.

On page 61, line 6, strike the period at the end and insert ''; and''.

On page 62, between lines 6 and 7, insert the following:

(5) an update of the initial 100 percent scanning plan based on lessons learned from the pilot program.

Mr. MENENDEZ. Mr. President, I thank my colleagues, Senator INOUYE, Senator MURRAY, and Senator COLLINS, for their work and attention to this critical subject. I am pleased to stand with them in trying to work to ensure that a concrete port security measure takes place that makes our Nation's ports safer than they are presently.

We have just commemorated the fifth anniversary of the September 11 attacks. I cannot think of a way in which we can learn from those lessons more than to finally come to an agreement on a strong, well-funded port security bill. For those of us who represent States such as mine, New Jersey, with the largest ports in the country, it is not a moment too soon. In fact, some would argue that it comes rather late in the game. I have to agree.

Five years after that tragic September day, nearly 4 years after Congress passed the Maritime Transportation Security Act, and 2 years after the September 11 Commission issued its report and its 41 recommendations, our Nation's busiest ports remain underfunded, understaffed, and overwhelmed. A myriad of new stories over the last week in the runup of the fifth anniversary of September 11 have consistently pointed to one irrefutable fact: our ports remain vulnerable to a terrorist attack. This is not news for some of us.

In December of 2001, I introduced a port security measure in the House of Representatives which sought to fully understand the vulnerabilities we face at all of our ports. I certainly hope this will move us along in that way. I urge, certainly, that we come to that conclusion.

Let's remember that an attack at our ports would not just hurt trade and commerce. Such an attack at a port would devastate surrounding communities. In August, the Rand Corporation released a report concluding that ''a nuclear explosion at the port of Long Beach could kill 60,000 people immediately, expose 150,000 more to radiation, and cause 10 times the economic loss of the September 11 attacks.''

In my State of New Jersey, the Elizabeth-Newark Port, the largest container seaport on the east coast, handled more than $132 billion in goods in 2005 and creates over 200,000 jobs. Imagine what would happen to the Nation—not just New York or New Jersey—if commerce were shut down in this port. Imagine the number of lives in that immediate region, one of the greatest concentrations of population in the Nation.

According to retired Coast Guard CDR Stephen Flynn, the cargo containers ''are a potential Trojan horse in the age of terrorism.'' He is right. Mr. Flynn pointed out that we are not keeping pace with the terrorists' capabilities. The threat continues to evolve. When we patched up one security hole, they found another gap, another vulnerability.

In December 2005, small undercover teams of investigators from the Government Accountability Office were able to carry small amounts of Cesium 137, a radioactive material used for medical and industrial purposes, in the trunks of rental cars in the States of Washington and Texas. The Washington Post reported that the radioactive materials did set off alarms, but GAO agents were able to use phony documents to persuade U.S. border guards and Customs officers to let them pass into the country.

As long as cargo containers remain a mainstay of international commerce, and as long as we cannot verify what is inside each and every one of them, we are vulnerable.

Right now, only 5 percent of containers entering this country are inspected. That is a number which I believe would shock most Americans. Let me be clear. It would be unacceptable to screen only 5 percent of White House visitors every day, so why is it acceptable to scan only 5 percent of cargo entering our country every day? Scanning anything less than 100 percent of cargo that enters our ports is irresponsible and downright negligent. Only scanning 5 percent of cargo containers that enter our ports is the equivalent of locking the car doors but leaving the windows down and the keys in the ignition. It is unacceptable.

Even the system we now use to determine which of the 5 percent of containers to inspect is riddled with flaws. Customs inspectors rely on manifests and intelligence data—both of which can be unintentionally incorrect or even manipulated—to develop algorithms that tell them which container to open. We cannot take the risk that complex mathematical equations relying on faulty inputs will catch a chemical, nuclear, or biological weapon shipped into our ports. We need to develop a system that will eventually ensure that 100 percent of containers bound for this country are inspected, either physically or through effective nonintrusive scanning that will find and detect weapons no matter how they are disguised.

We need to take advantage of existing technologies that can scan the inside of a container, even before it leaves a foreign port, and create a downloadable image of what is inside. That image can be reviewed in real time by security officials in the United States so we know exactly what the container holds before it even sets sail for our shores. By combining this technology with scans for radioactive material, we can find dangerous materials before they ever arrive in our ports.

Port security is a serious matter that should be addressed with a comprehensive and consistent plan, not a game of ''Eeny Meeny Miney Mo'' to figure out which cargo container to scan. Five years after September 11, we must have a plan, a clear roadmap that describes how we will move our Nation to 100 percent scanning at our ports. To accomplish this, this amendment would require just that: to produce an initial plan, a tangible document that clearly outlines how to increase scanning to 100 percent at our ports. The plan must include yearly benchmarks and consequences for supply chain entities that fail to comply, and this could include loss of access to U.S. ports and levying of fines.

My amendment also includes a requirement for an update of the initial 100-percent scanning plan that would include lessons learned from the pilot system.

The definition of 100 percent scanning is very important here, and I hope

our colleagues will focus on this issue. The American public should not be misled by anyone stating that screening is sufficient or that offering amendments for 100-percent screening is a step in the right direction.

Let me be very clear: 100 percent screening means just looking at manifests, manifests that are often incomplete and incorrect. Relying on manifests is simply not the way to ensure cargo containers do not contain items they should not, items that could endanger the security of our ports, the surrounding communities, and the people in our country.

I want to emphasize that I am not calling for all containers entering the United States to be opened up and examined. What I am calling for, and something that is well within our technical capabilities, is to ensure that all containers entering the United States have been scanned using nonintrusive technology.

But to get to 100 percent container inspection and to have true container security, we also need to take immediate steps to put scanners in place here and abroad to track containers as they move across the ocean and to start protecting against not only nuclear but chemical and biological agents.

In conclusion, we have been debating the details of this cargo inspection regime for far too long. It is not a new issue. But the time has come to act decisively and with one voice to make our ports safer than they are now.

Five years after September 11, we still do not know what is entering our ports. Recently, a commercial airplane was diverted because someone forgot their BlackBerry on board. Yet thousands of cargo containers stream into our Nation every day without us knowing exactly what they contain.

Just this past Monday, we commemorated the fifth anniversary of the attacks that shocked the Nation and took the lives of 3,000 Americans, including 700 New Jerseyans. We must remember the terrorists used methods beyond our wildest imaginations and spurred the Congress into some action to better protect our Nation. Here we stand 5 years later and we are still not scanning 100 percent of the cargo that enters our country. We are tempting fate in a most reckless way. We have identified a clear vulnerability and we must do everything we can to decrease the threat before it is too late.

If we could roll back the clock 10 years and spend a few billion dollars to raise the levees in New Orleans to be able to withstand a category 5 hurricane, we would have saved hundreds of lives, as well as the billions of dollars it will take to rebuild that city. I don't want this country to look back in hindsight a few years from now with the realization that if we had taken action today, we could have prevented a major terrorist attack. Who among us would be satisfied in the aftermath of an attack that we did not take the steps that could have prevented it because we were unwilling to dedicate the necessary resources? That is the choice the Congress faces and the Senate faces today. And for the security of our country, it is essential that we make the right one.

I urge my colleagues to support this amendment so that we can do so and move toward a plan that will give us 100 percent scanning.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I listened carefully to the comments of the Senator from New Jersey in which he advocates for 100 percent scanning. He says, for example, that is the only way we can be safe, that we would never scan just 5 percent of the people coming to the White House. I think there is a lot of misunderstanding about how the current system works, so let me start with an explanation of the layered system of security we have at our ports right now.

First, all cargo manifests are submitted to authorities 24 hours before ships pull into ports. The automated targeting system is a sophisticated analysis that looks at where did the cargo come from, what is its destination, what is the cargo, who are the shippers involved, who is the retailer or other recipient of the cargo. Through a classified system, those and other factors are considered, and the cargo is assigned scores depending on this analysis.

Let me first be very clear. Every single container goes through that step, and that is called screening. There is a lot of confusion among the terms ''screening,'' ''scanning,'' ''integrated scanning,'' and ''inspection.'' So what I have described is the screening process that uses this automatic targeting system to identify at-risk containers.

After the at-risk containers are identified, they are supposed to be scanned or even physically searched by Customs and Border Protection. However, an investigation by the Permanent Subcommittee on Investigations of the Homeland Security Committee, which Senator COLEMAN led, indicated that this system didn't always result in an inspection of the high-risk container, despite it being identified. Senator COLEMAN is going to be offering an amendment shortly that will ensure 100 percent scanning of those high-risk or at-risk containers. So that is one aspect of the system we have now.

Another layer is the Container Security Initiative. Under this program, our American Customs and Border Patrol officers are stationed at foreign ports. The CSI program is currently operational in 44 ports which cover approximately 75 percent of containerized cargo heading for the United States by sea. What we do is we work with the host government, and again, the process is to push hazards away from our shores, identify the high-risk cargo, and make sure it is never loaded onto our ships in the first place.

In addition, there is another system, which is that many containers are also scanned for radiological material at U.S. ports. When I visited, with the Senator from Washington State, the Seattle Port, we saw the radiation portal monitors that do this kind of scanning. Our bill requires that by the end of 2007, the largest U.S. ports must have radiation scanners which will ensure that 98 percent of inbound containers are scanned.

There is also a Department of Energy program called the Megaports Initiative that is currently scanning containers in foreign ports for radiological material.

Yet another layer of security is the Customs Trade Partnership Against Terrorism Program, the so-called C-TPAT Program. This is a program whereby manufacturers, retailers, and shippers secure the supply chain so that security is assured from the factory door to when the container arrives at our shores. Every step of the supply chain is secured. Senator MURRAY has improved upon that concept with her GreenLane concept which will give additional benefits to shippers who undertake even stronger security measures. This involves making sure, for example, that containers are sealed with electronic seals that can reveal whether they have been tampered with or opened en route. In other words, this is a risk-based approach to enhancing the security of our containers.

At the same time—and this is the approach our bill builds upon—the layered approach to security allows the maritime cargo industry in the United States, which moves more than 11 million containers per year, to function efficiently. That is important. I have seen the giant VACIS machines that do these x-ray screenings. It is not that quick a process. It takes a while. It takes probably 4 minutes or so for them to go around the container, and then the analysis of those images can take up to 15 minutes.

With 11 million containers entering the U.S. seaports every year, the delay caused by screening all containers would cause a massive backlog of cargo at the ports. That doesn't mean that someday—someday soon, I believe—we are not going to have the technology that will allow us to do an integrated scan, both in x ray and a scan for radiological material, in a far more efficient way and have a method of triggering an additional review if something is found.

The Washington Post said it very well in an editorial yesterday when they said:

> The ''inspect all containers'' mantra is a red herring that exploits America's fears about what might slip through in order to score political points, ignoring the fact that there are much more cost and time effective ways of keeping dangerous cargo out of the country.

Our bill we have brought before the Senate would do just that by strengthening and improving upon the existing

programs. I believe with Senator COLEMAN's amendment, which I am proud to cosponsor along with the Senator from Alaska, we can even improve it further and set the stage when someday—soon, I hope—we do have the technology that allows us to do 100 percent integrated scanning.

The Senator from New Jersey just calls for scanning, so I don't know whether he doesn't want an integrated system which includes the radiological scan. But in any event, it has an integrated scanning system that will work and allow us to move cargo quickly. That is where we should be headed. We can't ignore the reality that we don't have the technology yet to do that effectively and efficiently now but that we can put in place a layered system that gives us greater protections than we have today.

We have to realize also that we have limited resources. I remember an expert in port security once telling me that if you inspect everything, you inspect nothing. You have to focus on risk and you have to come up with systems that build a layered approach, starting with securing the supply chain, working with the governments of foreign ports, having radiological scanning, making sure we put into place a layered security system.

I would note two other issues that I see in the amendment offered by the Senator from New Jersey.

First, much to my surprise, the language on page 2 of his bill suggests that all outbound cargo from the United States would have to be scanned. I can't imagine what the impact on trade would be. They would be using the same equipment as the inbound containers, so it would cause a tremendous backlog in scanning containers.

Second, he has some troubling language where he calls for a description of the consequences to be imposed on foreign ports or U.S. ports that don't meet the benchmarks described in his language, which may include the loss of access to U.S. ports and fines. What are we saying—that we are going to threaten ports with fines rather than working with them? That kind of language just invites retaliation by foreign governments, and I think it is misguided in the extreme.

So I think the bill is a very good bill that we have brought before our colleagues and a balanced bill to deal with this issue, but I think we can strengthen it further, improve it further by adopting the amendment of the Senator from Minnesota, which I am proud to support and cosponsor.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

AMENDMENT NO. 4982

Mr. COLEMAN. Mr. President, I ask unanimous consent that the pending amendment be set aside and ask for the immediate consideration of amendment No. 4982.

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

The assistant legislative clerk read as follows:

The Senator from Minnesota [Mr. COLEMAN] proposes an amendment numbered 4982.

Mr. COLEMAN. 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:

AMENDMENT NO. 4982

(Purpose: To require the Secretary of Homeland Security to ensure that all cargo containers are screened before arriving at a United States seaport, that all high-risk containers are scanned before leaving a United States seaport, and that integrated scanning systems are fully deployed to scan all cargo containers entering the United States before they arrive in the United States)

On page 66, before line 9, insert the following:

**SEC. 233. SCREENING AND SCANNING OF CARGO CONTAINERS.**

(a) 100 PERCENT SCREENING OF CARGO CONTAINERS AND 100 PERCENT SCANNING OF HIGH-RISK CONTAINERS.—

(1) SCREENING OF CARGO CONTAINERS.—The Secretary shall ensure that 100 percent of the cargo containers entering the United States through a seaport undergo a screening to identify high-risk containers.

(2) SCANNING OF HIGH-RISK CONTAINERS.—The Secretary shall ensure that 100 percent of the containers that have been identified as high-risk are scanned before such containers leave a United States seaport facility.

(b) FULL-SCALE IMPLEMENTATION.—The Secretary, in coordination with the Secretary of Energy and foreign partners, shall fully deploy integrated scanning systems to scan all containers entering the United States before such containers arrive in the United States as soon as the Secretary determines that the integrated scanning system—

(1) meets the requirements set forth in section 231(c);

(2) has a sufficiently low false alarm rate for use in the supply chain;

(3) is capable of being deployed and operated at ports overseas;

(4) is capable of integrating, as necessary, with existing systems;

(5) does not significantly impact trade capacity and flow of cargo at foreign or United States ports; and

(6) provides an automated notification of questionable or high-risk cargo as a trigger for further inspection by appropriately trained personnel.

(c) REPORT.—Not later than 6 months after the submission of a report under section 231(d), and every 6 months thereafter, the Secretary shall submit a report to the appropriate congressional committees describing the status of full-scale deployment under subsection (b) and the cost of deploying the system at each foreign port.

Mr. COLEMAN. First, before I begin talking about my amendment, I wish to thank the Chair of the Homeland Security Committee, Senator COLLINS, and her cosponsor for the work they have done on port security. The Senator from Washington has been a champion. Although she is not on our committee, she has spent as much time sitting in on these hearings as many committee members. It has been a magnificent display of bipartisanship and a magnificent display of the best in the U.S. Senate.

Looking at the issues today, we have serious challenges, and I believe the bill before us does a magnificent job of addressing some of the greatest vulnerabilities our Nation faces. We have vulnerabilities, and our subcommittee did its own work in looking at some of these areas.

For about 3 years, we have looked at these issues of trying to bolster America's port security and supply chain security. During the course of that, we identified numerous weaknesses. The subcommittee found at one point in time that only a de minimis number of high-risk containers were actually inspected. It was a very serious problem.

The subcommittee found that an overwhelming proportion of C–TPAT companies that Chairman COLLINS talked about enjoy the benefits without having been inspected, without having the certifications you need to make sure that if you are going to give people the benefit of operating this program, they do it the right way. We found a flawed system that Homeland Security uses in identifying high-risk containers entering the United States. We raised concerns about the percentage of cargo containers entering U.S. ports that are actually screened with radiological devices. So these are just a handful of the significant problems we discovered.

The bottom line is that the underlying legislation tackles these concerns and many other weaknesses head-on—head-on. So as someone who has spent 3 years looking at this issue, I look at the underlying bill and say the concerns that the subcommittee raised in terms of inadequate nuclear and radiological screening will be taken care of in a set period of time. There are deadlines in here. When Secretary Chertoff testified before our committee this week, he indicated that by the end of next year, 2007, we will have 100 percent screening of radiological material in this country. So the bill addresses it. The actions of the committee have moved the agency forward, and I think that is a good thing, although there is more to be done.

One of the things I have been a champion of is the idea of screening and scanning all containers coming to our country. That is a goal. There are 11 million—11 million—that enter into our country, and the goal is it would be ideal to be able to scan every one. It is important, by the way, that we screen every one.

One of the things we worry about here as we get closer to election season is that some language is generating some fears on the part of the American public about our vulnerability. People in this country should know that every container is screened. There is a system in place. Our chairman did a tremendous job of describing the layered security that is employed. There are layers of security that highlight high risks and allow us then to do a targeted job of dealing with the issue of security.

We never have a 100-percent guarantee. We live in a world where there are few 100-percent guarantees. But we have a system that allows us to have this layered security, improved substantially by this bill, that allows the flow of commerce to go through.

If my colleagues recall, Osama bin Laden said he wanted to destroy us economically. He wanted to cripple this country. He understood that if you destroy the economy, you destroy the country. So as we deal with this issue of supply chain security, we have to do everything we can to make sure we are secure. We also have to make sure we don't put things in place that achieve the goal of the terrorists, which is to destroy the flow of commerce and destroy the economy. That is the balance, and it is difficult. We are always erring on the side of safety.

One of the things we saw during the course of our investigation—I had a chance to go to Hong Kong as well as the Port of Los Angeles and other ports throughout this country. But we saw in Hong Kong a system where they actually scanned every container. It was a very good system, by the way, in terms of getting a picture—I would call it kind of a moving CAT scan.

The Senator from Maine talked about the systems we have here—a very slow process. Literally, the container is in one place and the system goes over it. In Hong Kong, they have a system that scans on kind of—I would call it a moving CAT scan. The trucks come through, they never stop, they are rolling right through, and on each and every one of them there is a picture taken and you get a scan, and then there is a radiological detection device that is over that and it goes through and it is magnificent. I think some of my colleagues saw that and said: We have to have that right here, right now. That sounds wonderful.

It is important to note that, in fact, there are 40 lanes of traffic in Hong Kong, and only 2, only 2 have this system. So what we have in the underlying bill is an amendment that says we are going to set up a pilot project, and in that pilot project what we are going to do is we are going to test this system.

By the way, it is also important to note that of all the images we get, they are not processed. We have a library of images where, God forbid there was an attack, we could go back and pinpoint where it came from and not shut down every port. But there is no use of those images today. They are not being fed into Langley, they are not being fed into our intelligence system, they are not being fed into anything. So in the end, when the Senator from Maine talks about an integrated system, integration means not just integration of a standing image with a radiological detection device but integration of the information that is being gathered, which is substantial, to be used then in terms of our own analysis of what is in that cargo—does it represent high-risk, et cetera.

There is a great opportunity here, a great opportunity. But we are only at a point now where we have in one place in the world—we have two lanes of traffic that are using a system, and we now have the opportunity in this bill to get a pilot project, and I think it is magnificent. But there are also weaknesses we have which we then can address with this amendment, amendment No. 4982. What it says is—we kind of walked through and looked at what was in the bill, and we realized that, in operation, 100 percent of high-risk containers weren't being screened. This amendment says they will be. So every citizen out there should know that 100 percent of those containers which are identified as high risk will be screened, and that is important.

Then we go to the next step, and we do it in a responsible way. I have always believed that good policy is good politics. We do this in a good-policy way. We say that the Secretary shall ensure that 100 percent of the containers that have been identified as high risk are scanned before such containers leave a seaport facility. And then we say: The Secretary, in coordination with the Secretary of Energy and foreign partners, shall fully deploy integrated scanning systems to scan all containers entering the United States before such containers arrive in the United States as soon as the Secretary determines that—and this is the key—the integrated scanning system has a sufficiently low false alarm rate, is capable of being deployed and operated in ports overseas, meets certain requirements set forth in the statute—very basic requirements—does not significantly impact trade capacity and flow of cargo at foreign and U.S. ports.

So we have a system that says: OK, Mr. Secretary, this is what you have to do, because we want this system in place, but we want it to be done in a way that doesn't cripple the supply chain and that practically can be done. It is nice to be able to say we want 100 percent. I think we have about 704 operational seaports in 147 countries today, and we have a scanning system that is used in 2 lanes and one that is not even integrated into our entire system. We are not there yet. We want to get there. This amendment puts us on a course to get there.

Then, to make sure we are not simply leaving it to the discretion of the Secretary to say when he decides it should be done, we tell him to come back to us, to come back to our colleagues in Congress, and we want to know where you are. So it says that not later than 6 months—and the underlying pilot project requires the Secretary to come back—it is a 1-year pilot project—come back within 120 days with a report and tell us how the pilot project worked. And then this amendment says that not later than 6 months after the submission of this report and every 6 months thereafter, the Secretary shall submit a report to the appropriate congressional committees describing the status of full-scale deployment under subsection B and the cost of deploying the system at each foreign port.

So what we have in place here is what I hope my colleagues on both sides of the aisle would say is the right way to go. We set in place a pilot project. We ask that the pilot project be evaluated. The Secretary is required to give us a report on how that pilot project is working, and then we tell the Secretary: Every 6 months, come back, because we want to know how close we are to getting to 100 percent scanning, how close we are and what else has to be done. It gives us the opportunity in a responsible way—a responsible way—to come back to see if we can put in place a system where we scan 100 percent. But scanning 100 percent on arbitrary deadlines, scanning 100 percent on impossible deadlines doesn't make any sense, and I am glad we are not at that point right now. We are at the point right now where we have in place the ability to significantly improve the level of safety and security in those 11 million cargo containers which are entering the United States.

We have an underlying bill that does a magnificent job of addressing weaknesses that have been identified, and now we will take care of them. We have an amendment in place that builds on a pilot project, and building on that pilot project puts certain obligations on the Department of Homeland Security to come back to us in Congress and tell us how you are doing, and if you are not moving quick enough, we will be on your case. We will be on your case. We know what the goal is, and we share a common vision, and we have now a responsible way of doing it. That will allow the free flow of commerce, will allow jobs to grow, giving people economic security at the same time that we protect national security.

Mr. President, I yield the floor.

Mrs. MURRAY. Mr. President, I yield 6 minutes to the Senator from the New Jersey, Mr. MENENDEZ.

The PRESIDING OFFICER. The Senator from New Jersey is recognized for 6 minutes.

Mr. MENENDEZ. Mr. President, I thank the Senator for yielding time.

After listening to this debate, I think my distinguished colleagues are talking about another pending amendment, not my amendment. My amendment is very clear and forthright. It asks for a plan to achieve 100 percent scanning—a plan.

Now, after listening to the debate, the reality is that after all of the items that were discussed, that still is only 1 percent scanning of 5 percent of the cargo. Let's not get confused. Words matter. There is a difference between screening and scanning.

Who in our country will be satisfied with a mathematical equation being used as the way in which we determine what 5 percent ultimately gets taken care of? What it still says, notwithstanding all those layers of security

that the distinguished Senator from Maine spoke about, is that still only has us reviewing 5 percent of the cargo. That is what it does. So who among us is willing to allow mathematical equations that are based upon information that can be either intentionally or unintentionally faulty to ultimately protect the ports of this country, the people who work there, the communities that surround them, and the commerce of the Nation? I wouldn't.

If Hong Kong can do this, the United States of America can do it. All we say is let's have the Department of Homeland Security develop a plan to achieve it. We do not insist on specific ways in which we do that. We allow them to develop the plan. But let's get to a plan for 100 percent of the cargo.

As for domestic, we say it will include benchmarks that they will determine in the plan for what type of cargo inspectors are inspecting here in the United States before they leave. It doesn't say specifically the amount, and as it relates to the loss of access to U.S. ports and fines, it says it may include such loss of access if we believe that is the way in which we should seek enforcement. It doesn't say ''it shall.'' It says ''it may.''

At the end of the day, if we adopt the amendment of the Senator from Minnesota, we are still saying: OK, 5 percent is something we are willing to live with. At the end of the day, we do not move to a plan of 100 percent scanning of the Nation's cargo. Doesn't the Nation deserve a plan to get there, a plan that largely can be devised to ensure that both technological accomplishments, as well as security concerns, are brought together to achieve the goal? I think the Nation deserves a plan. So it is very important to understand that when we keep saying screen—screen means looking at a cargo manifest.

I had the Port of Elizabeth in Newark in what was my former congressional district for 13 years and dealt with them for quite a bit on a number of issues. Screening just means let's look at what is in that container. Let's see the list. Where is it coming from? What port is it coming from? Let's ultimately take all of that and put it in a mathematical equation and look at what is inside the cargo. But that is not scanning 100 percent of what comes into the Nation. Let America not be confused by that.

Also, this is about scanning it abroad. When we wait until it comes into a port of the United States, if it has a nuclear device in it, it is a little late. We need to be doing that scanning abroad.

I urge my colleagues to understand the difference between these amendments. Ours produces a plan to get us to 100 percent of scanning, and it gives flexibility for the Department to do so, but it does move us toward that ultimate goal.

With that, I yield the remainder of my time to the Senator from Washington, and I yield the floor.

The PRESIDING OFFICER. Who yields the floor?

Mrs. MURRAY. How much time is left on both sides?

The PRESIDING OFFICER. The minority has 8½ minutes, the majority has 2½.

Mrs. MURRAY. I yield the remainder of our time to the Senator from New Jersey, Mr. LAUTENBERG.

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

Mr. LAUTENBERG. Mr. President, I rise to support the amendment brought by my colleague, Senator MENENDEZ, because I think it covers the bases we are concerned about. This amendment, very simply, demands accountability from the Bush administration on port security. The bill before us contains an amendment as well, that I authored in committee, to require 100 percent screening of containers coming into the United States. These containers would have to be screened before they are loaded on ships at a foreign port. I think that is the time to do it.

We have already seen attempts by the majority to downplay or even duck this requirement. I am not suggesting, in the interests of safety and security, that the Senator from Minnesota or the Senator from Maine is less concerned about the security or the safety of our people. But I am supporting the Menendez amendment because he gets specifically to the point, and I think the approach that we take is the strongest one and in the best interests of the American people.

We need the administration to tell the American people exactly how long it will take them to provide the security necessary to reach the level of a 100-percent screening requirement. Right now, as we all know, we only inspect around 5 percent of shipping containers coming into our country. Terrorists could smuggle weapons, nuclear or chemical weapons, into a harbor and potentially launch an attack even more devastating than the 9/11 attack we experienced.

I listened very carefully to Senator MENENDEZ review his amendment, and that is to get us to the 100 percent opportunity. The Senator from Minnesota says he believes there would be 100 percent screening. But that would come only after there have been paper documents saying what was being shipped was OK.

I ask you, would we take the most honest presentation of a clergyman, a doctor, a lawyer, a judge, or an individual and say: OK, that individual can bypass security at the airport? Not on your life. And we should not do it here.

Why do we want to put trust in a paper-laden system where the GAO says that many of the manifests and the documents for shipping cargo are unreliable, that they are not trustworthy. I think if we are really going to do the job people expect of us, we are going to have to try to get as quickly as we can to 100 percent screening. The amendment of Senator MENENDEZ does absolutely that, so we ought not to tinker any further.

Are we really serious about getting to the end of the game, protecting our citizens as much as we can? Then we have to do it by a 100-percent screening. What we are not saying is do it overnight or do it by next week or next month. But we are saying: Give us the plan, Mr. President and this administration, on how you expect to do this.

We have to remember one thing: Senator MENENDEZ has, in his former territory, in his former constituency, the second largest port in the country; the New York-New Jersey Harbor is just that. He has worked with people who run the cargo operations. He knows the people who are terminal operators. He is very conscious of what it takes to protect ourselves to the last detail that we can.

I believe we have to be in support of the Menendez amendment that says: OK, come on, tell us what it is that you plan to do to protect the people of America in a way that gives us comfort—not 1 out of 20 cargo containers that arrive that might be supported by a paper manifest that doesn't mean an awful lot because there is plenty of opportunity to tinker with that cargo container before it leaves the shore unless we have scanned it at the last moment possible.

I urge our colleagues to support the Menendez amendment. Let's not waste any more of the time that the people of America need to feel secure about those ships that enter our harbors bringing goods into this country.

I yield whatever time there is back to the Senator from Washington.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, how much time is remaining on the majority side?

The PRESIDING OFFICER. There remains 2½ minutes.

Mr. COLLINS. I yield 1½ minutes to the Senator from Minnesota, and I retain a minute for myself.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. COLEMAN. Mr. President, I say to my colleagues listening, the difference between the Menendez amendment and mine is America doesn't need another plan. There are some technical infirmities. There are some questions about what it may do in terms of our relations with other countries. Put all that aside. We don't need another plan. We need action. Maybe it is the ex-mayor in me. The underlying bill and the pilot project and the Coleman amendment will provide action. They put in place a pilot project to test how 100 percent scanning can work, and then it directs the Secretary to fully deploy, with a series of steps put in front of him, and then requires him to come back to Congress. It is not about planning, it is about action.

The American public wants action. We are giving the action. We are strengthening our port security. We

are putting in place a pilot project. We are directing the Secretary to ensure there is 100 percent screening of every high-risk container, and then requiring him to fully deploy an integrated scanning system 100 percent, lays out the conditions, and has him report back to us.

I am not sure we can do any better today based on the technology we now have.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, if you think about it, those who are advocating that we go to 100 percent scanning prior to having the technology in place to do it efficiently without slowing down trade are, in fact, rejecting the whole notion of the C–TPAT Program. Why should a shipper, retailer or manufacturer, secure its supply chain from end to end if they are going to be subjected to the same kinds of inspection as a shipper who has high-risk cargo in an unsecured supply chain? That doesn't make any sense at all. It completely undermines the C–TPAT Program, the container security initiative, because it embraces the concept that all cargo is alike. It is not all alike. There are low-risk containers.

I think we should think very carefully about the implications of this amendment. I think Senator COLEMAN has come up with an excellent amendment. He has done a great deal of work, and I urge my colleagues to support the Coleman-Collins-Stevens amendment and to vote against the amendment of the Senator from New Jersey.

The PRESIDING OFFICER. The time of the majority has expired. The Senator from Washington.

Mrs. MURRAY. I believe there is 3 minutes left on our side.

The PRESIDING OFFICER. The Senator is correct.

Mrs. MURRAY. I yield to the Senator from New Jersey however much time he needs.

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

Mr. LAUTENBERG. I thank the Senator from Washington.

I listened very carefully to what our colleagues on the other side of the aisle have said. I wonder about why it is we are defending a voluntary system, of sorts, that raises the question about why a shipper would waste any time tracing the source of the product if they are going to be inspected again. What are we doing? Are we saying the question is whether we trust the shipper? That is not the position we take at all.

The position we take, that the amendment of Senator MENENDEZ takes, is tell us when you are going to have 100 percent security. That is the right objective. We know that it works. We know in Hong Kong they can process a scan of a cargo container in something around 2 minutes at an average cost of about $8. Is it not worth it? We pass the cost along to the shipper. That is their cost, not the American taxpayer's cost.

As regards relying on paperwork to give us a head's up as to whether that cargo should be inspected, GAO has found that shipping documents are one of the least reliable sources of information that Customs collects.

One audit pre-9/11 showed that over 60 percent of these documents had major discrepancies. So who are we trying to defend? Are we trying to defend the well-being of the American people, of the economy that relies so much on harbor activity, on imported goods, or are we trying to satisfy an industrial perspective that says don't take the time, don't do that, let's trust, right now, 95 percent of the cargo that comes in here as being safe to reach our shores.

I do not think that is a very good way for us to be reacting when everyone is so concerned about another terrorist attack, something that everybody is concerned about, a repetition of something that resembles 9/11, or even worse.

The best thing to do is stick to our guns and say that we want to see 100 percent of those cargo containers scanned so we know what is in there. After it has been closed up, after everything else has been done, the paper manifest is still there, and whether they are exactly precise would not matter. We will know what is in that cargo container, and we will be able to protect the American people as we should.

I, once again, hope Members will reject the amendment and support Senator MENENDEZ's amendment.

Ms. COLLINS. Mr. President, I ask for the yeas and nays on the Coleman amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mrs. MURRAY. Mr. President, I ask for the yeas and nays on the Menendez amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the Coleman amendment.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. The following Senator was necessarily absent: the Senator from Rhode Island (Mr. CHAFEE).

Mr. DURBIN. I announce that the Senator from Hawaii (Mr. AKAKA) is necessarily absent.

The result was announced—yeas 95, nays 3, as follows:

[Rollcall Vote No. 245 Leg.]

YEAS—95

| | | |
|---|---|---|
| Alexander | Bunning | Collins |
| Allard | Burns | Conrad |
| Allen | Burr | Cornyn |
| Baucus | Byrd | Craig |
| Bayh | Cantwell | Crapo |
| Bennett | Carper | Dayton |
| Biden | Chambliss | DeMint |
| Bingaman | Clinton | DeWine |
| Bond | Coburn | Dodd |
| Boxer | Cochran | Dole |
| Brownback | Coleman | Domenici |
| Dorgan | Kohl | Roberts |
| Durbin | Kyl | Rockefeller |
| Ensign | Landrieu | Salazar |
| Enzi | Leahy | Santorum |
| Feingold | Levin | Sarbanes |
| Feinstein | Lieberman | Sessions |
| Frist | Lincoln | Shelby |
| Graham | Lott | Smith |
| Grassley | Lugar | Snowe |
| Gregg | Martinez | Specter |
| Hagel | McCain | Stabenow |
| Harkin | McConnell | Stevens |
| Hatch | Mikulski | Sununu |
| Hutchison | Murkowski | Talent |
| Inhofe | Murray | Thomas |
| Inouye | Nelson (FL) | Thune |
| Isakson | Nelson (NE) | Vitter |
| Jeffords | Obama | Voinovich |
| Johnson | Pryor | Warner |
| Kennedy | Reed | Wyden |
| Kerry | Reid | |

NAYS—3

| | | |
|---|---|---|
| Lautenberg | Menendez | Schumer |

NOT VOTING—2

| | |
|---|---|
| Akaka | Chafee |

The amendment (No. 4982) was agreed to.

Mr. COLEMAN. I move to reconsider the vote.

Ms. COLLINS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 4999

The PRESIDING OFFICER. There is 2 minutes equally divided on the Menendez amendment.

The Senator from Maine.

Ms. COLLINS. Mr. President, we just agreed to an amendment that will require 100 percent scanning of high-risk containers and put us on the path to having 100 percent scanning of containers, once it is feasible, once the technology is there.

I am concerned about the amendment of the Senator from New Jersey. I don't think it has the kind of thought in it that was in the Coleman amendment. There are two provisions, in particular, that concern me.

One, it requires a plan for scanning containers that are going out of U.S. ports. That is going to slow down trade incredibly and will be a real problem for our farmers who are exporting their crops.

Second, it has a provision requiring consequences to be imposed on foreign ports or U.S. ports that do not meet the benchmarks described in the plan, which may include a loss of access to U.S. ports and fines. This will lead to retaliation by foreign ports.

I urge our colleagues to oppose the amendment.

The PRESIDING OFFICER. The Senator from New Jersey is recognized for 1 minute.

Mr. MENENDEZ. Mr. President, I ask unanimous consent to add Senator LAUTENBERG as a cosponsor to the amendment.

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

Mr. MENENDEZ. Mr. President, with reference to the concerns the Senator from Maine raised, let me just say the amendment we just adopted says we are going to scan 100 percent of the

containers that have been identified as high risk before they leave the United States. So that is the very essence of what we seek to do as well.

Secondly, the only amendment before the Senate that will move us to a plan to get to 100 percent scanning of all cargo in this country is the amendment presently before the Senate.

If you want to continue to allow a mathematical equation to determine how we inspect only 5 percent of the cargo in this country, then that is what you just accomplished. If you want to move toward a plan to get 100 percent scanning of all the cargo that comes into this country, giving the Department of Homeland Security the opportunity to develop such a plan, then this amendment is the one you want to vote for.

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

The yeas and nays have been ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. MCCONNELL. The following Senator was necessarily absent: the Senator from Rhode Island (Mr. CHAFEE).

Mr. DURBIN. I announce that the Senator from Hawaii (Mr. AKAKA) is necessarily absent.

The result was announced—yeas 43, nays 55, as follows:

[Rollcall Vote No. 246 Leg.]

YEAS—43

| | | |
|---|---|---|
| Baucus | Feinstein | Murray |
| Bayh | Harkin | Nelson (FL) |
| Biden | Inouye | Obama |
| Bingaman | Jeffords | Pryor |
| Boxer | Johnson | Reed |
| Byrd | Kennedy | Reid |
| Cantwell | Kerry | Rockefeller |
| Carper | Kohl | Salazar |
| Clinton | Lautenberg | Sarbanes |
| Conrad | Leahy | Schumer |
| Dayton | Levin | Stabenow |
| Dodd | Lieberman | Talent |
| Dorgan | Lincoln | Wyden |
| Durbin | Menendez | |
| Feingold | Mikulski | |

NAYS—55

| | | |
|---|---|---|
| Alexander | Dole | McConnell |
| Allard | Domenici | Murkowski |
| Allen | Ensign | Nelson (NE) |
| Bennett | Enzi | Roberts |
| Bond | Frist | Santorum |
| Brownback | Graham | Sessions |
| Bunning | Grassley | Shelby |
| Burns | Gregg | Smith |
| Burr | Hagel | Snowe |
| Chambliss | Hatch | Specter |
| Coburn | Hutchison | Stevens |
| Cochran | Inhofe | Sununu |
| Coleman | Isakson | Thomas |
| Collins | Kyl | Thune |
| Cornyn | Landrieu | Vitter |
| Craig | Lott | Voinovich |
| Crapo | Lugar | Warner |
| DeMint | Martinez | |
| DeWine | McCain | |

NOT VOTING—2

| | |
|---|---|
| Akaka | Chafee |

The amendment (No. 4999) was rejected.

Mrs. MURRAY. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

AMENDMENT NO. 4958

Mrs. CLINTON. Mr. President, I call up pending amendment No. 4958, and I ask for the yeas and nays.

The PRESIDING OFFICER. The amendment is now pending. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Montana is recognized.

UNANIMOUS CONSENT REQUEST—H.R. 4096

Mr. BAUCUS. Mr. President, I wish to read a letter I just received today from a representative of an American company that employs millions of workers, including hundreds in my home State of Montana.

He writes:

> As one of the Nation's largest employers of people coming off welfare, we have kept our end of the bargain and continued hiring throughout this year with the understanding that the Work Opportunity and Welfare to Work tax credits would be extended.

He continues:

> We now face a significant increase in our tax liability and will have to book corresponding losses to our profitability unless you act now. The ongoing frustration is taking its toll on us.

Indeed, the frustration over the 2005 expired tax incentives is taking its toll on millions of Americans.

This letter is from the parent company of T.J. Maxx, Marshalls, HomeGoods, A.J. Wright, and Bob's Stores. That company likely has stores in each State in the Union and each congressional district. These are real people, real jobs, and real money on the line. Yet some of my colleagues on the other side of the aisle have taken these popular tax credits hostage. In fact, some have openly referred to these credits as ''hostages.'' Some have said that sometimes you have to kill hostages to be taken seriously. It is time that we end these threats and get back to the business of legislating.

Let me remind everyone how many times these popular tax cuts have been set aside. We first passed them as part of the tax reconciliation bill last November. They passed this body, but they were set aside in order to accommodate provisions in that tax bill that were expiring, not in 2005 but expiring 4 years later in 2009. Then we were promised they would surely be included in the pension conference, the next tax vehicle. Once again, they were pulled out at the last moment after weeks of negotiations and haggling.

The package we are discussing is a compromise package. It passed the House. It does not include everything I would want, but it is what we agreed to months ago, and it is what we should have enacted months ago.

This package includes the research and development tax credit. I remind my colleagues that companies are now beginning to restate their financials. Why? Because Congress has not extended the R&D tax credit that expired at the end of last year. We have letters from companies saying they have to restate, but they had the R&D credit in the past. They have to start restating their financials. It is not in the law now. If we were going to extend it, we should have extended it a long time ago.

The package includes the deduction for schoolteachers who buy supplies for their students. Of all things to give our teachers. Think of them, who buy supplies for their students. They are supposed to get a deduction. It expired last year. My Lord, here we are already at the beginning of the school year and the deduction is not there for them.

The package includes the tuition deduction for college students trying to go back to school. It includes the deduction for State and local sales taxes. Just think. And it includes other widely supported tax cuts.

If we do not enact these provisions, then millions of Americans will have their taxes increased. This Congress has been zealous in preventing tax increases several years into the future. We ought to prevent these tax increases which are happening today.

I urge my colleagues to pass a clean, retroactive extension, back to the end of 2005, of these popular credits for businesses, schoolteachers, employers who hire welfare workers, and all the people who are depending on us to do the right thing. Let us end the frustration today.

Mr. President, this amendment has more than 30 cosponsors. I imagine there would be many more if we asked them. I ask unanimous consent that Senators BINGAMAN, FEINSTEIN, and KENNEDY be added as cosponsors. I also ask unanimous consent that Senator OBAMA, Senator REED from Rhode Island, Senator AKAKA, and Senator INOUYE be added as cosponsors.

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

Mr. BAUCUS. Mr. President, I ask unanimous consent that the Senate proceed to Calendar No. 326, H.R. 4096; that the Senate adopt my amendment that is at the desk, the substance of which is the agreed-upon tax extender package; that the bill be read a third time and passed; that the motion to reconsider be laid upon the table; that the Senate return to the port security bill; and that all this occur without intervening action.

The PRESIDING OFFICER. Is there objection?

Mr. FRIST. Reserving the right to object.

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. Mr. President, the issue before us is an issue we have addressed on the floor of the Senate. Republicans felt very strongly that these tax extenders need to be extended and brought them to the floor prior to our recess. Yes, they were coupled with two other issues, one of which was a permanent solution to the death tax, which is a fair thing to do, overwhelmingly supported by the majority of the people, and an increase in the minimum wage by 40 percent, something that I feel strongly that we are in a position to do.

We took those issues to the floor. The bill was defeated by the other side

of the aisle. Again, it was very unfortunate. It was referred to as the so-called trifecta bill. I did switch my vote at that time, and it may well be that over the next couple of weeks, if we can continue to build support for these issues, we can bring that bill back to the floor.

Thus, at this juncture, instead of breaking those bills up, we are going to keep those bills together, and thus I object.

The PRESIDING OFFICER. Objection has been heard.

Mr. BAUCUS. Mr. President, before the Senator objects, may I make one comment?

The PRESIDING OFFICER. An objection has been heard on the floor.

Mr. BAUCUS. I ask to have the floor.

The PRESIDING OFFICER. The Senator has the floor.

Mr. BAUCUS. Mr. President, I appreciate the views of the majority leader. I must remind all of our colleagues that we have been down that road a couple of times and that, in my judgment, they are not going to fly.

I support the provisions that are in that package. This Senate has voted a couple of times, and it is my strongly held view in talking with Senators that it just is not going to get passed. In the meantime, it is important to get something passed that is so important to so many people.

I hear what the majority leader is saying, but it is my judgment that sometimes it is better to go on and do legislation that can get enacted and not stick around and try to delude ourselves into passing bills that cannot get passed. That is why I am bringing this up today, because we can get this passed today, I am quite confident. Regrettably, the provisions the majority leader mentioned cannot be passed, and therefore we should not delay the passage of something that is so important to so many people.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. FRIST. Mr. President, I appreciate the comments of my distinguished colleague. Time is very short, I understand. That is why my colleague brings it to the floor now, because it is very important that we extend these tax provisions—sales tax, college tuition, and the R&D tax credit. It is very important. That is really the reason I took a bill I know my colleague supports, and that is a permanent solution to the death tax—maybe not exactly the way it is now, but he is somebody who supported that cause. Indeed, it has the majority support of the United States of America. It is the right thing to do. The minimum wage, again, I think is something that is broadly supported by the American people. And then the tax extenders. All three are broadly supported.

The benefit is, if we can build that support and have it reflected on this floor—that is really on the Senator's side of the aisle—that would be the law of the land because it has already passed the House of Representatives. If we were to vote on these today, it would be signed by the President 3 days from now. That means people's minimum wage would go up 40 percent, the tax extenders would be done because it wouldn't have to go back to the House and it would be done 3 days from now, and we would have a permanent solution to the death tax, which is a fair and right thing to do.

I am going to preserve that option for now. I appreciate my colleague's support because I think he probably does individually support each of those three issues.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, for the benefit of my colleagues, I want to explain how we are going to proceed. Obviously, Senator BAUCUS made his unanimous consent request. I didn't anticipate that when we were ordering the speakers earlier. We are going to go to Senator SANTORUM for the purpose of an amendment, but he will only take 3 minutes, and then we are going to go to Senator OBAMA for his amendment, and then I am going to propose on behalf of Senator VOINOVICH an amendment he has worked out with the Presiding Officer.

The PRESIDING OFFICER. The Senator from Pennsylvania.

AMENDMENT NO. 4990

(Purpose: To provide for comprehensive border security, and for other purposes.)

Mr. SANTORUM. Mr. President, I call up amendment No. 4990 and ask for its consideration.

The PRESIDING OFFICER. Is there objection to the pending amendment being set aside? Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Pennsylvania [Mr. SANTORUM] proposes an amendment numbered 4990.

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

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

(The amendment is printed in today's RECORD under ''Text of Amendments.'')

Mr. SANTORUM. President, I rise today to offer an amendment that I believe offers us an opportunity to secure our borders now. My bill takes a first-things-first approach and recognizes that it is imperative that we secure our borders now. This first step cannot—and should not have to—wait for a ''comprehensive'' solution. Once we secure our borders, we can look at all of the other illegal immigration related issues that remain. There is a bipartisan consensus on what needs to be done on border security and the provisions that make up this consensus. We should not hold our border security hostage to a broader initiative.

My amendment will significantly increase the assets available for controlling our borders. It provides more inspectors, more marshals, and more border patrol agents on both the northern and southern borders. It provides new aerial vehicles and virtual fencing—camera, sensors, satellite and radar coverage, etc. It increases our surveillance assets and their deployment and provides for new checkpoints and ports of entry. It includes Senator SESSIONS' amendment for greater fencing along our southern border, including 370 miles of triple-layered fencing and 500 miles of vehicle barriers. It also provides for the acquisition of more helicopters, powerboats, motor vehicles, portable computers, radio communications, hand-held global positioning devices, night vision equipment, body armor, weapons, and detention space.

While we know these resources will be critical improvements, it does not just throw resources at the problem. My amendment requires a comprehensive national strategy for border security, surveillance, ports of entry, information exchange between agencies, increasing the capacity to train border patrol agents and combating human smuggling. It enhances initiatives on biometric data, secure communications for border patrol agents, and document fraud detection. It includes Senator ENSIGN's language to temporarily deploy the National Guard to support the border patrol in securing our southern land border. Additionally, it increases punishment for the construction, of border tunnels or passages.

When our borders are not secure, it is our cities and counties that are on the front lines, particularly those closest to the borders. Unfortunately, the negative impacts of illegal immigration are not limited to our border towns. Recently I worked with communities in southeastern Pennsylvania—Allentown, Easton, Bethlehem, Reading and Lancaster—as well as the U.S. Attorney for the Eastern District of Pennsylvania, Pat Meehan, to get one of the six recent Anti-Gang Initiative grants given by the Department of Justice. This area, called the Route 222 Corridor, was the only nonmetropolitan area to receive one of the $2.5 million grants to combat growing criminal activity in part because of illegal immigrants. However, I raise this issue here because U.S. Attorney Meehan's letter explains this issue very succinctly. He stated ''[e]ach city is seeing extensive Latino relocation to its poorer neighborhoods and housing projects. Once largely Puerto Rican, the minority populations are increasingly from Central America. Simultaneously, Mexican workers migrate to the agricultural areas around Lancaster, creating a southern link to criminal networks. The urban core is therefore transient, poor, non-English speaking and often undocumented . . . In this fertile environment, the Latin Kings, Bloods, NETA, and lately, MS–13, are recruiting or fighting with local gangs for control of the drug markets. Violence is a daily by-product.''

My amendment provides relief for cities, counties, and States dealing

with increased costs because of illegal immigration—specifically those caused by the criminal acts of illegal immigrants. There are four programs included in my amendment to address these issues. First, there are grants to law enforcement agencies within 100 miles of the Canadian or Mexican borders or such agencies where there is a lack of security and a rise in criminal activity because of the lack of border security, including a preference for communities with less than 50,000 people. Second, local governments can be reimbursed for costs associated with processing criminal illegal aliens such as indigent defense, criminal prosecution, translators, and court costs. Third, State and local law enforcement agencies can be reimbursed for expenses incurred in the detention and transportation of an illegal alien to Federal custody. Finally, reimbursements are available for costs incurred in prosecuting criminal cases that were federally initiated but where the Federal entity declined to prosecute. In addition, my bill requires the Secretary of Homeland Security to provide sufficient transportation and officers to take illegal aliens apprehended by State and local law enforcement officers into custody for processing at a detention facility operated by the Department, and that the Secretary designate at least one Federal, State, or local facility in each State as the central facility to transfer custody to the Department of Homeland Security.

This amendment also expedites the removal of criminal aliens from correctional facilities and expands border security programs through the Department of Commerce such as the Carrier Initiative, the Americas Counter Smuggling Initiative, the Container Security Initiative, and the Free and Secure Trade Initiative.

Throughout this debate, I have consistently stated that the first thing we must do is secure our Nation's borders. While the House and Senate are working to come to an agreement on the broader issues in an immigration bill, I am here to offer the Senate an opportunity to secure our borders now by adopting my Border Security First Amendment. Our borders must be secured now—not later. In the post 9/11 world we live in, our national security depends on our border security. We need to know who is coming into our country, where they are from, and what they are doing here. We must put first things first—we must secure our Nation's borders. I hope that my Senate colleagues will join me in recognizing the urgency of this amendment.

Again, I offer this amendment because I wish to make a point. The point is, we are talking about port security, and that is very important. But what I hear when I go home is not about port security, I hear about border security over and over again. If there is one issue people come up to me and talk to me about without fail, no matter what part of the State I am in, it is: What are you folks going to do about securing our borders?

We passed a bill in the Senate that is not going anywhere in the House of Representatives. It doesn't seem to be going anywhere in conference right now. What we should do and what the people in America would like us to do is to secure the borders first.

This amendment does just that. It is all the provisions in the Senate-passed bill that deal just with border security. If you want to talk about securing this country—and that is what this bill is about—border security is a national security issue, it is an economic security issue, and it also has to do with who we are as a country and our ability to sustain our culture.

This is an important amendment. I know this is not going to be germane postcloture, and we are going to have a cloture vote tomorrow morning. So I will not pursue it further because I am told I cannot get a vote on it. I bring this up because this is what we need to do between now and the end of this month before we recess. We need to pass a bill that secures our borders and tells the American people that we get it in Washington as to what the priorities are. There are other things we need to do, I understand that, but this is what we need to do and do first.

AMENDMENT NO. 4990, WITHDRAWN

Mr. President, I ask unanimous consent that the amendment be withdrawn.

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

The PRESIDING OFFICER. The Senator from Illinois.

Mr. OBAMA. Mr. President, what is the pending business?

The PRESIDING OFFICER. The Clinton amendment.

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

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

AMENDMENT NO. 4972, AS MODIFIED

Mr. OBAMA. Mr. President, I call up amendment No. 4972, as modified, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Illinois [Mr. OBAMA] proposes an amendment numbered 4972, as modified.

Mr. OBAMA. 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 ensure the evacuation of individuals with special needs in times of emergency)

On page 87, after line 18, add the following:

**SEC. 407. EVACUATION IN EMERGENCIES.**

(a) PURPOSE.—The purpose of this section is to ensure the preparation of communities for future natural, accidental, or deliberate disasters by ensuring that the States prepare for the evacuation of individuals with special needs.

(b) EVACUATION PLANS FOR INDIVIDUALS WITH SPECIAL NEEDS.—The Secretary, acting through the Federal Emergency Management Agency shall take appropriate actions to ensure that each State, as that term is defined in section 2(14) of the Homeland Security Act of 2002 (6 U.S.C. 101(14)), requires appropriate State and local government officials to develop detailed and comprehensive pre-disaster and post-disaster plans for the evacuation of individuals with special needs, including the elderly, disabled individuals, low-income individuals and families, the homeless, and individuals who do not speak English, in emergencies that would warrant their evacuation, including plans for the provision of food, water, and shelter for evacuees.

(c) REPORT TO CONGRESS.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to Congress a report setting forth, for each State, the status and key elements of the plans to evacuate individuals with special needs in emergencies that would warrant their evacuation.

(2) CONTENTS.—The report submitted under paragraph (1) shall include a discussion of—

(A) whether the States have the resources necessary to implement fully their evacuation plans; and

(B) the manner in which the plans of the States are integrated with the response plans of the Federal Government for emergencies that would require the evacuation of individuals with special needs.

Mr. OBAMA. Mr. President, I rise today to offer an amendment that would supplement the steps we are taking through this port security bill and increase our preparedness for a potential terrorist attack. My amendment is fairly modest. It requires FEMA to mandate that each State have a plan for the evacuation of individuals with special needs during times of emergency. Such plans would include an explanation of how these people—particularly low-income individuals and families, the elderly, the disabled, and those who cannot speak English—will be evacuated out of the emergency area and how the States will provide shelter, food, and water to these people once evacuated.

This amendment was included in S. 1725 and passed out of the Homeland Security and Governmental Affairs Committee in September of 2005.

This amendment obviously grows out of the tragedy of Hurricane Katrina, which devastated the gulf coast a little more than a year ago. One of the most striking aspects of the devastation caused by Katrina is the majority of stranded victims who were our society's most vulnerable members. As I indicated, after the tragedy, I think the government officials who called for the evacuation of the gulf coast—and this is true not just for Federal folks but also State and local officials—seemed to assume that all residents could pack up their families into an SUV, fill up the gas tank, drive out of town, and find a hotel in which to ride out the storm. As we learned, that was not the case. Many people were forced to find shelter in the Superdome or convention center because they did not own cars. They didn't have the money for a tank of gas or a hotel room. They

might not have wanted to leave their jobs or their belongings. Maybe they were in nursing homes or maybe they misunderstood the warnings because they didn't speak English. Whatever the reasons, thousands of people were not evacuated, and we saw the horrific results of that mistake.

This failure to evacuate so many of the most desperate citizens in the gulf coast could easily happen again if we are faced with another natural disaster such as Katrina or a terrorist attack that struck one of our cities. That is why I have come to the floor to offer this amendment. Our charge as public servants is to worry about all people. I was troubled that our emergency response and disaster plans were inadequate for large segments of the gulf coast. I have serious doubts at this point whether the plans in other regions are adequate as well. Perfect evacuation planning is obviously not possible, but greater advanced preparation can ensure the most vulnerable are not simply forgotten or ignored.

Even the Department of Homeland Security recognizes the urgent need for action, and the Department's nationwide plan review published this June found:

> Significant weaknesses in evacuation planning are an area of profound concern.

Congress can and should act to address this concern by passing this amendment. I hope my colleagues will support this amendment which, as I said, passed the Homeland Security Committee on a bipartisan basis.

Mr. President, I ask unanimous consent that Senator SALAZAR be added as a cosponsor.

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

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

Mr. GREGG. Mr. President, I understand the Senator from Maine is going to proceed with an amendment, but I ask unanimous consent that at the conclusion of her proceedings for the amendment, I be recognized to speak on the pending legislation.

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

Ms. COLLINS. Mr. President, first I would inquire through the Chair of the Senator from Illinois whether he has modified his amendment. I didn't hear a request that it be modified.

The PRESIDING OFFICER. The amendment was called up as modified.

Ms. COLLINS. I appreciate the clarification.

Mr. President, this proposal of the Senator from Illinois is very similar to a provision of the post-Katrina Stafford Act reforms that were reported by the Homeland Security Committee. The Senator from Illinois is absolutely right that we need to do a far better job in this country of developing comprehensive plans for the evacuation of individuals with special needs before, during, and after a disaster.

When we look at the experience with Hurricane Katrina, what we find is those who were left behind were predominantly elderly and disabled. Those were the characteristics that caused people to not be able to evacuate. Another factor was they tended to be lower income individuals, too. But the disabled individuals of the area, in Louisiana in particular, also actually had the experience of going to Red Cross shelters and being turned away, which is something I have discussed with the Red Cross.

So I think it is a good idea to require State and local governments to develop these kinds of plans, and I am happy to accept the amendment. I urge adoption of the amendment.

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

Mr. OBAMA. Mr. President, I thank Chairman COLLINS for supporting this amendment. I very much appreciate her remarks.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 4972), as modified, was agreed to.

Ms. COLLINS. Mr. President, I move to reconsider the vote.

Mrs. MURRAY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Ms. COLLINS. Mr. President, I ask unanimous consent that it be in order to reconsider the vote on the Menendez amendment No. 4999 at this time.

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

Ms. COLLINS. Mr. President, I move to reconsider the vote.

Mrs. MURRAY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 4962, AS MODIFIED

Ms. COLLINS. Mr. President, I send to the desk a modified amendment of the Senator from Ohio, Mr. VOINOVICH.

The PRESIDING OFFICER. Without objection, it is so ordered, and the pending amendments are set aside. The clerk will report.

The assistant legislative clerk read as follows:

> The Senator from Maine [Ms. COLLINS], for Mr. VOINOVICH, for himself and Mrs. CLINTON, and Ms. LANDRIEU, proposes an amendment numbered 4962, as modified.

Ms. COLLINS. 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, as modified, is as follows:

> At the appropriate place, insert the following:

**SEC. ___. PROTECTION OF HEALTH AND SAFETY DURING DISASTERS.**

(a) PROTECTION OF HEALTH AND SAFETY OF INDIVIDUALS IN A DISASTER AREA.—Title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170 et seq.) is amended by inserting after section 408 the following:

**"SEC. 409. PROTECTION OF HEALTH AND SAFETY OF INDIVIDUALS IN A DISASTER AREA.**

"(a) DEFINITIONS.—In this section:

"(1) CERTIFIED MONITORING PROGRAM.—The term 'certified monitoring program' means a medical monitoring program—

"(A) in which a participating responder is a participant as a condition of the employment of such participating responder; and

"(B) that the Secretary of Health and Human Services certifies includes an adequate baseline medical screening.

"(2) HIGH EXPOSURE LEVEL.—The term 'high exposure level' means a level of exposure to a substance of concern that is for such a duration, or of such a magnitude, that adverse effects on human health can be reasonably expected to occur, as determined by the President in accordance with human monitoring or environmental or other appropriate indicators.

"(3) INDIVIDUAL.—The term 'individual' includes—

"(A) a worker or volunteer who responds to a disaster, either natural or manmade, involving any mode of transportation in the United States or disrupting the transportation system of the United States, including—

"(i) a police officer;

"(ii) a firefighter;

"(iii) an emergency medical technician;

"(iv) any participating member of an urban search and rescue team; and

"(v) any other relief or rescue worker or volunteer that the President determines to be appropriate;

"(B) a worker who responds to a disaster, either natural or manmade, involving any mode of transportation in the United States or disrupting the transportation system of the United States, by assisting in the cleanup or restoration of critical infrastructure in and around a disaster area;

"(C) a person whose place of residence is in a disaster area, caused by either a natural or manmade disaster involving any mode of transportation in the United States or disrupting the transportation system of the United States;

"(D) a person who is employed in or attends school, child care, or adult day care in a building located in a disaster area, caused by either a natural or manmade disaster involving any mode of transportation in the United States or disrupting the transportation system of the United States, of the United States; and

"(E) any other person that the President determines to be appropriate.

"(4) PARTICIPATING RESPONDER.—The term 'participating responder' means an individual described in paragraph (3)(A).

"(5) PROGRAM.—The term 'program' means a program described in subsection (b) that is carried out for a disaster area.

"(6) SUBSTANCE OF CONCERN.—The term 'substance of concern' means a chemical or other substance that is associated with potential acute or chronic human health effects, the risk of exposure to which could potentially be increased as the result of a disaster, as determined by the President, in coordination with ATSDR and EPA, CDC, NIH, FEMA, OSHA, and other agencies.

"(b) PROGRAM.—

"(1) IN GENERAL.—If the President determines that 1 or more substances of concern are being, or have been, released in an area declared to be a disaster area under this Act and disrupts the transportation system of the United States, the President may carry out a program for the coordination and protection, assessment, monitoring, and study of the health and safety of individuals with high exposure levels to ensure that—

"(A) the individuals are adequately informed about and protected against potential health impacts of any substance of concern and potential mental health impacts in a timely manner;

''(B) the individuals are monitored and studied over time, including through baseline and followup clinical health examinations, for—

''(i) any short- and long-term health impacts of any substance of concern; and

''(ii) any mental health impacts;

''(C) the individuals receive health care referrals as needed and appropriate; and

''(D) information from any such monitoring and studies is used to prevent or protect against similar health impacts from future disasters.

''(2) ACTIVITIES.—A program under paragraph (1) may include such activities as—

''(A) collecting and analyzing environmental exposure data;

''(B) developing and disseminating information and educational materials;

''(C) performing baseline and followup clinical health and mental health examinations and taking biological samples;

''(D) establishing and maintaining an exposure registry;

''(E) studying the short- and long-term human health impacts of any exposures through epidemiological and other health studies; and

''(F) providing assistance to individuals in determining eligibility for health coverage and identifying appropriate health services.

''(3) TIMING.—To the maximum extent practicable, activities under any program carried out under paragraph (1) (including baseline health examinations) shall be commenced in a timely manner that will ensure the highest level of public health protection and effective monitoring.

''(4) PARTICIPATION IN REGISTRIES AND STUDIES.—

''(A) IN GENERAL.—Participation in any registry or study that is part of a program carried out under paragraph (1) shall be voluntary.

''(B) PROTECTION OF PRIVACY.—The President shall take appropriate measures to protect the privacy of any participant in a registry or study described in subparagraph (A).

''(C) PRIORITY.—

''(i) IN GENERAL.—Except as provided in clause (ii), the President shall give priority in any registry or study described in subparagraph (A) to the protection, monitoring and study of the health and safety of individuals with the highest level of exposure to a substance of concern.

''(ii) MODIFICATIONS.—Notwithstanding clause (i), the President may modify the priority of a registry or study described in subparagraph (A), if the President determines such modification to be appropriate.

''(5) COOPERATIVE AGREEMENTS.—

''(A) IN GENERAL.—The President may carry out a program under paragraph (1) through a cooperative agreement with a medical institution, including a local health department, or a consortium of medical institutions.

''(B) SELECTION CRITERIA.—To the maximum extent practicable, the President shall select, to carry out a program under paragraph (1), a medical institution or a consortium of medical institutions that—

''(i) is located near—

''(I) the disaster area with respect to which the program is carried out; and

''(II) any other area in which there reside groups of individuals that worked or volunteered in response to the disaster; and

''(ii) has appropriate experience in the areas of environmental or occupational health, toxicology, and safety, including experience in—

''(I) developing clinical protocols and conducting clinical health examinations, including mental health assessments;

''(II) conducting long-term health monitoring and epidemiological studies;

''(III) conducting long-term mental health studies; and

''(IV) establishing and maintaining medical surveillance programs and environmental exposure or disease registries.

''(6) INVOLVEMENT.—

''(A) IN GENERAL.—In carrying out a program under paragraph (1), the President shall involve interested and affected parties, as appropriate, including representatives of—

''(i) Federal, State, and local government agencies;

''(ii) groups of individuals that worked or volunteered in response to the disaster in the disaster area;

''(iii) local residents, businesses, and schools (including parents and teachers);

''(iv) health care providers; and

''(v) other organizations and persons.

''(B) COMMITTEES.—Involvement under subparagraph (A) may be provided through the establishment of an advisory or oversight committee or board.

''(7) PRIVACY.—The President shall carry out each program under paragraph (1) in accordance with regulations relating to privacy promulgated under section 264(c) of the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1320d–2 note; Public Law 104–191).

''(8) EXISTING PROGRAMS.—In carrying out a program under paragraph (1), the President may—

''(A) include the baseline clinical health examination of a participating responder under a certified monitoring programs; and

''(B) substitute the baseline clinical health examination of a participating responder under a certified monitoring program for a baseline clinical health examination under paragraph (1).

''(c) REPORTS.—Not later than 1 year after the establishment of a program under subsection (b)(1), and every 5 years thereafter, the President, or the medical institution or consortium of such institutions having entered into a cooperative agreement under subsection (b)(5), may submit a report to the Secretary of Homeland Security, the Secretary of Health and Human Services, the Secretary of Labor, the Administrator of the Environmental Protection Agency, and appropriate committees of Congress describing the programs and studies carried out under the program.''.

(b) NATIONAL ACADEMY OF SCIENCES REPORT ON DISASTER AREA HEALTH AND ENVIRONMENTAL PROTECTION AND MONITORING.—

(1) IN GENERAL.—The Secretary, the Secretary of Health and Human Services, and the Administrator of the Environmental Protection Agency shall jointly enter into a contract with the National Academy of Sciences to conduct a study and prepare a report on disaster area health and environmental protection and monitoring.

(2) PARTICIPATION OF EXPERTS.—The report under paragraph (1) shall be prepared with the participation of individuals who have expertise in—

(A) environmental health, safety, and medicine;

(B) occupational health, safety, and medicine;

(C) clinical medicine, including pediatrics;

(D) environmental toxicology;

(E) epidemiology;

(F) mental health;

(G) medical monitoring and surveillance;

(H) environmental monitoring and surveillance;

(I) environmental and industrial hygiene;

(J) emergency planning and preparedness;

(K) public outreach and education;

(L) State and local health departments;

(M) State and local environmental protection departments;

(N) functions of workers that respond to disasters, including first responders;

(O) public health and family services.

(3) CONTENTS.—The report under paragraph (1) shall provide advice and recommendations regarding protecting and monitoring the health and safety of individuals potentially exposed to any chemical or other substance associated with potential acute or chronic human health effects as the result of a disaster, including advice and recommendations regarding—

(A) the establishment of protocols for monitoring and responding to chemical or substance releases in a disaster area to protect public health and safety, including—

(i) chemicals or other substances for which samples should be collected in the event of a disaster, including a terrorist attack;

(ii) chemical- or substance-specific methods of sample collection, including sampling methodologies and locations;

(iii) chemical- or substance-specific methods of sample analysis;

(iv) health-based threshold levels to be used and response actions to be taken in the event that thresholds are exceeded for individual chemicals or other substances;

(v) procedures for providing monitoring results to—

(I) appropriate Federal, State, and local government agencies;

(II) appropriate response personnel; and

(III) the public;

(vi) responsibilities of Federal, State, and local agencies for—

(I) collecting and analyzing samples;

(II) reporting results; and

(III) taking appropriate response actions; and

(vii) capabilities and capacity within the Federal Government to conduct appropriate environmental monitoring and response in the event of a disaster, including a terrorist attack; and

(B) other issues specified by the Secretary, the Secretary of Health and Human Services, and the Administrator of the Environmental Protection Agency.

(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this subsection.

Ms. COLLINS. Mr. President, as the Presiding Officer is well aware, this reflects an agreement between the Senator from Oklahoma and the Senator from Ohio. It is my understanding that it has been cleared on both sides, and I ask for its adoption.

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

If not, the question is on agreeing to the amendment, as modified.

The amendment (No. 4962), as modified, was agreed to.

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

Mr. GREGG. Mr. President, I rise to congratulate the Senator from Maine, the Senator from Alaska, the Senator from Iowa, and the ranking members of those committees—Finance, Commerce, and Homeland Security—for bringing forward this extremely important piece of legislation relative to port security. It has a lot of the initiatives in it that are necessary to be sure we move forward with a legal framework which will allow us to secure our ports.

But I did want to make these points about what we have already done and

what we are doing, even though we may not have had the actual authorization language in place, because I think people listening to this debate may presume: Well, because they are actually debating this language, maybe nothing has been done on this point or on that point which has been raised, such as monitoring, such as Coast Guard enhancement, such as expanding the number of Customs officers.

Nothing could be further from what is actually occurring on the ground. We have moved forward. Granted, we haven't done it under the context of authorization language; we have done it through the appropriations process. But we have moved forward very aggressively with the funding of port security as a Congress and as an administration.

The Senate specifically has taken the leadership in this area. When the Homeland Security appropriations bill was on the floor under the authorship of Senator BYRD from West Virginia, we increased port security funding, which is already fairly significant within the Homeland Security appropriations bill; we increased it by over $600 million specifically for port security initiatives. As a result, that additional funding, coupled with the funding which was already in place and which has been growing over the last few years, represented a very strong commitment to trying to upgrade our ports because we all recognize—there is no subtlety to this—the ports are a significant point of vulnerability for our Nation.

Just to put this in context, if we are able to pass the Homeland Security appropriations bill as it passed the Senate—and I suspect we will be fairly close to those numbers as a result of the support we have received from Senator COCHRAN and from the leadership of both the House and the Senate in giving us the allocation plus some additional funds for emergencies to accomplish the type of funding initiatives we need—we will add 460 new Customs and Border Patrol agents purely for the purpose of port security. That is on top of the agents we already have, which number in the hundreds. We will add over $211 million for nonintrusive inspection equipment. We will add $139 million for container security initiatives, $60 million for Customs Trade Partnership Against Terrorism, and $27 million for the automatic targeting system.

We have also committed massive amounts of dollars to the Coast Guard and to enhancing the Coast Guard's capability because they truly are the front line of port security. Our goal in the area of port security is not to wait for the ship to arrive in an American port before we actually know what is on it and before we have a chance to inspect it but to inspect that cargo before it even leaves the docks of the foreign nation that may be shipping it to us and to be sure we have the capability under any scenario to intercept a ship should we deem it to have suspicious cargo while it is at sea. In order to accomplish that, we have committed over $7.5 billion to the Coast Guard for border security. Of that, approximately $4 billion was specifically for port security, and about $2.1 billion of that was for an improvement of what is called their deepwater assets, which is really a misnomer. In my opinion, it should be called the inland water assets because essentially these new facilities, these new boats and aircraft are going to allow us to make sure our ports are more secure.

The Coast Guard inspection effort was increased by $23 million for security assessment of foreign and domestic ports. That will allow the Coast Guard to pursue very aggressive unscheduled inspections of both foreign and domestic ports to see what their standards are.

We have committed $10 million to set up two new interagency operation centers on top of the three operation centers we have already, which are port-oriented operation centers, which are very important to make sure we have a coordinated effort around especially our major ports in this country.

We have $10 million of Coast Guard funding to do port security exercises. This is critical. We can't really plan effectively in a vacuum. We have to actually send out an exercise where we create an event which is artificial but which is treated as if it is real and have the Coast Guard and the various agencies engaged in the process of making sure they can respond to that event.

We have added $786 million for the purposes of upgrading the cutter program and $50 million for the fast-response cutter program. Over 12 of the medium-endurance cutters are going to be dramatically upgraded, and we are purchasing 5 patrol boats and 16 medium-response patrol boats. This is a lot of new hardware which will be put in the hands of the Coast Guard.

On top of that, in the aircraft area, we are adding two major new patrol aircraft. We will have had 71 helicopters, as a result of this bill, armed, which is a major step forward. We only have I think two or three—maybe five helicopters armed today.

Interestingly enough—and this is a little aside, a little vignette—the Coast Guard has determined that they have 100 percent interdiction when they try to stop a boat with an armed helicopter versus a much lower interdiction rate when they try to stop a boat with an unarmed helicopter.

We have extended the life of 18 of the helicopters—I am sorry—18 of the HC–130 planes, we have reengined the entire helicopter fleet, and we have dramatically expanded the mission capability of the HC–130J airplanes.

So the Coast Guard has been given a robust infusion of funds for on-the-ground capability in port security and out-in-the-port capability for port security.

In addition, in the appropriations bill which passed the Senate 100 to nothing, there was a $210 million commitment to support security grants, which was a significant increase. There was a $178 million commitment for the purchase of radiation portal monitors, which are obviously key to determining the major threat, which is the threat of a potential dirty weapon being brought into the United States through a port or a cargo vessel.

So if you look at the authorization language in this bill relative to funds which this bill calls for in order to meet what are the needs of the ports, we have actually passed as an appropriation in the appropriations process essentially almost all the money. It is nice to have it authorized, but essentially what we have already done is appropriated. The only major difference would be in the port security grants, and even there we have made a very significant downpayment as a percentage of what this bill calls for. So there has been a strong commitment made already in the area of appropriating funds in order to make sure our ports are more secure. I did want to make that clear so that people watching this debate, as important as the debate is, would realize we haven't been waiting for the language to be brought forward. It is important language. It is critical language to do the job right. But we as a Congress, and the administration, have been moving forward to make sure that Homeland Security and especially the Coast Guard and those people who are responsible for making the decisions as to how we inspect, and the Customs and Border Patrol departments, have the resources they need in order to effectively begin to secure our ports.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. NELSON of Nebraska. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

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

MODIFICATION TO AMENDMENT NO. 4945

Mr. NELSON of Nebraska. Mr. President, I call up my amendment which is at the desk, amendment No. 4945. There are modifications at the desk. I ask unanimous consent that Senator BURNS and Senator CANTWELL be added as original cosponsors as well as make the following modifications to the amendment which is there at the desk.

The PRESIDING OFFICER. Without objection, the amendment is so modified. The cosponsors will be added.

The modification is as follows:

On page 27, on line 24 after ''emergency measures'', insert the following:

''including wildfire recovery efforts in Montana and other States''

On page 28, after line 12, insert the following:

**"SEC. 133. ENVIRONMENTAL QUALITY INCENTIVES PROGRAM.**

The Secretary shall use an additional $200,000,000 of funds of the Commodity Credit

Corporation to carry out emergency measures identified by the Secretary through the environmental quality incentives program established under chapter 4 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3839aa et seq.), of which not less than $50,000,000 shall be used to carry out wildfire recovery efforts (including in Montana and other States).''

Mr. NELSON of Nebraska. Mr. President, I appreciate the opportunity to be here today. I thank Senators COLLINS and, of course, PATTY MURRAY for the opportunity to speak.

What I want to say is that I have been hearing rumors that the leadership staff says this drought disaster amendment is not germane. As far as I know, cloture has not been invoked. Until and unless cloture is invoked, it is germane. It cannot be ruled as not germane.

The amendment I offered this morning now has 19 bipartisan cosponsors. I have already pointed to the chart to show what the extent of the drought is and the devastation that the drought is wreaking all across the middle part of the country and down into the southeastern part of the country as well.

The drought conditions range from severe to less than moderate in most of the instances, and the darker, the more it is affecting. What isn't shown on this chart is the number of years that the drought has endured in some parts of the country.

In Nebraska, for example, the drought in some cases is 7 continuous years in duration, planting with higher input costs and no crop for many farmers. Many have not been able to sustain themselves. They have had to leave their farms.

Ranchers are being adversely affected by the drought, obviously, because their pastures are crisp where the grass should be green. The grass is brittle because of the continuing drought conditions.

As a matter of fact, trying to get some recognition of what a drought consists of as opposed to a hurricane, which has a name in each and every case—I named this drought David just a few years ago. Unfortunately, in some caces Drought David is celebrating its seventh birthday, in other cases its fifth birthday, and in some other cases 2 or 3 years. This is a continuing condition.

That is why our farmers and ranchers deserve an up-or-down vote on this amendment. There is no ruling that it isn't germane. We could have an up-or-down vote on it tonight. I hope we would be able to do that.

The severity continues, and denying an up-or-down vote doesn't mean the drought goes away. It just means the ranchers and farmers are not going to get what they deserve.

I ask for the yeas and nays on my amendment, No. 4945.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

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

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

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

Mr. WYDEN. Mr. President, I ask unanimous consent to speak as in morning business for up to 10 minutes.

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

NET NEUTRALITY

Mr. WYDEN. Mr. President and colleagues, I have put a public hold on the telecommunications legislation that has cleared the Senate Commerce Committee, and I have decided to come to the floor, from time to time, to try to outline why I have committed to block that legislation until the legislation ensures that the Internet will be free of discrimination.

That is what the debate known as Net neutrality is all about. It is something I feel very strongly about. I think as colleagues and the country come to understand more about what this issue is all about, there will be increasing concern about the absence in this legislation of tough, enforceable provisions to ensure that the Internet is free of discrimination.

Now, the lobbyists for the big communications concerns would like Americans to believe this is a very complicated issue. Certainly, there are technical aspects to it. But the bottom line proposition, Mr. President and colleagues, is, today, when you log on, you get to take your browser where you want to go, when you want to go there, and everybody is treated the same. That is what would change under this legislation because it would be possible, under the way the bill is written now, for major phone companies and cable companies to essentially set up what they have described—described in the business press—as a pay-to-play arrangement. It would change the fundamental nature of the way the Internet works today. I happen to think that is a great mistake.

Now, in prior speeches, I have come to the floor to give examples of what the world would look like without Net neutrality for consumers and small business and innovators.

Over the recess, a small business came to me and shared a story that I thought was particularly interesting. It is the story of a company known as New Mexico Chili. The two individuals, a married couple, who established this firm, NMChili.com, set it up as an alternative to the high-priced on-line Southwestern Chili stores that most people were forced to patronize on line. This couple started with a simple idea and a motto, ''Even our prices taste good.''

From the small town of Hatch, NM, home of the world famous Labor Day Chile Festival, people from around the world can now access the wonderful chili that has made Hatch famous. Somebody from my hometown in Portland can go on line and within 48 hours have delivered to their doorstep Hatch's finest mild red chili or hot green chili.

They have been able to achieve all of this because of the open nature of the Internet. They pay their fee to get on the Net and for the bandwidth they use, and the business can flourish. This is because the Net remains neutral and free of discrimination.

Under the Senate Commerce Committee telecommunications bill, this would no longer be the case. This particular couple, in the small town of Hatch, NM, would be forced to pay fees to Internet access providers around the United States in order to have access to subscribers of these providers, or else they could get stuck in the ''slow lane.'' They would be left with two bad choices: If they pay the fees to the providers, they would no longer be able to say ''even our prices taste good,'' as they will be forced to charge customers more in order to continue to make profits. If they do not pay the fees to providers, their Web site would get stuck in what will become the Internet ''slow lane,'' angering customers and causing them to lose business to larger competitors who can afford to pay the fee. Either way, New Mexico Chili, a small business that came to us, would lose, and its customers would lose.

In this example, the large businesses that own the Internet pipes extend their reach to the detriment of small business. According to the business plans of the major phone and cable companies, what they have been telling Wall Street, what is printed in the business press, this is the direction in which they are headed.

Without Net neutrality, without strong, enforceable provisions to ensure that the Internet is free of discrimination, this small firm in New Mexico would not be able to use the Net the way they can today, and there would be thousands and thousands of other small businesses like it.

Now, Mr. President and colleagues, we are going to hear a lot about this legislation in the days ahead. I have been hearing reports, for example, that if you have Net neutrality we are going to have problems for consumers in terms of blocking spam. That is not going to happen. And in the days ahead, I will outline how that is the case, as well.

The newest attack is that Net neutrality would prevent parents from keeping pornographic content away from their children's eyes and ears. That also is not going to happen. That is why organizations with great interest and expertise in the area, groups such as the Parents Television Council, are strongly supporting an Internet that is free of discrimination, an Internet that has strong provisions to protect Net neutrality.

The fact is, an Internet free of discrimination, an Internet that ensures there is Net neutrality is going to allow parents to do the same things they now do in terms of keeping pornography out of their home. And the fact is, I think it is going to give parents new tools in the days ahead to have additional new and exciting options in video programming that is free of the violence and foul language and sexual content that many of them are forced to buy today in order to receive the best educational programming on television. That is because the promise of a competitive Internet television market is going to grow fastest with an Internet that is free of discrimination and an Internet that ensures there is true Net neutrality.

Mr. President, I see the distinguished Senators who have been active on the legislation, the distinguished Senator from Alaska and the distinguished Senator from Washington, on the Senate floor. It is not my intent to get in the way of their moving this important legislation. So I intend to come to the floor on additional occasions in the days ahead to discuss this issue. I wanted to go through the example of that small business in New Mexico, New Mexico Chili, to outline why they benefit so dramatically with an Internet that is free of discrimination. I also wanted to outline why Net neutrality is so important to the cause of protecting parents and families from pornography and ensuring that those families have the tools to fight spam.

As I have indicated to the Senate in the past, it is my intent to keep my public hold on the telecommunications legislation until strong language is included in that bill that ensures that the Internet, which today operates free of discrimination, treats all customers the same way. Until that is embedded in the legislation that comes before the Senate, I will continue to keep my hold on this legislation.

I know the sponsors of tonight's bill have important work to do.

Mr. President, with that, I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, at another time I might discuss this subject, Net neutrality, with the Senator from Oregon. I think what I will do is send him a copy of all the letters I have received from his constituents who agree with me. But I thank him very much for his comments.

Mr. ENZI. Mr. President, I rise in opposition to the Clinton amendment. Although I understand the need to ensure that first responders and volunteers with definitive health effects from 9/11 receive treatment, I remain very concerned with the current proposal from the Senator from New York.

I must first say that I am sorry Senator CLINTON did not speak with me first about this matter, as it falls within the HELP Committee jurisdiction, which I chair and of which Senator CLINTON is a member.

It also concerns me that the main genesis for action on this issue is a report released just last week from Mount Sinai, as part of the ongoing monitoring of health effects that we in Congress have authorized. Given that it has simply been a week since that report, we have not had a full amount of time to review that report and understand all of its implications.

I am concerned with the Senator from New York's proposal to delegate CDC as the primary entity administering this program. Rather than rely on the current mechanisms for providing health care and treatment programs through the Health Resources and Services Administration at the Department of Health and Human Services, this amendment creates a new role for CDC, taking them away from critical public health activities, such as responding to bird flu and potential bioterrorist attacks.

It is also important to make sure a program such as this is designed in such a way to meet the needs of the first responders and emergency workers that need it most.

The eligibility criteria are also too vague and provide health care services for activities that are not related to the events of September 11, 2001. I appreciate that Senator CLINTON's staff have been clear with mine that this is an issue that she recognizes as flawed and she would like to address it. However, we do not have the time to do that right now. We should not as a responsible legislative body approve a flawed proposal.

I do want to continue to work with the Senator from New York to address the health issues of the first responders who assisted in our response to 9/11. I know that time is limited in the remaining days of this Congress, and all of us would like all of our major priorities to be addressed. However, I have confirmed with HHS that they will soon send out another $75 million in addition to the $125 million which they have already distributed, to provide care and treatment to these individuals for the next few months.

Mr. President, I ask unanimous consent that a funding document from HHS be inserted into the RECORD that fully describes the funds that have been allocated to New York city to date.

In closing, I want to restate my commitment to further investigating the health effects of 9/11 on first responders and working with HHS to ensure their health care needs are addressed.

We do have time for thoughtful consideration and review of this issue, including giving HHS additional authorities through regular order.

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

SELECTED HHS POST 9/11 FUNDING

CMS

Disaster Relief Medicaid Program: $335 million: HHS provided expedited health care coverage for low-income New York children and adults in the Medicaid, Child Health Plus and Family Health Plus programs and temporary medical coverage for those affected by the September 11th terrorist attacks.

HRSA

Health Centers: $10 million in FY 2001: 33 Health Centers grantees in New York City and Northern New Jersey received one-time grants to support immediate costs of response as well as longer-term health care services as a result of the September 11th terrorist attacks.

Grants to Health Care Providers: $35 million in FY 2001: Funding was provided to St. Vincent's Hospital-Manhattan and New York University Downtown Hospital, two of the hospitals in Manhattan that were dramatically impacted by the September 11th terrorist attacks. These hospitals mobilized staff to respond to hundreds of seriously injured patients.

Grants to Health Care Providers: $135 million in FY 2002: In FY 2002, a special grant to health care entities that suffered financial losses directly attributable to the September 11th terrorist attacks was provided under the Hospital Emergency Response program.

SAMHSA

Emergency Assistance: $22 million in FY 2001: Funds were provided to support mental health treatment for long-term disorders and to expand substance abuse treatment services to address the needs of individuals and families impacted by the September 11th terrorist attacks.

Other Counseling: $10 million in FY 2002: Funding was added to the National Child Traumatic Stress Initiative to improve the quality of treatment services to children and adolescents who experienced traumatic events. This funding supported 5 multi-year grants to address post traumatic stress disorders in children.

Other Counseling: $4 million in FY 2002: Mental health grantees received funding to provide services to public safety workers who are the first responders to national disorders.

CDC

Contract to Mt. Sinai School of Medicine: $12 million FY 2002: Provided funding to Mt. Sinai School of Medicine via contract for baseline safety screening of 12,000 responders, rescue and recovery workers.

World Trade Center Registry: $20 million FY 2002: CDC/ATSDR established a registry of responders, residents and occupants. The WTC Health Registry is operated by the NYC Department of Health and Mental Hygiene with 71,000 registrants now enrolled.

Federal Workers Screening: $3.7 million in FY 2002: Funds were provided to the Office of Public Health Emergency Preparedness to perform baseline medical screenings for Federal responders.

World Trade Center Monitoring Program: $90 million in FY 2002: Funds were provided to the New York City Fire Department (FDNY), Mount Sinai School of Medicine, UMDNJ-Robert W Johnson Medical School, Research Foundation of CUNY, NY University School of Medicine, and the Research Foundation of the NY State University to administer baseline and follow-up screenings and clinical examinations and long-term health monitoring and analysis for responders, rescue and recovery workers. Approximately 6,000 screenings have been conducted to date and 10,000 follow-up screenings. Approximately $33 million has not been obligated. NIOSH plans to obligate these funds by FY 2008.

World Trade Center Registry, Screening, and Treatment: $75 million in FY 2006: Appropriated to CDC in the FY 2006 Department

of Defense Appropriations Act; to support existing programs that administer baseline and follow-up screening, monitoring, and provide treatment, support the WTC Health Registry and two NYC Police Officers mental health support programs. A total of $4.7 million has been awarded to the Mt. Sinai Consortium and FDNY.

NIH

National Institute of Environmental Health Sciences: $10.5 million: In the aftermath of September 11th terrorist attacks. NIEHS's Superfund Worker Education Training Program created the primary safety training program for response and cleanup workers at Ground Zero.

Mr. MENENDEZ. Mr. President, I rise in strong support today of the amendment offered by my colleague Senator BAUCUS. At the end of the last year, the higher education deduction, along with a number of other important tax credits, expired. This means that unless we act to extend it, nearly 4 million families and students will not be able to deduct their college tuition from their taxes for this year. At a time when college prices have more than doubled over the last 5 years, now is not the time for this deduction to disappear.

In my State of New Jersey, as across the Nation, tuition is becoming a heavier burden on our students. New Jersey families spend an average of 34 percent of their income on tuition at a 4-year public university. The higher education deduction is a simple way that we can reduce that burden, by allowing taxpayers to deduct up to $4,000 in tuition costs. Despite this, Congress has sat by while this and other crucial tax provisions expired.

In addition to the higher education deduction, Senator BAUCUS's amendment would also extend the $250 deduction for out-of-pocket expenses that teachers spend on supplies for their classrooms. Purchasing supplies with their own money is only one of the many sacrifices our teachers make—this small deduction is the least we can do to help them shoulder that cost. In addition, the amendment would extend and expand the research and development credit for companies to spur innovation and continue new research, and the new markets tax credit, which helps bring loans and new investments to lower income communities.

Today is now the fourth time this year we have considered extending the important tax credits contained in this amendment.

We had our first chance in February, when a majority of this body voted to extend these provisions. Then in May, when we should have passed these extensions, instead, our Republican colleagues made a choice. Instead of extending the deduction for college tuition or out-of-pocket teacher expenses, both of which have expired, our colleagues chose to extend tax cuts on something that does not expire for 2 more years—investment and capital gains income. Our colleagues chose to spend $50 billion to extend these tax cuts for 2 more years, when the cost to extend both the teacher out-of-pocket and college tuition deductions is less than $8 billion. The fact is, we are running out of time. As a hearing last week highlighted, if these extensions are not enacted into law by October 15, it will be too late for the IRS to adhere to them for this tax year. We likely have less than 10 legislative days left in this body. If we do not act today, the question is, when?

So, we have a choice once again today. Are we going to act to help students with the cost of their college tuition, or teachers with the sacrifices they make for their students, or are we going to sit by and pretend that these costs are not a hardship for millions of Americans?

I hope our colleagues on the other side of the aisle will see the need and the urgency to extend these provisions today, and not continue to wait, putting off tax relief that our students and families deserve.

I urge my colleagues to support the Baucus amendment, and to extend this relief today.

Mr. REED. Mr. President, on Monday, we marked the fifth anniversary of the September 11 attacks. The horror and sadness of the attacks on the World Trade Center and the Pentagon remain with us as a nation. We are still trying to come to grips with the security failures that allowed four civilian airplanes to be hijacked resulting in the death and injury of thousands of Americans and civilians from across the world.

Fortunately, there has not been a terrorist attack on the United States since 9/11; but al-Qaida continues to perpetrate terrorist attacks throughout the world. We remain at risk.

Today, we are considering legislation essential to keeping American ports and the maritime industry safe from terrorist attacks. I commend Senators COLLINS, LIEBERMAN, STEVENS, INOUYE, GRASSLEY, BAUCUS, and MURRAY for their work on this legislation.

While our Nation acted quickly after 9/11 to secure our airports and airplanes, major vulnerabilities remain in maritime and surface transportation. As the 9/11 Commission concluded ''opportunities to do harm are as great, or greater, in maritime and surface transportation'' as in commercial aviation. I am glad the Senate is finally turning its attention to these critical security challenges.

A terrorist incident at one of our Nation's ports could have tremendous costs in human lives and force the shutdown of ports across the Nation, which would have devastating and long-term impacts on our economy.

This bill is a good first step in protecting our seaports and maritime industry. However, there must be funds to support the homeland security initiatives in this bill if we are to make more than a symbolic effort. I am glad that the Senate accepted Senator MURRAY's amendment to provide dedicated funding for port security. This administration and Congress has not made port, rail, or transit security priorities for funding, and authorizing language while important is not sufficient.

Al-Qaida and other terrorist groups continue to strike across the world. A recent survey by the Center for American Progress and Foreign Policy magazine of national security and terrorism experts found that 86 percent believe the world is now more dangerous, and 84 percent believe the United States is losing the war on terror. For too long, the administration's focus on the war in Iraq has diverted resources and attention from the true war on terror. These are resources that could be used to fund security efforts at airports, at ports, on rail, and on public transit. These are resources that could be used at home to make us safer.

Each year, more than 11 million containers pass through U.S. ports and 53,000 foreign-flagged vessels visiting them. Since 9/11, Congress has appropriated a total of $765 million for port security grants, including $173 million in fiscal year 2006, to help our ports adopt important security measures. The Coast Guard, however, estimated that needed port security improvements could cost more than $5 billion.

Transit agencies around the country have identified in excess of $6 billion in transit security needs—$5.2 billion in security-related capital investment and $800 million to support personnel and related operation security measures to ensure transit security and readiness.

I am pleased that the Senate passed an amendment coauthored by Banking Committee Chairman SHELBY, Ranking Member SARBANES, Senator ALLARD, and me to the port security bill that will authorize a needs-based grant program within the Department of Homeland Security to identify and address the vulnerabilities of our Nation's transit systems. I thank Senators SHELBY and SARBANES for their leadership and hard work on this vitally important issue.

This amendment, consistent with the Public Transportation Security Act that passed the Senate in the 108th Congress, provides $3.5 billion over the next 3 years to transit agencies for projects designed to resist and deter terrorist attacks, including surveillance technologies, tunnel protection, chemical, biological, radiological, and explosive detection systems, perimeter protection, training, the establishment of redundant critical operations control systems, and other security improvements.

Transit is the most common, and most vulnerable, target of terrorists worldwide, whether it is Madrid, London, Moscow, Tokyo, Israel, or Mumbai. According to a Brookings Institution study, 42 percent of all terrorist attacks between 1991 and 2001 were directed at mass transit systems.

Transit is vital to providing mobility for millions of Americans and offers

tremendous economic benefits to our Nation. In the United States, people use public transportation over 32 million each week day compared to 2 million passengers who fly daily. Paradoxically, it is the very openness of the system that makes it vulnerable to terrorism. When one considers that roughly $9 per passenger is invested in aviation security, but less than one cent is invested in the security of each transit passenger, the need for this amendment and increased funding is clear.

Transit agencies and the women and men who operate them have been doing a tremendous job to increase security in a post 9/11 world, but there is only so much they can do with the very limited resources at their disposal. Our Nation's 6,000 transit agencies face a difficult balancing act as they attempt to tighten security and continue to move people from home to work or school or shopping or other locations efficiently and affordably. This amendment authorizes necessary funding to provide transit agencies with the tools they need to secure our commuter trains, subways, ferries, and buses.

With energy prices taking a larger chunk out of consumers' pocketbooks, public transit offers a solution to our national energy crisis and dependence on foreign oil. But, more Americans will not use transit unless commuters feel safe. I am glad that the Senate passed this bipartisan amendment which will grant transit security a similar standing as aviation security.

I would also like to take a moment to touch upon some of the provisions in the Real Security Act amendment offered by Senator REID that are relevant to efforts I have been working on in my capacity as a member of the Senate Health, Education, Labor, and Pensions—HELP—Committee. I am disappointed that this amendment failed on a budget point of order.

At the end of last year, the majority inserted into the must pass Department of Defense Appropriations bill broad liability protections for drug manufacturers for countermeasure products. While we certainly need vaccines and other medications to protect the population from the array of potential biological, chemical, and nuclear agents that could be intentionally used against us, such sweeping immunity was not appropriate.

At the same time, the bill did next to nothing to protect first responders, health care providers, and the general public should they be injured as a result of a countermeasure product utilized during the course of a public health emergency.

Senator REID's Real Security amendment provided for a sound and logical process for anyone who is injured or dies as a result of a countermeasure to receive fair and just compensation under the vaccine injury compensation fund. The amendment also provided appropriate indemnification for producers of countermeasure products.

A key element in any effort to respond to a public health emergency is public trust and cooperation during the process. If our health care providers, first responders, and the general public do not have confidence in the response effort, they will choose not to participate. We have already been through this experience once with the President's failed effort to get first responders inoculated against smallpox.

We must have thoughtful and clear procedures in place to demonstrate to those who may be called upon during a public health emergency that they will have recourse should they suffer as a result of a countermeasure intended to protect them. We all know that no vaccine or pharmaceutical is 100 percent safe. A small segment of the population will inevitably suffer an adverse event and to ensure they are taken care of in this event is the right and responsible thing to do.

Another important area this amendment addresses is the need to strengthen our hospital and public health infrastructure.

Federal efforts to shore up our hospitals and public health systems continue to fall short. Despite the ongoing support for bioterrorism preparedness activities in cities and states, grants for these important efforts, like many other critical domestic priorities, have actually declined over the past year.

The Real Security amendment would have bolstered our hospitals and public health workforce in their preparedness efforts, enhances the ability of health care providers to respond during a public health emergency, and improves our domestic and international disease surveillance capabilities.

When it comes to protecting our homeland against a terrorist attack, we can and must do more to fortify our ports, our transit systems, and our health care infrastructure. We must also reorient our priorities to ensure that we are doing all we can to protect our most important asset—our citizens.

Mr. LIEBERMAN. Mr. President, I rise to herald two amendments to this important homeland security legislation that, I hope, will go a long way toward improving the security of our nation's rail and mass transit systems.

Yesterday, the Homeland Security and Governmental Affairs Committee held a hearing at which Secretary Chertoff, representatives from the New York and Los Angeles County police departments, and two security experts testified about the future direction of homeland security. The witnesses expressed an eclectic array of views. But on at least one point, they were all in agreement: radical Islamic terrorists have targeted railroads and mass transit systems in Europe, and the United States could very well be next.

Terrorists have hit the subways, trains, and buses of London, Madrid, Mumbai, Tokyo, Moscow, and Israel. It is inconceivable that they have forgotten about us in the United States.

In fact, ''Jane's Intelligence Review'' posted a story on its Web site at the end of last month, stating that ''Terrorist attacks on trains and metro rail systems in cities such as Mumbai, London, Madrid, and Moscow suggest a sustained interest by terrorists in exploiting the often open aspect of commuter rail infrastructure to execute mass casualty attacks.''

This is an enormous concern to nearly all of us in this body. Fourteen million people use rail and mass transit every day in this country. In my home State of Connecticut, for example, the Metro North New Haven line is one of the busiest rail lines in the United States, carrying about 110,000 riders each day. And the Stamford, CT, train station on that line is among the busiest city rail stations in the United States.

Mass transit is a way of life for so many Americans. Our subways, trolleys, buses, and ferries carry millions of us to work each day, to shop, to sporting events, and to see friends and family. The speed, reliability, and convenience of mass transit has become a part of the cultural fabric of this Nation and helps to make us as mobile a Nation as we are.

Unfortunately, transit systems pose one of the greatest challenges to security experts—a challenge that calls for the attention of our Nation's best and brightest minds and should be a much bigger priority for the Federal Government than it is has been.

After the London bombings last July, our committee led a bipartisan investigation of the state of mass transit systems in the United States, culminating in a hearing on September 21, 2005. Chairman COLLINS and I examined the vulnerability of those systems, the threats to them, and the level and types of attention that our governments should devote to them.

Unlike airports, which are closed systems, rail and transit systems are open and carry seven times as many people in a year. With so many stops, stations, and lines, we cannot install airport security type checks at every subway station, bus stop, and rail terminal. Traffic would come to a dead halt.

But we can and must apply the ''can do, will do'' attitude we have adopted toward aviation security to mass transit and rail security. The amendments that we have added to this bill are an important step in that direction.

The first of these amendments is Senators SHELBY's and SARBANES' proposal to beef up the security of our public transportation systems. I proudly cosponsored this amendment because of my strong belief and conviction that we need to do all we can to secure our mass transit systems.

This week, the Commerce and Homeland Security Committees have put the interests of the country ahead of jurisdictional and party differences to work to improve the security of America's ports. That is real leadership.

The Shelby-Sarbanes amendment was adopted by the Senate in the same vein. The Banking and Homeland Security Committees also have put aside

their jurisdictional differences to promote the interests of the country first. If the Senate produced more legislation in this manner, perhaps the American public could suspend its cynicism about our overwhelming absorption with scoring political points.

The Shelby-Sarbanes amendment will authorize $3.5 billion in grants for mass transit security, including capital improvements, research and development, and operations.

This amendment is an authorization but it sets a marker for the Congress to fund these grant programs in the subsequent appropriations cycles.

The amendment also restores funding for the Public Transportation Information Sharing and Analysis Center, which is the vehicle for mass transit systems all over the country to share and analyze intelligence about threats to their sector, and defenses against them.

The second amendment I want to address is Senator MCCAIN's rail security amendment, which I also cosponsored. In fact, when my friend from Arizona introduced this amendment as a bill in the 108th Congress, I cosponsored it then. It will make marked improvements in the security of our passenger rail systems with an authorization of $1.2 billion. The amendment directs the Department of Homeland Security to complete and prioritize recommendations regarding vulnerability assessments for freight and passenger rail transportation systems. Notably, the amendment would benefit Amtrak and its thousands of daily riders in three direct ways.

The amendment also creates a pilot program to conduct random security screens of passengers and baggage at a specified number of Amtrak stations. It calls for certain fire and life-safety improvements and infrastructure upgrades to Amtrak tunnels on the Northeast Corridor. And it directs Amtrak to submit to the National Transportation Safety Board and the Secretary of Transportation a plan to address the needs of families of passengers involved in rail passenger accidents.

Combined, the authorizations contained within these two amendments are in line with the American Public Transportation Association's estimate that $7.2 billion is needed to secure the country's rail and transit systems.

Over the last few years, we have seen the decentralization of al-Qaida and with it the growth of homegrown terrorist activities directed toward the open, densely populated, and vulnerable mass transit and rail systems. I am pleased the Senate has accepted these amendments which will help cities and States defend against these deadly threats.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

## MORNING BUSINESS

Mr. STEVENS. Mr. President, I ask unanimous consent the Senate now proceed to a period of morning business, with Senators permitted to speak for up to 10 minutes each.

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

## THE CHARACTER OF THE SENATE

Mr. KERRY. Madam President, an awful lot has been written and enough has been said about the comments made yesterday by House majority leader JOHN BOEHNER. I am not interested in asking Mr. BOEHNER for a clarification or retraction or even an apology. His statement was very clear and I believe equally despicable. And his words are, frankly, beyond redemption. They are, however, sadly, what we have seen much too much of in politics today in our country.

So this is an opportunity today for the Senate to be the Senate. We talk here about ''my friend from across the aisle.'' We talk about the traditions of the Senate. We talk about civility. But in the last years, a lot of us have seen things happen here that never would have happened in the Senate of 15 or 20 years ago.

We have come a long way since the days when Bob Dole and George Mitchell refused to campaign against each other. I have seen colleagues say in the cloakroom that they thought it was wrong to see the courage of their friend, Max Cleland, attacked, but on the floor of the Senate there is silence.

I know there are good people here who still long for civility. I have heard it. I heard the junior Senator from Oregon say, just this summer: My soul cries out for something more dignified. My friend from Arizona, just this spring, said: The self-expression sometimes overwhelms our civility.

Well, this is one of those times. But I think it is more than that. I think it is an opportunity, in keeping with these pleas for civility, for some of our colleagues on the other side of the aisle to actually come to the floor and not just talk about civility but express the truth, to come here and condemn Mr. BOEHNER's remarks in no uncertain terms if they disagree with them. I think that is the real test of the kind of place we have become and the kind of politics we are willing to tolerate. It is a test of the character of the Senate. And I think every American would benefit from hearing where Republicans stand on Mr. BOEHNER's words expressed yesterday.

## SENATOR BAUCUS'S 10,000TH VOTE

Mr. FRIST. Mr. President, may I have the attention of the Senate. On rollcall vote No. 244, the distinguished Senator from Montana and the current ranking member of the Finance Committee, Senator MAX BAUCUS, cast his 10,000th vote in this Chamber.

Senator BAUCUS now joins a very historic and select club of U.S. Senators who can claim this distinction. Only 26 other Senators have achieved this milestone.

From his post on the Finance Committee, Senator BAUCUS has worked on a bipartisan basis on many issues important to Montanans, from tax policy to health care reform. Legislating is the art of compromise, and in his 28 years of service Senator BAUCUS has mastered it.

A recent example that comes to mind is the Medicare prescription drug bill, which I sponsored. Without Senator BAUCUS's hard work and support, 31 million seniors wouldn't have the drug benefits they now enjoy.

Back home in Montana, Senator BAUCUS is affectionately known for his ''Work Days''—days he spends working a full day alongside Montanans at a local business.

Senator BAUCUS, I know I speak for all your fellow Senators, when I say congratulations on this achievement, but more importantly, thank you for your service to Montana, to your country, and importantly, to the United States Senate.

## 50TH ANNIVERSARY OF GOLINHARRIS

Mr. DURBIN. Mr. President, I rise today to congratulate a Chicago business on its 50th anniversary.

The public relations firm GolinHarris began as a six-person operation in Chicago in 1956. Fifty years later, GolinHarris is one of the world's leading public relations firms, with a client list that reads like a Who's Who of Business. It employs more than 450 professionals in 29 offices across the globe—from Brazil to Belgrade, Stockholm to Singapore—but, I am proud to say, GolinHarris continues to call Chicago home.

One thing about GolinHarris has not changed over these 5 decades and that is the strength of its leadership. Under the guidance of Chairman Al Golin who has helped shape the firm from its beginning, GolinHarris has developed a reputation as an outstanding corporate citizen and an innovator in an intensively competitive and fast-changing field.

I would like to extend my congratulations to Al Golin and the employees of GolinHarris on this milestone 50th anniversary and wish them continued success in the years to come.

## INDUCTION OF JOE DUMARS

Mr. LEVIN. Mr President, I would like to make remarks about an American who has made many proud and achieved an incredible milestone this past weekend.

The person I am referring to is Joe Dumars who has been affiliated with the Detroit Pistons professional basketball franchise since he was drafted by the Pistons in 1985. This past Friday, Joe was inducted in the Naismith Memorial Basketball Hall of Fame in Springfield, MA. On behalf of all Michiganders and Pistons fans everywhere, I would like to congratulate Joe and his family on this great achievement.

Joe Dumars was born May 24, 1963, in Shrevepoint, LA. He attended Natchitoches High School and later McNeese State University, both also in Louisiana. He was the number eighth overall pick in the 1985 National Basketball Association—NBA—draft, selected by the Pistons for, among other things, his reputation to play defense.

In the NBA, Joe lived up to that reputation—often being called on by Pistons head coach Chuck Daly to guard the other team's best player. This was never more evident in the 1980s as the Pistons consistently bested the Chicago Bulls due in part to Joe Dumars' defense on a young guard named Michael Jordan. To this day, Michael Jordan says Joe Dumars was one of the best defenders he ever faced.

Always a team player, Joe Dumars became a pillar in the foundation of a Pistons team that went to the NBA finals three times in his career winning the championship twice in 1989 and 1990. Isiah Thomas, Bill Laimbeer, Dennis Rodman, John Salley, and Joe Dumars proved that defense wins championships, and Joe was personally rewarded as the NBA Finals MVP in 1989.

Joe Dumars retired as a player from the NBA in 1999 playing all 14 of his seasons with the Pistons. His career achievements include scoring 16,401 points, handing out 4,612 assists, grabbing 2,203 rebounds, and recording 903 steals. He was named to the NBA All-Star team six times and to the NBA All Defensive first team four times during his career. Joe's jersey was retired by the Pistons the year after he retired and it now hangs high in the rafters of the Palace of Auburn Hills.

Although Joe's playing career was now over, his enthusiasm and love of the game never diminished, so he took a job in 2000 with the Pistons in their front office as president of Basketball Operations. He was named NBA Executive of the Year in 2003 and put together the team that reached the NBA finals in 2004 and 2005. Winning the NBA championship in 2004 made Joe a key figure of all three Pistons' championships.

Friday in Springfield, MA, all of Joe's achievements earned him the ultimate recognition in his chosen profession. So to Joe, his family, his former teammates, and the entire Pistons organization, from this Pistons fan I say congratulations on a recognition well deserved.

## SENATE SELECT COMMITTEE ON INTELLIGENCE OVERSIGHT

Mr. FEINGOLD. Mr. President, I join the vice chairman of the Intelligence Committee in expressing my concerns about the Committee's inability to conduct oversight of the President's illegal warrantless wiretapping program. Unfortunately, the administration's continued defiance of Congress is simply the latest in a series of efforts to hide its illegal activities and obscure the true extent of its power grab.

Let us not forget how we got to this point. For 4 years, the administration conducted a plainly illegal program, eavesdropping on Americans on American soil without the warrants required under the Foreign Intelligence Surveillance Act, or FISA. During this time, the administration refused to inform the full congressional intelligence committees, in clear violation of the National Security Act.

Then, late last year, the program was revealed in the press. Rather than admit that it had broken the law and explain why it had done so, the administration used the occasion to embark on a coordinated and misleading public relations campaign. In speeches and press conferences, administration officials repeatedly asserted that domestic eavesdropping without a warrant was necessary to conduct surveillance of terrorist suspects, and it suggested that those committed to the rule of law were unconcerned about the terrorist threat.

Even the title the administration has bestowed upon its illegal behavior—the Terrorist Surveillance Program—is misleading. We already have a ''terrorist surveillance program.'' It is called FISA. It permits the surveillance of terrorist suspects in the United States, with the approval of a secret court, and it has been the law of the land for nearly 30 years.

Let us also not forget the administration's illegal defiance of congressional oversight. For 4½ years, including several months after the warrantless wiretapping program was revealed in the press, the administration violated the National Security Act by refusing to brief the congressional intelligence committees on the program. The administration began the briefings required by law only when it became clear that its defiance might complicate the nomination of General Hayden, who, as the then-Director of the NSA, implemented the program and had been nominated as the new Director of the CIA. Despite months of public discussion about the program by administration officials, the majority of the members of the Senate Intelligence Committee were briefed about the program for the first time only on the eve of General Hayden's confirmation hearing in May.

Those of us who hoped that this belated briefing marked a change in attitude—and a recognition of the administration's legal responsibilities—were quickly disappointed. That is why, later that month, the full Senate Intelligence Committee called on the administration to work with the committee so that we could conduct ongoing, thorough oversight over the operational, legal and budgetary aspects of the program. The cooperation requested by the Committee has not happened, however. And, as the vice chairman has pointed out, the administration continues to refuse to provide the committee with critical documents and information necessary to review the program.

The congressional intelligence committees review highly sensitive classified intelligence programs every day. That is their job. The vast majority of those programs have never been publicly disclosed. Yet the warrantless wiretapping program—which has been the subject of speeches, press conferences and public testimony by administration officials, making it the most widely examined, the most public program in NSA's history—is the one program the administration still refuses to explain fully to the congressional intelligence committees.

The vice chairman of the committee has described some of the materials that the administration has thus far refused to provide the committee—Presidential orders authorizing the program, legal reviews and opinions relating to the program, and procedures and guidelines on the use of information obtained through the program. All of these materials relate to the legality of the program. It is difficult to avoid the conclusion that the administration has stonewalled the committee's efforts to conduct oversight of this program not because the program is uniquely sensitive, but because it is illegal.

While the Intelligence Committee has been unable to conduct oversight of the warrantless surveillance program, the Judiciary Committee, which this morning reported out a bill that seeks to legalize the program, has been denied access to any information about the program. Attorney General Gonzales has provided testimony to the Judiciary Committee, but that testimony has been limited to a careful repetition of only what the President has already publicly acknowledged. As a result, the Judiciary Committee does not have access to information it needed before it should even have begun considering legislation, including many of the legal documents denied the Intelligence Committee. The Judiciary Committee was left to legislate in the dark, with many members blindly seeking to legalize illegal behavior without even an understanding of whether those changes are actually necessary.

And now, we face the prospect that the full Senate may consider legislation related to the program. It is bad enough to have a committee legislate in the dark. But having the entire Senate debate legislation when just a few Senators—those on the Intelligence

Committee—have any information at all on the subject of the legislation only makes things worse.

In the rush to rubberstamp the administration's unconstitutional power grab, Congress could end up turning the legislative process on its head. As an institution, and as elected representatives of the American people, it is our responsibility to make sure the President complies with the law. Instead, Republican leaders are rushing to make sure the law complies with the President. That is far from the ringing affirmation of the rule of law that we should expect from Congress in response to the administration's lawbreaking.

If Congress and the administration are going to take seriously their respective responsibilities, four things must happen. First, the congressional intelligence committees must demand that the administration provide documents and information related to the warrantless surveillance program and insist on the same kind of thorough oversight to which other intelligence programs are subject. The National Security Act requires that the committees be kept fully and currently informed of all intelligence programs. It is long past time for the administration to respect the spirit of that law.

Second, the administration must provide the information the Judiciary Committee needs about the program so that it can reconsider the uninformed and dangerous legislation reported out this morning. That does not mean the Judiciary Committee has to see operational details about the program. It does mean it needs to understand the basics of the program and the administration's contemporaneous legal justifications throughout the duration of the program. Certainly, the Judiciary Committee should not even have begun to consider expanding FISA before it received an explanation from the administration as to why it was unwilling to comply with current law. The administration has never provided that explanation because, in my view, it cannot. From what I have seen as a member of the Intelligence Committee, the surveillance that the administration says is necessary to protect this country can be accommodated without violating FISA.

We can listen in on terrorist suspects without surrendering the basic principle of individualized warrants. We can be secure without having to accept unchecked executive power. We can effectively fight terrorism without sacrificing the rights and freedoms that make this country the greatest beacon for individual liberty in the history of the world.

The mere assertion by the President that FISA no longer applies cannot be the basis for eradicating 30 years of law and jurisprudence. Congress should demand answers before deciding whether and how to amend FISA.

This leads me to my third point—that the Judiciary Committee should carefully and thoroughly consider any specific proposals for improving the FISA law, closely examining whether they are justified. Despite the action this morning, we have not done that yet. Recent testimony by Generals Alexander and Hayden provided some possible suggestions as to ways that FISA might be modernized—the kinds of suggestions that should have been made years ago. Congress should encourage more such exchanges, and should consider major revisions to FISA only after it can fully assess the need for such legislation as well as its ultimate impact. By rushing to legitimize and legalize domestic surveillance that does not comply with the FISA law, Congress only short-circuits this process.

And fourth, regardless of current oversight and legislative efforts, the President needs to be held accountable for breaking the law. His domestic warrantless wiretapping program is illegal. The legal arguments put forward to justify the program are as dubious today as they were when they were made last December, particularly in light of the recent Supreme Court decision in Hamdan. The President's failure to inform the full congressional intelligence committees about the program for years was also illegal, and his subsequent decision to provide only limited information about the program to the intelligence committees at the least violates the spirit of the National Security Act. And the President continues, to this day, to mislead the country about terrorist surveillance and FISA. For these reasons, Congress should censure the President. The challenging and crucial work of defending our Nation against a determined enemy demands a return to the rule of law. We are stronger as a law-abiding country, not weaker.

We should be working together to protect America. The President's power grab has been a long and costly distraction. It has undermined a preexisting consensus about how to defend our country and its democratic traditions. It has resulted in a completely unnecessary stand-off between the executive branch and Congress. And it has resulted in an administration publicly making the untenable argument that the laws passed by Congress can be ignored.

None of this was inevitable. And it can all be resolved, if only we take a step back and remember the principles on which our system of government was based. The balance of powers enshrined in the Constitution and the freedoms contained in the Bill of Rights are not impediments to our national security. They are our strength. We can and must fight terrorism aggressively without undermining the rule of law on which this country stands.

## HONORING OUR ARMED FORCES

### STAFF SERGEANT KENNETH JENKINS

Mrs. LINCOLN. Mr. President, I rise today in tribute to a brave young man from my home State of Arkansas. SSG Kenneth Jenkins was a loving son, a devoted husband, and a loyal friend. He was also an American hero, who fulfilled his lifelong ambition of honorably and courageously serving our nation in uniform. In doing so, he was to make the ultimate sacrifice in the name of freedom.

Those who knew him best tell of a special young man who always placed his friends and family above all else. Always dependable, he was the type of person who would give you the shirt off of his back if needed. It was this generosity and goodwill that endeared him to others. They were also the traits that allowed him to form new bonds quickly with everyone he met and with everyone he served.

On July 1, 1999, Staff Sergeant Jenkins fulfilled his aspiration to serve our Nation in uniform by enlisting in the U.S. Army. Soon after completing his training, he was deployed for various missions around the world, which took him to such countries as Bosnia, Kosovo, Macedonia, and Cuba. Throughout his service, he was a soldier's soldier, grateful to serve and proud of his role in helping to defend the people and the country that he loved. It came as no surprise that Staff Sergeant Jenkins answered his Nation's call for duty in Operation Iraqi Freedom, completing a full tour of duty and returning for a second.

In Iraq, he served with the 3rd Battalion, 67th Armor Regiment of the 4th Infantry Division. Tragically, while conducting operations in Baghdad on August 12, his humvee came under attack by enemy forces and sustained small arms fire. He later died from injuries sustained in that battle. He was scheduled to return home in November.

Staff Sergeant Jenkins was laid to rest with full military honors in Killeen, TX. Posthumously, he was awarded a Bronze Star and a Purple Heart for his courageous service. A few miles away, his fellow soldiers held a separate memorial ceremony at Fort Hood in honor of Jenkins and the five other 4th Infantry Division soldiers who were killed in Iraq during the month of July.

It is with a heavy heart that we mourn the loss of yet another brave soldier from Arkansas. While Kenneth Jenkins may no longer be with us, I pray that we may find some sense of solace knowing that his spirit will live on forever in the hearts of those whose lives he touched. The way he lived his life is truly an example for us all. My thoughts and prayers are with his wife Brandy Jenkins, his sister Stephanie Richard, his brother Mack Jenkins, his parents, and with all those who knew and loved this special young man.

ADDITIONAL STATEMENTS

## TRIBUTE TO NICK WALTERS

• Mr. LOTT. Mr. President, I want to take a moment and wish best of luck to a accomplished, young and promising Mississippian who is leaving Federal service to pursue private sector opportunities.

Nick Walters, originally of Wiggins, MS, was appointed as Mississippi's USDA rural development director by President George Bush in 2001. Since then, Nick has done a great job supporting Mississippi's communities, helping to secure resources needed for public facilities, utilities and for economic development.

This is a key Federal position for my State. As Nick likes to say, this is the ''non-farm,'' or ''non-food'' part of USDA. It's about new water and waste water systems, so people can have clean, dependable running water. It's about new community centers, town halls, and even high-tech or educational assets like broadband service, telemedicine and long-distance learning.

Since taking office, Nick has presented scores of oversized checks, in countless photos for local papers telling stories about a new water tower or a new police car or fire truck.

Some people might think these things are small, and they often are in terms of Federal dollars. But these modest services will reverberate for years to come. As Nick says: USDA rural development is really about economic development, helping to encourage and sustain job creation—paving the way for communities to grow.

Nick has helped administer more than $100 million to Mississippi's cities and towns through this agency. He hasn't sat on laurels waiting for mayors, supervisors, town aldermen, or CEOs to approach him. Nick has been proactive, innovative, and he is actively sought cases and ways to meet individual community needs through USDA's various rural development programs.

We have all heard the old saying: ''Don't tell me what you can't do, tell me what you can do.'' That is been Nick Walters' approach to public service. His first inclination is to act. That is something we Mississippians appreciate. After Hurricane Katrina, we saw many Federal bureaucrats in FEMA and elsewhere strapped by indecision, blinded by tunnel vision, stuck on what they could not do, obsessed with the word ''no'' when they should have been saying ''yes.'' Nick isn't that type. He has provided a great example of what someone in this office can do using its authority to the utmost, and we're working hard to find a successor who will continue this strong leadership.

Nick Walters will be missed but my guess is that he will be back in public service one day. In what capacity? I don't know. That is a decision for him, his wife Lisa, and his young children, Porter and John Garrett.

But now with this success behind him and given his previous experience in the private sector, his work with former Mississippi Governor Kirk Fordice, his stint as chief of staff for the Mississippi Public Service Commission Nick Walters will be successful in wherever his endeavors may lead.

I hope my colleagues will join me in thanking Nick Walters for his exemplary service to the Federal Government and, more importantly, to America as Mississippi's USDA rural development director.

## MURRAYHILL LITTLE LEAGUE ALL-STAR TEAM

• Mr. SMITH. Mr. President, I rise today to congratulate Oregon's Murrayhill 11 and 12-year-old Little League All-Star team. They recently placed second in the U.S. Little League World Series Championship, and third in the World Little League Championship.

On August 26, 2006, at Howard J. Lamade Stadium in South Williamsport, PA, Murrayhill capped a remarkable postseason, losing the United States Championship to Columbus Northern Little League from Georgia. Murrayhill was the first Oregon team in 48 years to qualify for the Little League World Series, and the first to ever reach the U.S. Championship game. On their road to the championship, they won the District 4, Oregon State, and Northwestern Regional Baseball Tournaments.

Murrayhill displayed great heart, outstanding teamwork, dedication, resilience, character, and sportsmanship throughout the tournament while achieving one of the highest honors in Little League Baseball.

This team of 11 and 12-year-olds brought pride to the State of Oregon with their remarkable run during this year's postseason. I ask my colleagues to join me in congratulating all the players involved in a hard-fought U.S. Little League World Series.•

## TRIBUTE TO MONROE SWEETLAND

• Mr. WYDEN. Mr. President, today I pay tribute to the life of Monroe Sweetland—a visionary, a patriot, a statesman, and the father of the modern Democratic Party of Oregon. Monroe passed away Sunday, September 10, at the age of 96, having lived a very full life in pursuit of a better Oregon and a better Nation.

An Oregon native, Monroe was born in Salem in 1910. After attending law school, he returned to Oregon, and, following the Second World War, he worked tirelessly on behalf of the Democratic Party of Oregon, rebuilding the party from the ashes. Monroe was a strong Democrat, a proud partisan who stood with his party not out of any desire for influence or power but out of a belief in the values espoused. He seemed to know instinctively that if the party was strong in its values, then electoral success would follow. And on that basis, he worked to rebuild our party from the ground up.

A tireless worker on behalf of others' campaigns, he also held elected office, serving for 10 years in the State legislature, first as a member of the Oregon House of Representatives and then as a member of the Oregon Senate. Prior to that, in 1948, he was elected to the Democratic National Committee.

Given his strong partisan politics, some might think his most notable feat was converting U.S. Senator Wayne Morse, whose seat I now hold, to the Democratic Party—helping Senator Morse to see the light, as it were. But Monroe considered the passage of the Bilingual Education Act of 1968, a product of his work at the National Education Association, his most important accomplishment. What I will remember most about Monroe is the way he lived: his boundless optimism, his energy to get things done and his smile that would warm even the coldest room.

When I spoke with Monroe a few weeks ago, he was still the activist we all knew so well. The last thing we discussed was the November 2006 elections, and, since Monroe was constitutionally incapable of being anything other than optimistic, he did not want to discuss what-ifs about the outcome of the election; he only wanted to talk about the good that the Democratic Party will accomplish when it wins back the majority in Congress this fall.

Oregon and the Nation are better for having had Monroe Sweetland in the world. For 96 years, we were blessed with his presence on this small planet. Although life seems a little dimmer without him, I know my life is better for having known him.

I know Monroe is in heaven, and if I had to guess, I would say it is likely he is up there right now organizing the angels for further good deeds. Nothing on this Earth slowed him down and I don't expect that to change now that he has gone ahead to a better place.

A giant of politics in our State, and an even greater human being, Monroe will be sorely missed by all who knew him, and even more sorely missed, though they may never know it, by those who never had that opportunity.•

## MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

## EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

## MESSAGE FROM THE HOUSE

### ENROLLED BILL SIGNED

At 9:47 a.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

S.3534. An act to amend the Workforce Investment Act of 1998 to provide for a YouthBuild program.

The enrolled bill was subsequently signed by the President pro tempore (Mr. STEVENS).

At 2:48 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, without amendment:

S. 1773. An act to resolve certain Native American claims in New Mexico, and for other purposes.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 138. An act to revise the boundaries of John H. Chafee Coastal Barrier Resources System Jekyll Island Unit GA–06P.

H.R. 479. An act to replace a Coastal Barrier Resources System map relating to Coastal Barrier Resources System Grayton Beach Unit FL–95P in Walton County, Florida.

H.R. 631. An act to provide for acquisition of subsurface mineral rights to land owned by the Pascua Yaqui Tribe and land held in trust for the Tribe, and for other purposes.

H.R. 5094. An act to require the conveyance of Mattamuskeet Lodge and surrounding property, including the Mattamuskeet National Wildlife Refuge headquarters, to the State of North Carolina to permit the State to use the property as a public facility dedicated to the conservation of the natural and cultural resources of North Carolina.

H.R. 5381. An act to enhance an existing volunteer program of the United States Fish and Wildlife Service and promote community partnerships for the benefit of national fish hatcheries and fisheries program offices.

H.R. 5428. An act to designate the facility of the United States Postal Service located at 202 East Washington Street in Morris, Illinois, as the ''Joshua A. Terando Morris Post Office Building''.

H.R. 5434. An act to designate the facility of the United States Postal Service located at 40 South Walnut Street in Chillicothe, Ohio, as the ''Larry Cox Post Office''.

H.R. 5539. An act to reauthorize the North American Wetlands Conservation Act.

## MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 5428. An act to designate the facility of the United States Postal Service located at 202 East Washington Street in Morris, Illinois, as the ''Joshua A. Terando Princeton Post Office Building''; to the Committee on Homeland Security and Governmental Affairs.

H.R. 5434. An act to designate the facility of the United States Postal Service located at 40 South Walnut Street in Chillicothe, Ohio, as the ''Larry Cox Post Office''; to the Committee on Homeland Security and Governmental Affairs.

## MEASURES PLACED ON THE CALENDAR

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 631. An act to provide for acquisition of subsurface mineral rights to land owned by the Pascua Yaqui Tribe and land held in trust for the Tribe, and for other purposes.

## ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, September 13, he had presented to the President of the United States the following enrolled bill:

S. 3534. An act to amend the Workforce Investment Act of 1998 to provide for a YouthBuild program.

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MCCAIN, from the Committee on Indian Affairs, without amendment:

S. 660. A bill to provide for the acknowledgement of the Lumbee Tribe of North Carolina, and for other purposes (Rept. No. 109–334).

By Mr. SPECTER, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 2453. A bill to establish procedures for the review of electronic surveillance programs.

By Mr. SPECTER, from the Committee on the Judiciary, without amendment:

S. 2455. A bill to provide in statute for the conduct of electronic surveillance of suspected terrorists for the purposes of protecting the American people, the Nation, and its interests from terrorist attack while ensuring that the civil liberties of United States citizens are safeguarded, and for other purposes.

By Mr. SPECTER, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 3001. A bill to ensure that all electronic surveillance of United States persons for foreign intelligence purposes is conducted pursuant to individualized court-issued orders, to streamline the procedures of the Foreign Intelligence Surveillance Act of 1978, and for other purposes.

## EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of nominations were submitted:

By Mr. DOMENICI for the Committee on Energy and Natural Resources.

*Mark Myers, of Alaska, to be Director of the United States Geological Survey.

*John Ray Correll, of Indiana, to be Director of the Office of Surface Mining Reclamation and Enforcement.

*David Longly Bernhardt, of Colorado, to be Solicitor of the Department of the Interior.

By Mr. INHOFE for the Committee on Environment and Public Works.

*William B. Wark, of Maine, to be a Member of the Chemical Safety and Hazard Investigation Board for a term of five year.

*William E. Wright, of Florida, to be a Member of the Chemical Safety and Hazard Investigation Board for a term of five years.

*Stephen M. Prescott, of Oklahoma, to be a member of the Board of Trustees of the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation for a term expiring April 15, 2011.

*Anne Jeannette Udall, of North Carolina, to be a Member of the Board of Trustees of the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation four a term expiring October 6, 2010.

*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 duty constituted committee of the Senate.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. ENSIGN (for himself and Mr. REID):

S. Res. 569. A resolution honoring the life of those who died in service to their country aboard the U.S.S. Enterprise on January 14, 1969; considered and agreed to.

By Mr. COBURN:

S. Con. Res. 114. A concurrent resolution providing for corrections to the enrollment of the bill S. 2590; considered and agreed to.

## ADDITIONAL COSPONSORS

S. 619

At the request of Mrs. FEINSTEIN, the name of the Senator from Virginia (Mr. ALLEN) was added as a cosponsor of S. 619, a bill to amend title II of the Social Security Act to repeal the Government pension offset and windfall elimination provisions.

S. 1082

At the request of Mrs. HUTCHISON, the name of the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 1082, a bill to restore Second Amendment rights in the District of Columbia.

S. 1278

At the request of Mr. LEAHY, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 1278, a bill to amend the Immigration and Nationality Act to provide a mechanism for United States citizens and lawful permanent residents to sponsor their permanent partners for residence in the United States, and for other purposes.

S. 1779

At the request of Mr. AKAKA, the name of the Senator from New Jersey

(Mr. MENENDEZ) was added as a cosponsor of S. 1779, a bill to amend the Humane Methods of Livestock Slaughter Act of 1958 to ensure the humane slaughter of nonambulatory livestock, and for other purposes.

S. 1902

At the request of Mr. LIEBERMAN, the name of the Senator from Wyoming (Mr. ENZI) was added as a cosponsor of S. 1902, a bill to amend the Public Health Service Act to authorize funding for the establishment of a program on children and the media within the Centers for Disease Control and Prevention to study the role and impact of electronic media in the development of children.

S. 2010

At the request of Mr. HATCH, the names of the Senator from New Jersey (Mr. MENENDEZ) and the Senator from Rhode Island (Mr. REED) were added as cosponsors of S. 2010, a bill to amend the Social Security Act to enhance the Social Security of the Nation by ensuring adequate public-private infrastructure and to resolve to prevent, detect, treat, intervene in, and prosecute elder abuse, neglect, and exploitation, and for other purposes.

S. 2076

At the request of Mr. LEAHY, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 2076, a bill to amend title 5, United States Code, to provide to assistant United States attorneys the same retirement benefits as are afforded to Federal law enforcement officers.

S. 2250

At the request of Mr. GRASSLEY, the names of the Senator from Michigan (Mr. LEVIN), the Senator from Wyoming (Mr. ENZI), the Senator from Tennessee (Mr. FRIST), the Senator from New Hampshire (Mr. GREGG), the Senator from Georgia (Mr. ISAKSON), the Senator from Arizona (Mr. KYL), the Senator from Tennessee (Mr. ALEXANDER), the Senator from Missouri (Mr. BOND), the Senator from Montana (Mr. BURNS), the Senator from North Carolina (Mr. BURR), the Senator from New Mexico (Mr. DOMENICI), the Senator from Mississippi (Mr. LOTT), the Senator from Alaska (Ms. MURKOWSKI), the Senator from Alabama (Mr. SESSIONS), the Senator from South Dakota (Mr. THUNE), the Senator from Louisiana (Mr. VITTER) and the Senator from Ohio (Mr. VOINOVICH) were added as cosponsors of S. 2250, a bill to award a congressional gold medal to Dr. Norman E. Borlaug.

S. 2322

At the request of Mr. ENZI, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 2322, a bill to amend the Public Health Service Act to make the provision of technical services for medical imaging examinations and radiation therapy treatments safer, more accurate, and less costly.

S. 2590

At the request of Mr. COBURN, the names of the Senator from Arizona (Mr. KYL), the Senator from North Carolina (Mr. BURR) and the Senator from Iowa (Mr. GRASSLEY) were added as cosponsors of S. 2590, a bill to require full disclosure of all entities and organizations receiving Federal funds.

S. 2599

At the request of Mr. VITTER, the name of the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 2599, a bill to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to prohibit the confiscation of firearms during certain national emergencies.

S. 3128

At the request of Mr. BURR, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of S. 3128, a bill to amend the Federal Food, Drug, and Cosmetic Act to provide for uniform food safety warning notification requirements, and for other purposes.

S. 3500

At the request of Mr. THOMAS, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 3500, a bill to amend title XVIII of the Social Security Act to protect and preserve access of Medicare beneficiaries in rural areas to health care providers under the Medicare program, and for other purposes.

S. 3696

At the request of Mr. BROWNBACK, the names of the Senator from Mississippi (Mr. LOTT) and the Senator from South Dakota (Mr. THUNE) were added as cosponsors of S. 3696, a bill to amend the Revised Statutes of the United States to prevent the use of the legal system in a manner that extorts money from State and local governments, and the Federal Government, and inhibits such governments' constitutional actions under the first, tenth, and fourteenth amendments.

S. 3771

At the request of Mr. HATCH, the names of the Senator from Alaska (Ms. MURKOWSKI), the Senator from South Dakota (Mr. JOHNSON), the Senator from Iowa (Mr. GRASSLEY), the Senator from Nevada (Mr. ENSIGN) and the Senator from California (Mrs. FEINSTEIN) were added as cosponsors of S. 3771, a bill to amend the Public Health Service Act to provide additional authorizations of appropriations for the health centers program under section 330 of such Act.

S. 3827

At the request of Mrs. LINCOLN, the names of the Senator from Michigan (Mr. LEVIN) and the Senator from New Jersey (Mr. MENENDEZ) were added as cosponsors of S. 3827, a bill to amend the Internal Revenue Code of 1986 to extend and expand the benefits for businesses operating in empowerment zones, enterprise communities, or renewal communities, and for other purposes.

S. 3855

At the request of Mr. CONRAD, the names of the Senator from Vermont (Mr. LEAHY) and the Senator from Nevada (Mr. REID) were added as cosponsors of S. 3855, a bill to provide emergency agricultural disaster assistance, and for other purposes.

S. 3877

At the request of Mrs. FEINSTEIN, the name of the Senator from Colorado (Mr. SALAZAR) was added as a cosponsor of S. 3877, a bill entitled the ''Foreign Intelligence Surveillance Improvement and Enhancement Act of 2006''.

S. 3880

At the request of Mr. INHOFE, the names of the Senator from South Carolina (Mr. DEMINT) and the Senator from Oklahoma (Mr. COBURN) were added as cosponsors of S. 3880, a bill to provide the Department of Justice the necessary authority to apprehend, prosecute, and convict individuals committing animal enterprise terror.

S. 3887

At the request of Mr. DORGAN, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 3887, a bill to prohibit the Internal Revenue Service from using private debt collection companies, and for other purposes.

S. RES. 559

At the request of Mr. BIDEN, the name of the Senator from Illinois (Mr. OBAMA) was added as a cosponsor of S. Res. 559, a resolution calling on the President to take immediate steps to help stop the violence in Darfur.

AMENDMENT NO. 4928

At the request of Mr. BINGAMAN, the name of the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of amendment No. 4928 proposed to H.R. 4954, a bill to improve maritime and cargo security through enhanced layered defenses, and for other purposes.

AMENDMENT NO. 4930

At the request of Mr. SCHUMER, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of amendment No. 4930 proposed to H.R. 4954, a bill to improve maritime and cargo security through enhanced layered defenses, and for other purposes.

AMENDMENT NO. 4945

At the request of Mr. BAUCUS, his name was added as a cosponsor of amendment No. 4945 proposed to H.R. 4954, a bill to improve maritime and cargo security through enhanced layered defenses, and for other purposes.

At the request of Mr. NELSON of Nebraska, the names of the Senator from Missouri (Mr. TALENT), the Senator from Vermont (Mr. LEAHY), the Senator from Illinois (Mr. OBAMA), the Senator from Illinois (Mr. DURBIN), the Senator from Minnesota (Mr. DAYTON), the Senator from New York (Mr. SCHUMER), the Senator from New York (Mrs. CLINTON), the Senator from Arkansas (Mrs. LINCOLN), the Senator from

South Dakota (Mr. THUNE), the Senator from Minnesota (Mr. COLEMAN), the Senator from Montana (Mr. BURNS) and the Senator from Washington (Ms. CANTWELL) were added as cosponsors of amendment No. 4945 proposed to H.R. 4954, supra.

AMENDMENT NO. 4947

At the request of Mr. NELSON of Florida, his name was added as a cosponsor of amendment No. 4947 proposed to H.R. 4954, a bill to improve maritime and cargo security through enhanced layered defenses, and for other purposes.

AMENDMENT NO. 4952

At the request of Mr. VITTER, the name of the Senator from Oklahoma (Mr. COBURN) was added as a cosponsor of amendment No. 4952 intended to be proposed to H.R. 4954, a bill to improve maritime and cargo security through enhanced layered defenses, and for other purposes.

AMENDMENT NO. 4958

At the request of Mrs. CLINTON, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of amendment No. 4958 proposed to H.R. 4954, a bill to improve maritime and cargo security through enhanced layered defenses, and for other purposes.

AMENDMENT NO. 4962

At the request of Mr. VOINOVICH, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of amendment No. 4962 proposed to H.R. 4954, a bill to improve maritime and cargo security through enhanced layered defenses, and for other purposes.

AMENDMENT NO. 4963

At the request of Mr. BAUCUS, his name was added as a cosponsor of amendment No. 4963 intended to be proposed to H.R. 4954, a bill to improve maritime and cargo security through enhanced layered defenses, and for other purposes.

## SUBMITTED RESOLUTIONS

### SENATE RESOLUTION 569—HONORING THE LIFE OF THOSE WHO DIED IN SERVICE TO THEIR COUNTRY ABOARD THE U.S.S. ENTERPRISE ON JANUARY 14, 1969

Mr. ENSIGN (for himself and Mr. REID) submitted the following resolution; which was considered and agreed to:

S. RES. 569

Whereas, on the morning of January 14, 1969, an MK–32 Zuni rocket fixed to an F–4 Phantom on the U.S.S. Enterprise (CVN–65) was overheated due to the exhaust of a nearby aircraft causing the rocket to explode;

Whereas the initial explosion of the MK–32 Zuni rocket set off a chain reaction of explosions, thus causing the death of 28 sailors and injuries to 314 more;

Whereas the servicemen killed include FA Paul Akers, AN David M. Asbury, LTJG Carl D. Berghult, LTJG James H. Berry, AO3 Richard W. Bovaird, AE3 Patrick L. Bulingham, AMS3 James R. Floyd Jr., AN Ernest L. Foster, ABHAN Delbert D. Girty, AEC Ronald E. Hay, ASH3 Roger L. Halbrook, AN Dole L. Hunt, ALAN Donald R. Lacy, ADJ3 Armando Limon, AME3 Dennis E. Marks, ABH1 James Martineau, ALAN Joseph C. Mason, AN Dennis R. Milburn, AN Joseph W. Oates, LTJG Buddy D. Pyeatt, ABE3 Jacob J. Quintis, BM2 James C. Snipes, AN Russell J. Tyler, AN Lavern R. Von Feldt, AN Robert C. Ward Jr., AN John R. Webster, ASM2 Henry S. Yates Jr., and AMS3 Jerome D. Yoakum;

Whereas the U.S.S. Enterprise, also known as ''the Big E'', was the world's first nuclear-powered aircraft carrier, and changed forever the face of maritime warfare;

Whereas the U.S.S. Enterprise, commissioned on November 25, 1961, is the world's longest aircraft carrier, measuring 1,123 feet, and remains in service docked at its home in Norfolk, Virginia; and

Whereas those who perished aboard the U.S.S. Enterprise on January 14, 1969, served their country bravely: Now, therefore, be it

*Resolved*, That the Senate honors the life and legacy of those who bravely served aboard the U.S.S. Enterprise (CVN–65), especially those who gave their lives in service to the United States on January 14, 1969.

### SENATE CONCURRENT RESOLUTION 114—PROVIDING FOR CORRECTIONS TO THE ENROLLMENT OF THE BILL S. 2590

Mr. COBURN submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 114

*Resolved by the Senate (the House of Representatives concurring)*, That, in the enrollment of the bill S. 2590, the Secretary of the Senate shall make the following corrections:

(1) In section 2(a), strike paragraphs (2) and (3) and insert the following:

''(2) FEDERAL AWARD.—The term 'Federal award'—

''(A) means Federal financial assistance and expenditures that—

''(i) include grants, subgrants, loans, awards, cooperative agreements, and other forms of financial assistance;

''(ii) include contracts, subcontracts, purchase orders, task orders, and delivery orders;

''(B) does not include individual transactions below $25,000; and

''(C) before October 1, 2008, does not include credit card transactions.

''(3) SEARCHABLE WEBSITE.—The term 'searchable website' means a website that allows the public to—

''(A) search and aggregate Federal funding by any element required by subsection (b)(1);

''(B) ascertain through a single search the total amount of Federal funding awarded to an entity by a Federal award described in paragraph (2)(A)(i), by fiscal year;

''(C) ascertain through a single search the total amount of Federal funding awarded to an entity by a Federal award described in paragraph (2)(A)(ii), by fiscal year; and

''(D) download data included in subparagraph (A) included in the outcome from searches.''.

(2) In section 2(b)(1), strike ''section and section 204 of the E-Government Act of 2002 (Public Law 107–347; 44 U.S.C. 3501 note),'' and insert ''section, section 204 of the E-Government Act of 2002 (Public Law 107–347; 44 U.S.C. 3501 note), and the Office of Federal Procurement Policy Act (41 U.S.C. 403 et seq.),''.

(3) In section 2, strike subsection (c) and insert the following:

''(c) WEBSITE.—The website established under this section—

''(1) may use as the source of its data the Federal Procurement Data System, Federal Assistance Award Data System, and Grants.gov, if all of these data sources are searchable through the website and can be accessed in a search on the website required by this Act, provided that the user may—

''(A) specify such search shall be confined to Federal contracts and subcontracts;

''(B) specify such search shall be confined to include grants, subgrants, loans, awards, cooperative agreements, and other forms of financial assistance;

''(2) shall not be considered in compliance if it hyperlinks to the Federal Procurement Data System website, Federal Assistance Award Data System website, Grants.gov website, or other existing websites, so that the information elements required by subsection (b)(1) cannot be searched electronically by field in a single search;

''(3) shall provide an opportunity for the public to provide input about the utility of the site and recommendations for improvements;

''(4) shall be updated not later than 30 days after the award of any Federal award requiring a posting; and

''(5) shall provide for separate searches for Federal awards described in subsection (a) to distinguish between the Federal awards described in subsection (a)(2)(A)(i) and those described in subsection (a)(2)(A)(ii).''.

(4) Add at the end the following:

**''SEC. 4. GOVERNMENT ACCOUNTABILITY OFFICE REPORTING REQUIREMENT.**

''Not later than January 1, 2010, the Comptroller General shall submit to Congress a report on compliance with this Act.''

## AMENDMENTS SUBMITTED AND PROPOSED

SA 4965. Mr. ROCKEFELLER submitted an amendment intended to be proposed by him to the bill H.R. 4954, to improve maritime and cargo security through enhanced layered defenses, and for other purposes; which was ordered to lie on the table.

SA 4966. Mr. ROCKEFELLER submitted an amendment intended to be proposed by him to the bill H.R. 4954, supra; which was ordered to lie on the table.

SA 4967. Mrs. MURRAY (for Ms. STABENOW (for herself, Mr. LIEBERMAN, Mr. LEVIN, Mr. SCHUMER, Mr. DURBIN, Mrs. BOXER, and Mr. DAYTON)) proposed an amendment to the bill H.R. 4954, supra.

SA 4968. Mr. NELSON, of Florida submitted an amendment intended to be proposed by him to the bill H.R. 4954, supra.

SA 4969. Mr. BAUCUS submitted an amendment intended to be proposed by him to the bill H.R. 4954, supra; which was ordered to lie on the table.

SA 4970. Mr. DEMINT proposed an amendment to the bill H.R. 4954, supra.

SA 4971. Mr. MCCAIN (for himself, Mrs. BOXER, Mr. LAUTENBERG, Mrs. CLINTON, Mr. DEWINE, Mr. GRAHAM, Mr. WARNER, and Mr. ALLEN) submitted an amendment intended to be proposed by him to the bill H.R. 4954, supra; which was ordered to lie on the table.

SA 4972. Mr. OBAMA (for himself and Mr. SALAZAR) submitted an amendment intended to be proposed by him to the bill H.R. 4954, supra.

SA 4973. Mr. OBAMA submitted an amendment intended to be proposed by him to the bill H.R. 4954, supra; which was ordered to lie on the table.

SA 4974. Mr. OBAMA submitted an amendment intended to be proposed by him to the bill H.R. 4954, supra; which was ordered to lie on the table.

SA 4975. Mr. BIDEN proposed an amendment to the bill H.R. 4954, supra.

SA 4976. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill H.R. 4954, supra.

SA 4977. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill H.R. 4954, supra; which was ordered to lie on the table.

SA 4978. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill H.R. 4954, supra; which was ordered to lie on the table.

SA 4979. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill H.R. 4954, supra; which was ordered to lie on the table.

SA 4980. Ms. STABENOW submitted an amendment intended to be proposed by her to the bill H.R. 4954, supra; which was ordered to lie on the table.

SA 4981. Mr. CONRAD submitted an amendment intended to be proposed by him to the bill H.R. 4954, supra; which was ordered to lie on the table.

SA 4982. Mr. COLEMAN (for himself, Ms. COLLINS, and Mr. STEVENS) submitted an amendment intended to be proposed by him to the bill H.R. 4954, supra.

SA 4983. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill H.R. 4954, supra; which was ordered to lie on the table.

SA 4984. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill H.R. 4954, supra; which was ordered to lie on the table.

SA 4985. Mr. BAUCUS submitted an amendment intended to be proposed by him to the bill H.R. 4954, supra.

SA 4986. Mr. BAUCUS submitted an amendment intended to be proposed by him to the bill H.R. 4954, supra; which was ordered to lie on the table.

SA 4987. Mr. LAUTENBERG (for himself, Mr. OBAMA, Mr. KERRY, Mr. BIDEN, Mr. MENENDEZ, Mr. DURBIN, Mrs. BOXER, and Mr. JEFFORDS) submitted an amendment intended to be proposed by him to the bill H.R. 4954, supra; which was ordered to lie on the table.

SA 4988. Mr. LAUTENBERG submitted an amendment intended to be proposed by him to the bill H.R. 4954, supra.

SA 4989. Ms. COLLINS (for herself and Mr. LIEBERMAN) submitted an amendment intended to be proposed by her to the bill H.R. 4954, supra; which was ordered to lie on the table.

SA 4990. Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill H.R. 4954, supra.

SA 4991. Mr. BURNS submitted an amendment intended to be proposed by him to the bill H.R. 4954, supra; which was ordered to lie on the table.

SA 4992. Mr. DEMINT submitted an amendment intended to be proposed to amendment SA 4970 proposed by Mr. DEMINT to the bill H.R. 4954, supra; which was ordered to lie on the table.

SA 4993. Mr. DEMINT submitted an amendment intended to be proposed by him to the bill H.R. 4954, supra; which was ordered to lie on the table.

SA 4994. Mr. MCCAIN (for himself and Mrs. BOXER) submitted an amendment intended to be proposed by him to the bill H.R. 4954, supra; which was ordered to lie on the table.

SA 4995. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill H.R. 4954, supra; which was ordered to lie on the table.

SA 4996. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 4954, supra; which was ordered to lie on the table.

SA 4997. Mr. MENENDEZ submitted an amendment intended to be proposed by him to the bill H.R. 4954, supra; which was ordered to lie on the table.

SA 4998. Mr. MENENDEZ submitted an amendment intended to be proposed by him to the bill H.R. 4954, supra; which was ordered to lie on the table.

SA 4999. Mr. MENENDEZ (for himself, Mr. LAUTENBERG, Mr. BIDEN, and Mr. BAYH) submitted an amendment intended to be proposed by him to the bill H.R. 4954, supra.

SA 5000. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill H.R. 4954, supra.

SA 5001. Mr. WYDEN (for himself and Mr. SMITH) submitted an amendment intended to be proposed by him to the bill H.R. 4954, supra; which was ordered to lie on the table.

SA 5002. Mr. LIEBERMAN (for himself, Mr. STEVENS, and Mr. INOUYE) submitted an amendment intended to be proposed by him to the bill H.R. 4954, supra; which was ordered to lie on the table.

SA 5003. Mr. BAUCUS (for himself, Ms. STABENOW, Mr. MENENDEZ, Ms. CANTWELL, Mrs. BOXER, Mr. CARPER, Mrs. CLINTON, Mr. DAYTON, Mr. DODD, Mr. DORGAN, Mr. HARKIN, Mr. INOUYE, Mr. JEFFORDS, Mr. JOHNSON, Mr. KERRY, Mr. KOHL, Ms. LANDRIEU, Mr. LEVIN, Mr. LIEBERMAN, Mrs. LINCOLN, Ms. MIKULSKI, Mr. NELSON, of Florida, Mr. PRYOR, Mr. REID, Mr. ROCKEFELLER, Mr. SALAZAR, Mr. SCHUMER, Mrs. MURRAY, Mr. BINGAMAN, Mrs. FEINSTEIN, Mr. KENNEDY, Mr. OBAMA, Mr. REED, and Mr. AKAKA) submitted an amendment intended to be proposed by him to the bill H.R. 4096, to amend the Internal Revenue Code of 1986 to extend to 2006 the alternative minimum tax relief available in 2005 and to index such relief for inflation; which was ordered to lie on the table.

SA 5004. Mr. BAUCUS submitted an amendment intended to be proposed by him to the bill H.R. 4096, supra; which was ordered to lie on the table.

SA 5005. Mr. REID submitted an amendment intended to be proposed by him to the bill H.R. 4954, to improve maritime and cargo security through enhanced layered defenses, and for other purposes; which was ordered to lie on the table.

SA 5006. Mr. STEVENS (for Mr. MCCAIN (for himself and Mr. KYL)) proposed an amendment to the bill S. 2464, to revise a provision relating to a repayment obligation of the Fort McDowell Yavapai Nation under the Fort McDowell Indian Community Water Rights Settlement Act of 1990, and for other purposes.

## TEXT OF AMENDMENTS

**SA 4965.** Mr. ROCKEFELLER submitted an amendment intended to be proposed by him to the bill H.R. 4954, to improve maritime and cargo security through enhanced layered defenses, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

**SEC. ___. OVERNIGHT AIR TRAFFIC CONTROLLER OPERATIONS.**

The Secretary of Transportation, for 18 months after the date of enactment of this Act, may not—

(1) terminate, or reduce staffing for, overnight air traffic control services at any airport where such services are being provided on the date of enactment of this Act; nor

(2) transfer the operational responsibility for such services at that airport to another airport or other remote location.

**SA 4966.** Mr. ROCKEFELLER submitted an amendment intended to be proposed by him to the bill H.R. 4954, to improve maritime and cargo security through enhanced layered defenses, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

**SEC. ___. AIRCRAFT CHARTER CUSTOMER AND LESSEE PRESCREENING PROGRAM.**

(a) IMPLEMENTATION STATUS.—Within 180 days after the date of enactment of this Act, the Comptroller General shall assess the Department of Homeland Security's aircraft charter customer and lessee prescreening process mandated by section 44903(j)(2) of title 49, United States Code, and report on the status of the program, its implementation, and its use by the general aviation charter and rental community and report the findings, conclusions, and recommendations, if any, of such assessment to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Homeland Security.

(b) INCORPORATION OF PROGRAM INTO ''SECURE FLIGHT'' PROGRAM.—The Assistant Secretary of Homeland Security (Transportation Security Administration) shall take action to ensure that the aircraft charter customer and lessee prescreening process mandated by section 44903(j)(2) of title 49, United States Code, is incorporated into development of the Department of Homeland Security's ''Secure Flight'' program.

(c) FEASIBILITY STUDY; PILOT PROGRAM.—The Assistant Secretary shall—

(1) study the feasibility of mandating the use of the ''Secure Flight'' program for all charter and leased aircraft with a gross aircraft weight in excess of 12,500 pounds; and

(2) consider initiating a pilot program at the 5 largest general aviation airports in terms of traffic volume to assess the viability and security value of mandating the use of the program for all such aircraft.

**SA 4967.** Mrs. MURRAY (for Ms. STABENOW (for herself, Mr. LIEBERMAN, Mr. LEVIN, Mr. SCHUMER, Mr. DURBIN, Mrs. BOXER, and Mr. DAYTON)) proposed an amendment to the bill H.R. 4954, to improve maritime and cargo security through enhanced layered defenses, and for other purposes; as follows:

At the appropriate place, insert the following:

**SEC. ___. EMERGENCY COMMUNICATIONS AND INTEROPERABILITY GRANTS.**

(a) IN GENERAL.—The Secretary, through the Office of Domestic Preparedness of the Office of State and Local Government Preparedness and Coordination, shall make grants to States, eligible regions, and local governments for initiatives necessary to improve emergency communications capabilities and to achieve short-term or long-term solutions to statewide, regional, national, and, where appropriate, international interoperability.

(b) USE OF GRANT FUNDS.—A grant awarded under subsection (a) may be used for initiatives to achieve short-term or long-term solutions for emergency communications and interoperability within the State or region and to assist with any aspect of the communication life cycle, including—

(1) statewide or regional communications planning;

(2) system design and engineering;

(3) procurement and installation of equipment;

(4) training exercises;

(5) modeling and simulation exercises for operational command and control functions; and

(6) other activities determined by the Secretary to be integral to the achievement of emergency communications capabilities and communications interoperability.

(c) DEFINITIONS.—In this section—

(1) the term ''eligible region'' means—

(A) 2 or more contiguous incorporated municipalities, counties, parishes, Indian tribes, or other general purpose jurisdictions that—

(i) have joined together to enhance emergency communications capabilities or communications interoperability between emergency response providers in those jurisdictions and with State and Federal officials; and

(ii) includes the largest city in any metropolitan statistical area or metropolitan division, as those terms are defined by the Office of Management and Budget; or

(B) any other area the Secretary determines to be consistent with the definition of a region in the national preparedness guidance issued under Homeland Security Presidential Directive 8; and

(2) the terms ''emergency response providers'' and ''local government'' have the meanings given the terms in section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101).

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

(1) $1,000,000,000 for each of fiscal years 2007 through 2011; and

(2) such sums as are necessary for each fiscal year thereafter.

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**SA 4968.** Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the bill H.R. 4954, to improve maritime and cargo security through enhanced layered defenses, and for other purposes; as follows:

On page 27, between lines 20 and 21, insert the following:

(h) EXPANSION TO OTHER UNITED STATES PORTS OF ENTRY.—

(1) IN GENERAL.—As soon as practicable after—

(A) implementation of the program for the examination of containers for radiation at ports of entry described in subsection (a), and

(B) submission of the strategy developed under subsection (b) (and updating, if any, of that strategy under subsection (c)),

but no later than December 31, 2008, the Secretary shall expand the strategy developed under subsection (b), in a manner consistent with the requirements of subsection (b), to provide for the deployment of radiation detection capabilities at all other United States ports of entry not covered by the strategy developed under subsection (b).

(2) RISK ASSESSMENT.—In expanding the strategy under paragraph (1), the Secretary shall identify and assess the risks to those other ports of entry in order to determine what equipment and practices will best mitigate the risks.

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**SA 4969.** Mr. BAUCUS submitted an amendment intended to be proposed by him to the bill H.R. 4954, to improve maritime and cargo security through enhanced layered defenses, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. ___. STUDY ON THE COMPETITIVENESS OF UNITED STATES PORT TERMINAL OPERATORS.**

(a) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall, in consultation with the Secretary of the Treasury, the Commissioner, the Administrator of the Maritime Administration, the Secretary of Transportation, and the United States Trade Representative, conduct a study into the decline in the number of United States persons that operate United States port terminals. The study shall—

(1) examine the history of United States and foreign ownership of operators of United States port terminals, including changes in the number and percentage of United States port terminal operators ultimately owned by United States persons;

(2) offer explanations for the decline in the number of United States persons that operate United States port terminals, including any competitive advantages enjoyed by non-United States persons in competing for and performing contracts to operate United States port terminals and any competitive disadvantages faced by United States persons in competing for and performing contracts to operate United States port terminals; and

(3) suggest changes in laws, regulations, or policies that could help improve the competitiveness of United States persons operating United States port terminals and encourage additional United States persons to engage in the business of operating United States port terminals.

(b) DEFINITION OF UNITED STATES PERSONS.—In this section, the term ''United States persons'' means—

(1) a United States citizen; and

(2) a partnership, corporation, or other legal entity that is organized under the laws of the United States and is owned or controlled by United States citizens.

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**SA 4970.** Mr. DEMINT proposed an amendment to the bill H.R. 4954, to improve maritime and cargo security through enhanced layered defenses, and for other purposes; as follows:

At the appropriate place, insert the following:

**SEC. ___. PROHIBITION OF ISSUANCE OF TRANSPORTATION SECURITY CARDS TO CONVICTED FELONS.**

Section 70105 of title 46, United States Code, is amended—

(1) in subsection (b)(1), by striking ''decides that the individual poses a security risk under subsection (c)'' and inserting ''determines under subsection (c) that the individual poses a security risk''; and

(2) in subsection (c), by amending paragraph (1) to read as follows:

''(1) Except as provided under paragraph (2), an individual shall be deemed to pose a security risk under this section if the Secretary determines that the individual—

''(A) has been convicted (or has been found not guilty by reason of insanity) of—

''(i) destruction of a vessel or maritime facility under section 2291 of title 18;

''(ii) violence against maritime navigation under section 2280 of title 18;

''(iii) forgery of certificates of documentation, falsified vessel identification, or other vessel documentation violation under section 12507 or 12122 of this title;

''(iv) interference with maritime commerce under section 2282A of title 18;

''(v) improper transportation of a hazardous material under section 46312 of title 49;

''(vi) piracy or privateering under chapter 81 of title 18;

''(vii) firing or tampering with vessels under section 2275 of title 18;

''(viii) carrying a dangerous weapon or explosive aboard a vessel under section 2277 of title 18;

''(ix) failure to heave to, obstruction of boarding, or providing false information under section 2237 of title 18;

''(x) imparting or conveying false information under section 2292 of title 18;

''(xi) entry by false pretense to any seaport under section 1036 of title 18;

''(xii) murder;

''(xiii) assault with intent to murder;

''(xiv) espionage;

''(xv) sedition;

''(xvi) kidnapping or hostage taking;

''(xvii) treason;

''(xviii) rape or aggravated sexual abuse;

''(xix) unlawful possession, use, sale, distribution, or manufacture of an explosive or weapon;

''(xx) extortion;

''(xxi) armed or felony unarmed robbery;

''(xxii) distribution of, or intent to distribute, a controlled substance;

''(xxiii) felony arson;

''(xxiv) a felony involving a threat;

''(xxv) a felony involving illegal possession of a controlled substance punishable by a maximum term of imprisonment of more than 1 year, willful destruction of property, importation or manufacture of a controlled substance, burglary, theft, dishonesty, fraud, misrepresentation, possession or distribution of stolen property, aggravated assault, or bribery; or

''(xxvi) conspiracy or attempt to commit any of the criminal acts listed in this subparagraph;

''(B) may be denied admission to the United States or removed from the United States under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.); or

''(C) otherwise poses a terrorism security risk to the United States.''.

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**SA 4971.** Mr. MCCAIN (for himself, Mrs. BOXER, Mr. LAUTENBERG, Mrs. CLINTON, Mr. DEWINE, Mr. GRAHAM, Mr. WARNER, and Mr. ALLEN) submitted an amendment intended to be proposed by him to the bill H.R. 4954, to improve maritime and cargo security through enhanced layered defenses, and for other purposes; which was ordered to lie on the table; as follows:

On page 41, following the matter after line 25, insert the following:

**SEC. 114. TRANSFER OF PUBLIC SAFETY GRANT PROGRAM TO THE DEPARTMENT OF HOMELAND SECURITY.**

Section 3006 of the Digital Television Transition and Public Safety Act of 2005 (Public Law 109-171; 120 Stat. 24) is amended—

(1) in subsection (a)—

(A) by striking ''The Assistant Secretary, in consultation with the'' and inserting ''The''; and

(B) in paragraph (1), by inserting ''planning of,'' before ''acquisition of''; and

(2) in subsection (b), by striking ''Assistant Secretary'' each place that term appears and inserting ''Secretary of Homeland Security''.

**SEC. 115. INTEROPERABLE EMERGENCY COMMUNICATIONS.**

Section 3006 of the Digital Television Transition and Public Safety Act of 2005 (Public Law 109-171; 120 Stat. 24) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following:

''(d) INTEROPERABLE COMMUNICATIONS SYSTEM EQUIPMENT DEPLOYMENT.—

''(1) IN GENERAL.—The Secretary of Homeland Security shall allocate a portion of the funds made available to carry out this section to make interoperable communications system equipment, planning, or training grants—

''(A) to purchase equipment and infrastructure that complies with SAFECOM guidance,

including any standards that may be referenced by SAFECOM guidance; and

''(B) to establish a small number of pilot projects to demonstrate or test new and advanced technologies for interoperable communications systems or infrastructure that improves interoperability;

''(C) to assist States, municipalities, or public safety agencies in planning and training for the use of interoperable communications systems; and

''(D) to purchase equipment that can utilize, or enable interoperability with systems or networks that can utilize, the reallocated public safety spectrum in the 700MHz band.

''(2) ALLOCATION OF FUNDS.—

''(A) IN GENERAL.—Any funds or portion of funds allocated pursuant to paragraph (1) shall be distributed to a State, municipality, or public safety agency based on the threat and risk factors used by the Secretary for the purposes of allocating discretionary grants under the heading '**OFFICE FOR DOMESTIC PREPAREDNESS, STATE AND LOCAL PROGRAMS**' in the Department of Homeland Security Appropriations Act, 2006.

''(B) CONSIDERATIONS.—In making any distribution under subparagraph (A), the Secretary may consider the likelihood that a State, municipality, or public safety agency would have to respond to a hurricane, tsunami, volcanic eruption, earthquake, forest fire, mining accident, or other such natural disaster.

''(3) ELIGIBILITY.—A State, municipality, or public safety agency may not receive funds allocated to it under paragraph (2) unless it has established a statewide interoperable communications plan approved by the Secretary.

''(4) REQUIRED DISCLOSURES.—

''(A) IN GENERAL.—Each State, municipality, or public safety agency that receives assistance under this section shall report to the Secretary, not later than 12 months after the date of receipt of such assistance, a list of all expenditures made by such State, municipality, or public safety agency using such assistance.

''(B) DISCLOSURES TO CONTINUE UNTIL ALL FUNDS ARE USED.—Each State, municipality, or public safety agency shall continue to meet the requirements of subparagraph (A) until all assistance received by such State, municipality, or public safety agency under this section is expended.''.

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**SA 4972.** Mr. OBAMA (for himself and Mr. SALAZAR) submitted an amendment intended to be proposed by him to the bill H.R. 4954, to improve maritime and cargo security through enhanced layered defenses, and for other purposes; as follows:

On page 87, after line 18, add the following:

**SEC. 407. EVACUATION IN EMERGENCIES.**

(a) PURPOSE.—The purpose of this section is to ensure the preparation of communities for future natural, accidental, or deliberate disasters by ensuring that the States prepare for the evacuation of individuals with special needs.

(b) EVACUATION PLANS FOR INDIVIDUALS WITH SPECIAL NEEDS.—The Secretary, acting through the Office of State and Local Government Coordination and Preparedness, shall take appropriate actions to ensure that each State, as that term is defined in section 2(14) of the Homeland Security Act of 2002 (6 U.S.C. 101(14)), requires appropriate State and local government officials to develop detailed and comprehensive pre-disaster and post-disaster plans for the evacuation of individuals with special needs, including the elderly, disabled individuals, low-income individuals and families, the homeless, and individuals who do not speak English, in emergencies that would warrant their evacuation, including plans for the provision of food, water, and shelter for evacuees.

(c) REPORT TO CONGRESS.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to Congress a report setting forth, for each State, the status and key elements of the plans to evacuate individuals with special needs in emergencies that would warrant their evacuation.

(2) CONTENTS.—The report submitted under paragraph (1) shall include a discussion of—

(A) whether the States have the resources necessary to implement fully their evacuation plans; and

(B) the manner in which the plans of the States are integrated with the response plans of the Federal Government for emergencies that would require the evacuation of individuals with special needs.

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**SA 4973.** Mr. OBAMA submitted an amendment intended to be proposed by him to the bill H.R. 4954, to improve maritime and cargo security through enhanced layered defenses, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. _____. NUCLEAR RELEASE NOTICE REQUIREMENT.**

Section 103 of the Atomic Energy Act of 1954 (42 U.S.C. 2133) is amended by inserting after subsection d. the following:

''e. NOTICE OF UNPLANNED RELEASE OF RADIOACTIVE SUBSTANCES.—

''(1) REGULATIONS.—

''(A) IN GENERAL.—Not later than 2 years after the date of enactment of this subsection, the Commission shall promulgate regulations that require civilian nuclear power facilities licensed under this section or section 104(b) to provide notice of any release to the environment of quantities of fission products or other radioactive substances.

''(B) CONSIDERATIONS.—In developing the regulations under subparagraph (A), the Commission shall consider requiring licensees of civilian nuclear power facilities to provide notice of the release—

''(i) not later than 24 hours after the release;

''(ii) to the Commission and the governments of the State and county in which the civilian nuclear power facility is located, if the unplanned release—

''(I)(aa) exceeds allowable limits for normal operation established by the Commission; and

''(bb) is not subject to more stringent reporting requirements established in existing regulations of the Commission; or

''(II)(aa) enters into the environment; and

''(bb) may cause drinking water sources to exceed a maximum contaminant level established by the Environmental Protection Agency for fission products or other radioactive substances under the Safe Drinking Water Act (42 U.S.C. 300f et seq.); and

''(iii) to the governments of the State and county in which the civilian nuclear power facility is located if the unplanned release reaches the environment by a path otherwise not allowed or recognized by the operating license of the civilian nuclear power facility and falls within the allowable limits specified in clause (ii), including—

''(I) considering any recommendations issued by the Liquid Radioactive Release Lessons-Learned Task Force;

''(II) the frequency and form of the notice; and

''(III) the threshold, volume, and radiation content that trigger the notice.

''(2) EFFECT.—Nothing in this subsection provides to any State or county that receives a notice under this subsection regulatory jurisdiction over a licensee of a civilian nuclear power facility.''.

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**SA 4974.** Mr. OBAMA submitted an amendment intended to be proposed by him to the bill H.R. 4954, to improve maritime and cargo security through enhanced layered defenses, and for other purposes; which was ordered to lie on the table; as follows:

On page 87, after line 18, add the following:

**SEC. 407. CONTAMINANT PREVENTION, DETECTION, AND RESPONSE.**

Section 1434 of the Safe Drinking Water Act (42 U.S.C. 300i–3) is amended by striking subsection (b) and inserting the following:

''(b) REPORT.—Not later than 180 days after the date of enactment of the Port Security Improvement Act of 2006, the Administrator shall submit to Congress a report that includes—

''(1) a description of the progress made as of that date in implementing this section;

''(2) a description of any impediments to that implementation identified by the Administrator, including—

''(A) difficulty in coordinating the implementation with other Federal, State, or local agencies or organizations;

''(B) insufficient funding for effective implementation;

''(C) a lack of authorization to take certain actions (including the authority to hire necessary personnel) required to carry out the implementation; and

''(D) technological impediments to developing the methods, means, and equipment specified in subsection (a)(1).

''(c) IMPLEMENTATION PLAN.—The Administrator shall develop, and carry out during the period of fiscal years 2007 through 2011, an implementation plan with respect to actions described in subsection (a) that—

''(1) is consistent with actions taken under that subsection as of the date on which the implementation plan is finalized; and

''(2) reflects the findings of the report submitted under subsection (b).

''(d) FUNDING.—There is authorized to be appropriated to carry out this section $7,500,000 for each of fiscal years 2007 through 2011.''.

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**SA 4975.** Mr. BIDEN proposed an amendment to the bill H.R. 4954, to improve maritime and cargo security through enhanced layered defenses, and for other purposes; as follows:

At the appropriate place, insert the following:

**TITLE V—HOMELAND SECURITY TRUST FUND**

**SEC. 501. SHORT TITLE.**

This title may be cited as the ''Homeland Security Trust Fund Act of 2006''.

**SEC. 502. FINDINGS.**

The Congress finds the following:

(1) In 2002, an independent, bipartisan commission, the National Commission on Terrorist Attacks Upon the United States (in this section referred to as the ''Commission''), was established under title VI of Public Law 107–306 to prepare a full and complete account of the circumstances surrounding the September 11, 2001, terrorist attacks, including preparedness for and the immediate response to the attacks.

(2) The Commission was also tasked with providing recommendations designed to guard against future attacks against the United States.

(3) The Commission held 12 public hearings to offer a public dialogue about the Commission's goals and priorities, sought to learn about work already completed, and the state of current knowledge, all in order to identify the most important issues and questions requiring further investigation.

(4) This Commission was widely praised for its thorough investigation and the bi-partisan nature of its proceedings.

(5) On July 22, 2004, the Commission released its final report that set out the events leading to the attacks on September 11th, a chilling minute-by-minute account of that tragic day, and, more importantly, issued 41 recommendations to better prepare the United States to protect against future terrorist attacks.

(6) While the Commission was officially dissolved, the Commissioners stayed together to create the 9/11 Public Discourse Project in order to push for the implementation of those recommendations.

(7) On December 5, 2005, the Commissioners released a report card evaluating the progress in implementing those recommendations.

(8) The Commissioners issued very few A's and B's and issued 12 D's and 5 failing grades.

(9) The failures identified by the Commissioners' report card were across the board, ranging from transportation security, to infrastructure protection and government reform.

(10) Specifically, the Commissioners stated that ''few improvements have been made to the existing passenger screening system since right after 9/11. The completion of the testing phase of TSA's pre-screening program for airline passengers has been delayed. A new system, utilizing all names on the consolidated terrorist watch list, is therefore not yet in operation.''.

(11) The Commissioners also found that ''. . . No risk and vulnerability assessments actually made; no national priorities established; no recommendations made on allocation of scarce resources . . . It is time that we stop talking about setting priorities and actually set some.''.

(12) The Commission issued a grade of D on checked bag and cargo screening measures, stating that ''improvements have not been made by the Congress or the administration. Progress on implementation of in-line screening has been slow. The main impediment is inadequate funding.''.

(13) With regard to information sharing and technology, the Commission noted that ''there has been no systematic diplomatic efforts to share terrorist watch lists, nor has Congress taken a leadership role in passport security . . .'' and that ''there remain many complaints about lack of information sharing between federal authorities and state and local level officials.''.

(14) The Administration has failed to focus on prevention here at home by abandoning our first line of defense against terrorism—local law enforcement.

(15) In the President's FY 2006 budget request, the President requested a cut of over $2,000,000,000 in guaranteed assistance to law enforcement.

(16) According to the International Association of Chiefs of Police, this decision represents a fundamentally flawed view of what is needed to prevent domestic terror attacks.

(17) The Council on Foreign Relations released a report entitled, ''Emergency First Responders: Drastically Underfunded, Dangerously Unprepared'', in which the Council found that ''America's local emergency responders will always be the first to confront a terrorist incident and will play the central role in managing its immediate consequences. Their efforts in the first minutes and hours following an attack will be critical to saving lives, establishing order, and preventing mass panic. The United States has both a responsibility and a critical need to provide them with the equipment, training, and other resources necessary to do their jobs safely and effectively.''.

(18) The Council further concluded that many State and local emergency responders, including police officers and firefighters, lack the equipment and training needed to respond effectively to a terrorist attack involving weapons of mass destruction.

(19) Current first responder funding must be increased to help local agencies create counter-terrorism units and assist such agencies to integrate community policing models with counter-terror efforts.

(20) First responders still do not have adequate spectrum to communicate during an emergency. Congress finally passed legislation forcing the networks to turn over spectrum, but the date was set for February 2008. This is unacceptable, this spectrum should be turned over immediately.

(21) The Federal Government has a responsibility to ensure that the people of the United States are protected to the greatest possible extent against a terrorist attack, especially an attack that utilizes nuclear, chemical, biological, or radiological weapons, and consequently, the Federal Government has a critical responsibility to address the equipment, training, and other needs of State and local first responders.

(22) To echo the sentiments of the National Commission on Terrorist Attacks upon the United States, ''it is time that we stop talking about setting priorities and actually set some.''.

(23) The cost of fully implementing all 41 recommendations put forth by the Commission and the common sense steps to secure the homeland represents less than 1 year of President Bush's tax cuts for millionaires.

(24) By investing 1 year of the tax cuts for millionaires into a trust fund to be invested over the next 5 years, the Federal Government can implement the Commission's recommendations and make great strides towards making our Nation safer.

(25) The Americans making more than $1,000,000 understand that our country changed after 9/11, yet they have not been asked to sacrifice for the good of the Nation.

(26) In this Act, we call on the patriotism of such Americans by revoking 1 year of their tax cut and investing the resulting revenues in the security of our neighbors and families.

**SEC. 503. DEFINITIONS.**

In this Act—

(1) TRUST FUND.—The term ''Trust Fund'' means the Homeland Security and Neighborhood Safety Trust Fund established under section 504.

(2) COMMISSION.—The term ''Commission'' means the National Commission on Terrorist Attacks upon the United States, established under title VI of the Intelligence Authorization Act for Fiscal Year 2003 (Pub. Law 107–306; 6 U.S.C. 101 note).

**SEC. 504. HOMELAND SECURITY AND NEIGHBORHOOD SAFETY TRUST FUND.**

(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the ''Homeland Security and Neighborhood Safety Trust Fund'', consisting of such amounts as may be appropriated or credited to the Trust Fund.

(b) RULES REGARDING TRANSFERS TO AND MANAGEMENT OF TRUST FUND.—For purposes of this section, rules similar to the rules of sections 9601 and 9602 of the Internal Revenue Code of 1986 shall apply.

(c) DISTRIBUTION OF AMOUNTS IN TRUST FUND.—Amounts in the Trust Fund shall be available, as provided by appropriation Acts, for making expenditures for fiscal years 2007 through 2011 to meet those obligations of the United States incurred which are authorized under section 5 of this Act for such fiscal years.

(d) SENSE OF THE SENATE.—It is the sense of the Senate that the Committee on Finance of the Senate should report to the Senate not later than 30 days after the date of the enactment of this Act legislation which—

(1) increases revenues to the Treasury in the amount of $53,300,000,000 during taxable years 2007 through 2011 by reducing scheduled and existing income tax reductions enacted since taxable year 2001 with respect to the taxable incomes of taxpayers in excess of $1,000,000, and

(2) appropriates an amount equal to such revenues to the Homeland Security and Neighborhood Safety Trust Fund.

**SEC. 505. PREVENTING TERROR ATTACKS ON THE HOMELAND.**

(a) SUPPORTING LAW ENFORCEMENT.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from the Trust Fund—

(A) $1,150,000,000 for fiscal years 2007 through 2011 for the Office of Community Oriented Policing Services for grants to State, local, and tribal law enforcement to hire officers, purchase technology, conduct training, and to develop local counter-terrorism units;

(B) $900,000,000 for each of the fiscal years 2007 through 2011 for the Justice Assistance Grant;

(C) $160,000,000 for each of fiscal years 2007 through 2011 for the Federal Bureau of Investigations to hire 1,000 additional field agents in addition to the number of field agents serving on the date of enactment of this Act;

(D) $25,000,000 for the Department of Homeland Security for each of fiscal years 2007 through 2011 to fund additional customs agents; and

(E) $200,000,000 for each of fiscal years 2007 to 2011 for the Amtrak Police Department to hire, equip, and train 1,000 additional rail police; and

(F) such sums as necessary to provide an increase in the rate of basic pay for law enforcement officers employed by Amtrak of 25 percent of the rate of basic pay in effect on the date of enactment of this Act.

(2) REPORT ON THE CREATION OF A FEDERAL BUREAU OF INVESTIGATION NATIONAL SECURITY WORKFORCE.—

(A) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Director of the Federal Bureau of Investigation shall submit to the relevant congressional committees a report on the creation of a national security workforce, as recommended by the Commission.

(B) CONTENTS.—The report under this paragraph shall include either a certification that such recommendation has been implemented, or, in the alternative, a description of—

(i) what steps have been taken to achieve the recommendation;

(ii) when the Director expects the recommendation to be fully implemented; and

(iii) any allocation of resources necessary to fully implement the recommendation.

(b) EFFECTIVELY UTILIZING NEW TECHNOLOGIES.—

(1) STREAMLINING INFORMATION AND PROCESSES.—

(A) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from the Trust Fund—

(i) $50,000,000 for fiscal year 2007 for Information Technology Services at the Department of Homeland Security for the purpose of consolidating terrorist watch lists;

(ii) $50,000,000 for fiscal year 2007 to improve the capability of pre-screening airline passengers against terrorist watch lists;

(iii) $100,000,000 for each of fiscal years 2007 through 2011 for the Department of Homeland Security, Office of the Chief Information Officer, for the purpose of improving government wide information sharing, including processes and procedures to improve information sharing with State and local law enforcement and first responders;

(iv) $120,000,000 for each of fiscal years 2007 to 2011 to enhance the Department of Homeland Security to enhance U.S. Visit, Biometric Entry-Exit System (9/11); and

(v) $150,000,000 for each of fiscal years 2007 to 2011 to assist States in complying with the Real I.D. Act (Public Law 103–19).

(B) REPORTS.—

(i) REPORT ON GOVERNMENT-WIDE INFORMATION SHARING.—

(I) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Director of the Office of Management and Budget shall submit to the relevant congressional committees a report on the progress toward government-wide information sharing, as recommended by the Commission.

(II) CONTENTS.—The report under this clause shall include either a certification that such recommendation has been implemented, or, in the alternative, a description of—

(aa) what steps have been taken to achieve the recommendation;

(bb) when the Director expects the recommendation to be fully implemented; and

(cc) any allocation of resources necessary to fully implement the recommendation.

(ii) REPORT ON INCENTIVES FOR INFORMATION SHARING.—

(I) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Director of National Intelligence shall submit to the relevant congressional committees a report on the establishment of incentives for information sharing across the Federal government and with State and local authorities, as recommended by the Commission.

(II) CONTENTS.—The report under this clause shall include either a certification that such recommendation has been implemented, or, in the alternative, a description of—

(aa) what steps have been taken to achieve the recommendation;

(bb) when the Director expects the recommendation to be fully implemented; and

(cc) any allocation of resources necessary to fully implement the recommendation.

(iii) REPORT ON BIOMETRIC ENTRY-EXIT SCREENING SYSTEM.—

(I) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Homeland Security shall submit to the relevant congressional committees a report the creation of a biometric entry-exit screening system, as recommended by the Commission.

(II) CONTENTS.—The report under this clause shall include either a certification that such recommendation has been implemented, or, in the alternative, a description of—

(aa) what steps have been taken to achieve the recommendation;

(bb) when the Secretary of Homeland Security expects the recommendation to be fully implemented; and

(cc) any allocation of resources necessary to fully implement the recommendation.

(2) UTILIZING SCREENING TECHNOLOGIES.—

(A) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from the Trust Fund—

(i) $1,000,000,000 for each of 2007 through 2011 for Department of Homeland Security to implement 100 percent screening of ship cargo containers with suitable technologies that screen for nuclear, radiological, and other dangerous materials;

(ii) $100,000,000 for each of fiscal years 2007 through 2011 for the Department of Homeland Security to improve screening for airline passengers, checked baggage, and cargo on commercial airliners;

(iii) $100,000,000 for each of fiscal years 2007 through 2011 for the Office of Science and Technology at the Department of Homeland Security to research and develop advanced screening technologies.

(B) REPORTS.—

(i) REPORT ON CONTAINER CARGO SCREENING.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Transportation shall submit to the relevant congressional committees a report on improvements made towards implementing 100 percent screening of cargo containers, including an analysis of charging a per container surcharge towards recouping security investment made by the Department of Homeland Security in implementing 100 percent cargo container screening and on-going security costs.

(ii) REPORT ON CHECKED BAG AND CARGO SCREENING.—

(I) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Transportation shall submit to the relevant congressional committees a report on improvements made to checked bag and cargo screening, as recommended by the Commission.

(II) CONTENTS.—The report under this clause shall include either a certification that such recommendation has been implemented, or, in the alternative, a description of—

(aa) what steps have been taken to achieve the recommendation;

(bb) when the Secretary of Transportation expects the recommendation to be fully implemented; and

(cc) any allocation of resources necessary to fully implement the recommendation.

(iii) REPORT ON AIRLINE SCREENING CHECKPOINTS TO DETECT EXPLOSIVES.—

(I) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Transportation shall submit to the relevant congressional committees a report on improvements to airline screening checkpoints to detect explosives, as recommended by the Commission.

(II) CONTENTS.—The report under this clause shall include either a certification that such recommendation has been implemented, or, in the alternative, a description of—

(aa) what steps have been taken to achieve the recommendation;

(bb) when the Secretary of Transportation expects the recommendation to be fully implemented; and

(cc) any allocation of resources necessary to fully implement the recommendation.

(c) PROTECTING CRITICAL INFRASTRUCTURE AND ELIMINATING THREATS.—

(1) HARDENING SOFT TARGETS.—

(A) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from the Trust Fund—

(i) $1,000,000,000 for each of fiscal years 2007 through 2011 for the Office of Domestic Preparedness for the State Homeland Security Grant Program, the Urban Area Security Initiative and the Law Enforcement Terrorism Prevention Program;

(ii) $80,000,000 for fiscal year 2007 to the Office of Domestic Preparedness for Critical Infrastructure Risk Assessment Planning (9/11);

(iii) $500,000,000 for each of fiscal year 2007 through 2011 to the Office of Domestic Preparedness to make grants to State and local governments and tribes to protect critical infrastructure, including chemical facilities, nuclear power plants, electrical grids, and other critical infrastructure;

(iv) $500,000,000 for each of fiscal years 2007 through 2011 for port security grants to assist ports with meeting the requirements in Maritime Transportation Security Act of 2002 (Public Law 107–295; 116 Stat. 2064.); and

(v) $200,000,000 for each of fiscal year 2007 through 2011 to the Office of Domestic Preparedness to make grants for passenger rail, freight rail, and transit systems.

(B) REPORT ON CRITICAL INFRASTRUCTURE RISKS AND VULNERABILITIES ASSESSMENT.—

(i) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Homeland Security shall submit to the relevant congressional committees a report assessing critical infrastructure risks and vulnerabilities, as recommended by the Commission.

(ii) CONTENTS.—The report under this subparagraph shall include either a certification that such recommendation has been implemented, or, in the alternative, a description of—

(I) what steps have been taken to achieve the recommendation;

(II) when the Secretary of Homeland Security expects the recommendation to be fully implemented; and

(III) any allocation of resources necessary to fully implement the recommendation.

(2) REDUCING THE RISK OF ATTACK ON DANGEROUS CHEMICALS.—There are authorized to be appropriated from the Trust Fund—

(A) $100,000,000 for each of fiscal years 2007 through 2001 to the Department of Homeland Security to assist companies that manufacture, produce, or utilize dangerous chemicals to transition to safer technologies; and

(B) $25,000,000 for each of fiscal years 2007 through 2011 to the Department of Homeland Security to—

(i) develop a national strategy to reduce the threat of rail shipments of extremely hazardous materials through the high threat cities in the Nation; and

(ii) provide grants to State and local law enforcement, first responders, and rail owners to purchase safety equipment and conduct coordinated training exercises for first responders and rail workers who may be called to respond to intentional or accidental releases of hazardous chemicals.

(3) RESPONDING TO TERRORIST ATTACKS AND NATURAL DISASTERS.—

(A) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from the Trust Fund—

(i) $1,000,000,000 for each of fiscal years 2007 through 2011 to the Office of Community Oriented Policing Services to provide grants to enhance State and local government interoperable communications efforts, including interagency planning and purchasing equipment;

(ii) $500,000,000 for each of fiscal years 2007 through 2011 for the Office of Domestic Preparedness for Fire Act Grants;

(iii) $500,000,000 for each of fiscal years 2007 through 2011 for the Office of Domestic Preparedness for SAFER Grants;

(iv) $1,000,000,000 per year for each of fiscal years 2007 through 2011 for the Office of Domestic Preparedness to make grants to State and local governments to improve the public health capabilities of States and cities to prevent and respond to biological, chemical, or radiological attacks and pandemics;

(v) $100,000,000 per year for each of fiscal years 2007 through 2011 for the Armed Forces Radiological Research Institute to research,

develop, and deploy medical countermeasures to address radiation sickness associated with nuclear or radiological attacks in the United States; and

(vi) $100,000,000 per year for each of fiscal years 2007 through 2011 for the Office of Domestic Preparedness for the purpose of improving State and local government interagency response coordination to enable local agencies to utilize equipment, resources, and personnel of neighboring agencies in the event of a terrorist attack or natural catastrophe.

(B) PREVENTION OF DELAY IN REASSIGNMENT OF 24 MEGAHERTZ FOR PUBLIC SAFETY PURPOSES.—Section 309(j)(14) of the Communications Act of 1934 (47 20 U.S.C. 309(j)(14)) is amended by adding at the end the following:

''(E) Notwithstanding subparagraph (B), the Commission shall not grant any extension under that subparagraph from the limitation of subparagraph (A) with respect to the frequencies assigned, under section 337(a)(1), for public safety services. The Commission shall take all actions necessary to complete assignment of the electromagnetic spectrum between 764 and 776 megahertz, inclusive, and between 794 and 806 megahertz, inclusive, for public safety services and to permit operations by public safety services on those frequencies commencing not later than January 1, 2007.''.

(d) PREVENTING THE GROWTH OF RADICAL ISLAMIC FUNDAMENTALISM.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from the Trust Fund—

(A) $100,000,000 for each of fiscal years 2007 through 2011 to the President for the Economic Support Fund to provide technical assistance under chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 et seq.) to foreign countries to assist such countries in preventing the financing of terrorist activities;

(B) $200,000,000 for each of fiscal years 2007 through 2011 to the President for development assistance for international education programs carried out under sections 105 and 496 of the Foreign Assistance Act of 1961 (22 U.S.C. 2151c and 2293);

(C) $50,000,000 for each of fiscal years 2007 through 2011 to the President for the United States contribution to the International Youth Opportunity Fund authorized under section 7114 of the 9/11 Commission Implementation Act of 2004 (Public Law 108–458) for international education programs;

(D) $100,000,000 for each of fiscal years 2007 through 2011 to the President for the Economic Support Fund for activities carried out under the provisions of chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 et seq.) to promote democracy, good governance, political freedom, independent media, women's rights, private sector development, and open economic systems in the countries of the Middle East, Central Asia, South Asia, and Southeast Asia;

(E) $15,000,000 for each of the fiscal years 2007 through 2011 to the Middle East Partnership Initiative of the Department of State to support, through the provision of grants, technical assistance, training, and other programs, in the countries of the Middle East, the expansion of civil society, opportunities for political participation for all citizens, protections for internationally recognized human rights, including the rights of women, educational system reforms, independent media, policies that promote economic opportunities for citizens, the rule of law, and democratic processes of government;

(F) $100,000,000 for each of the fiscal years 2007 through 2011 to the President to carry out United States Government broadcasting activities under the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1431 et seq.), the United States International Broadcasting Act of 1994 (22 U.S.C. 6201 et seq.), and the Foreign Affairs Reform and Restructuring Act of 1998 (as enacted in division G of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999; Public Law 105–277) for international broadcasting operations;

(G) $200,000,000 for each of the fiscal years 2007 through 2011 to the Department of State to carry out public diplomacy programs of the Department under the United States Information and Educational Exchange Act of 1948, the Mutual Educational and Cultural Exchange Act of 1961, Reorganization Plan Number 2 of 1977, the Foreign Affairs Reform and Restructuring Act of 1998, the Center for Cultural and Technical Interchange Between East and West Act of 1960, the Dante B. Fascell North-South Center Act of 1991, and the National Endowment for Democracy Act;

(H) $600,000,000 for each of the fiscal years 2007 through 2011 to the President for providing assistance for Afghanistan in a manner consistent with the Afghanistan Freedom Support Act of 2002 (22 U.S.C. 7501 et seq.);

(I) $150,000,000 for each of the fiscal years 2007 through 2011 to the President for provide assistance to Pakistan for the Economic Support Fund to carry out chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 et seq.); and

(J) $80,000,000 for each of the fiscal years 2007 through 2011 to the Department of Energy to support the nonproliferation activities of the National Nuclear Security Administration.

(2) REPORTS.—

(A) REPORT ON THE UNITED STATES GOVERNMENT'S EFFORTS TO SECURE WEAPONS OF MASS DESTRUCTION.—

(i) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the President shall submit to the relevant congressional committees a report on the current efforts to secure weapons of mass destruction, as recommended by the Commission.

(ii) CONTENTS.—The report under this subparagraph shall include either a certification that such recommendation has been implemented, or, in the alternative, a description of—

(I) what steps have been taken to achieve the recommendation;

(II) when the President expects the recommendation to be fully implemented; and

(III) any allocation of resources necessary to fully implement the recommendation.

(B) REPORT ON LONG-TERM COMMITMENT TO AFGHANISTAN.—

(i) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the President shall submit to the relevant congressional committees a report on ensuring a long-term commitment to Afghanistan, as recommended by the Commission.

(ii) CONTENTS.—The report under this subparagraph shall include either a certification that such recommendation has been implemented, or, in the alternative, a description of—

(I) what steps have been taken to achieve the recommendation;

(II) when the President expects the recommendation to be fully implemented; and

(III) any allocation of resources necessary to fully implement the recommendation.

(C) REPORT ON UNITED STATES SUPPORT TO PAKISTAN'S EFFORTS AGAINST EXTREMISTS.—

(i) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Secretary of State shall submit to the relevant congressional committees a report the United States's support of Pakistan's efforts against extremists, as recommended by the Commission.

(ii) CONTENTS.—The report under this subparagraph shall include either a certification that such recommendation has been implemented, or, in the alternative, a description of—

(I) what steps have been taken to achieve the recommendation;

(II) when the Secretary of State expects the recommendation to be fully implemented; and

(III) any allocation of resources necessary to fully implement the recommendation.

(D) REPORT ON IMPROVEMENT OF RELATIONS BETWEEN THE UNITED STATES AND SAUDI ARABIA.—

(i) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Secretary of State shall submit to the relevant congressional committees a report on current efforts to improve strategic relations between the United States and Saudi Arabia, as recommended by the Commission.

(ii) CONTENTS.—The report under this subparagraph shall include either a certification that such recommendation has been implemented, or, in the alternative, a description of—

(I) what steps have been taken to achieve the recommendation;

(II) when the Secretary of State expects the recommendation to be fully implemented; and

(III) any allocation of resources necessary to fully implement the recommendation.

(E) REPORT ON IDENTIFYING AND PRIORITIZING TERRORIST SANCTUARIES.—

(i) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Director of the National Counterterrorism Center shall submit to the relevant congressional committees a report identifying and prioritizing terrorist sanctuaries, as recommended by the Commission.

(ii) CONTENTS.—The report under this subparagraph shall include either a certification that such recommendation has been implemented, or, in the alternative, a description of—

(I) what steps have been taken to achieve the recommendation;

(II) when the Director expects the recommendation to be fully implemented; and

(III) any allocation of resources necessary to fully implement the recommendation.

(F) REPORT ON COMPREHENSIVE COALITION STRATEGY AGAINST ISLAMIST TERRORISM.—

(i) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Secretary of State shall submit to the relevant congressional committees a report on progress toward engaging other countries in developing a comprehensive strategy for combating Islamist terrorism, as recommended by the Commission.

(ii) CONTENTS.—The report under this subparagraph shall include either a certification that such recommendation has been implemented, or, in the alternative, a description of—

(I) what steps have been taken to achieve the recommendation;

(II) when the Secretary of State expects the recommendation to be fully implemented; and

(III) any allocation of resources necessary to fully implement the recommendation.

(G) REPORT ON INTERNATIONAL BROADCASTING.—

(i) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Broadcasting Board of Governors shall submit to the relevant congressional committees a report analyzing the success of Radio Sawa and Radio Al-Hurra, as recommended by the Commission.

(ii) CONTENTS.—The report under this subparagraph shall include either a certification that such recommendation has been implemented, or, in the alternative, a description of—

(I) what steps have been taken to achieve the recommendation;

(II) when the Board expects the recommendation to be fully implemented; and

(III) any allocation of resources necessary to fully implement the recommendation.

(H) REPORT ON SCHOLARSHIP, EXCHANGE AND LIBRARY PROGRAMS.—

(i) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Secretary of State shall submit to the relevant congressional committees a report on the expansion United States scholarship, exchange, and library programs in the Islamic world, as recommended by the Commission.

(ii) CONTENTS.—The report under this subparagraph shall include either a certification that such recommendation has been implemented, or, in the alternative, a description of—

(I) what steps have been taken to achieve the recommendation;

(II) when the Secretary of State expects the recommendation to be fully implemented; and

(III) any allocation of resources necessary to fully implement the recommendation.

(I) REPORT ON TERRORIST TRAVEL STRATEGY.—

(i) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Director of the National Counterterrorism Center shall submit to the relevant congressional committees a report on improving the collection and analysis of intelligence on terrorist travel, as recommended by the Commission.

(ii) CONTENTS.—The report under this subparagraph shall include either a certification that such recommendation has been implemented, or, in the alternative, a description of—

(I) what steps have been taken to achieve the recommendation;

(II) when the Director expects the recommendation to be fully implemented; and

(III) any allocation of resources necessary to fully implement the recommendation.

(e) GOVERNMENT REFORM: IMPLEMENTING EACH RECOMMENDATION OF THE 9/11 COMMISSION.—

(1) REPORT ON ESTABLISHING A UNIFIED INCIDENT COMMAND SYSTEM.—

(A) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Homeland Security shall submit to the relevant congressional committees a report on the establishment of a unified Incident Command System, as recommended by the Commission.

(B) CONTENTS.—The report under this paragraph shall include either a certification that such recommendation has been implemented, or, in the alternative, a description of—

(i) what steps have been taken to achieve the recommendation;

(ii) when the Secretary of Homeland Security expects the recommendation to be fully implemented; and

(iii) any allocation of resources necessary to fully implement the recommendation.

(2) REPORT ON COMPREHENSIVE SCREENING SYSTEM.—

(A) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Transportation shall submit to the relevant congressional committees a report on the implementation of a comprehensive screening program, as recommended by the Commission.

(B) CONTENTS.—The report under this paragraph shall include either a certification that such recommendation has been implemented, or, in the alternative, a description of—

(i) what steps have been taken to achieve the recommendation;

(ii) when the Secretary of Transportation expects the recommendation to be fully implemented; and

(iii) any allocation of resources necessary to fully implement the recommendation.

(3) REPORT ON THE DIRECTOR OF NATIONAL INTELLIGENCE.—

(A) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Director of National Intelligence shall submit to the relevant congressional committees a report on the Director of National Intelligence, as recommended by the Commission.

(B) CONTENTS.—The report under this paragraph shall include either a certification that such recommendation has been implemented, or, in the alternative, a description of—

(i) what steps have been taken to achieve the recommendation;

(ii) when the Director expects the recommendation to be fully implemented; and

(iii) any allocation of resources necessary to fully implement the recommendation.

(4) REPORT ON THE NATIONAL COUNTERTERRORISM CENTER.—

(A) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Director of National Intelligence shall submit to the relevant congressional committees a report on the establishment of the National Counterterrorism Center, as recommended by the Commission.

(B) CONTENTS.—The report under this paragraph shall include either a certification that such recommendation has been implemented, or, in the alternative, a description of—

(i) what steps have been taken to achieve the recommendation;

(ii) when the Director expects the recommendation to be fully implemented; and

(iii) any allocation of resources necessary to fully implement the recommendation.

(5) REPORT ON THE NEW MISSION OF THE DIRECTOR OF THE CENTRAL INTELLIGENCE AGENCY.—

(A) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Director of the Central Intelligence Agency shall submit to the relevant congressional committees a report on the new mission of the Director of the Central Intelligence Agency, as recommended by the Commission.

(B) CONTENTS.—The report under this paragraph shall include either a certification that such recommendation has been implemented, or, in the alternative, a description of—

(i) what steps have been taken to achieve the recommendation;

(ii) when the Director expects the recommendation to be fully implemented; and

(iii) any allocation of resources necessary to fully implement the recommendation.

(6) REPORT ON HOMELAND AIRSPACE DEFENSE.—

(A) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Homeland Security shall submit to the relevant congressional committees a report on homeland airspace defense, as recommended by the Commission.

(B) CONTENTS.—The report under this paragraph shall include either a certification that such recommendation has been implemented, or, in the alternative, a description of—

(i) what steps have been taken to achieve the recommendation;

(ii) when the Secretary of Homeland Security expects the recommendation to be fully implemented; and

(iii) any allocation of resources necessary to fully implement the recommendation.

(7) REPORT ON BALANCE BETWEEN SECURITY AND CIVIL LIBERTIES.—

(A) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Attorney General shall submit to the relevant congressional committees a report on the balance between security and civil liberties, as recommended by the Commission.

(B) CONTENTS.—The report under this paragraph shall include either a certification that such recommendation has been implemented, or, in the alternative, a description of—

(i) what steps have been taken to achieve the recommendation;

(ii) when the Attorney General expects the recommendation to be fully implemented; and

(iii) any allocation of resources necessary to fully implement the recommendation.

(8) REPORT ON PRIVACY GUIDELINES FOR GOVERNMENT SHARING OF PERSONAL INFORMATION.—

(A) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Attorney General shall submit to the relevant congressional committees a report outlining the privacy guidelines for government sharing of personal information, as recommended by the Commission.

(B) CONTENTS.—The report under this paragraph shall include either a certification that such recommendation has been implemented, or, in the alternative, a description of—

(i) what steps have been taken to achieve the recommendation;

(ii) when the Attorney General expects the recommendation to be fully implemented; and

(iii) any allocation of resources necessary to fully implement the recommendation.

(9) REPORT ON THE STANDARDIZATION OF SECURITY CLEARANCES.—

(A) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Director of the Office of Management and Budget shall submit to the relevant congressional committees a report on the standardization of security clearances, as recommended by the Commission.

(B) CONTENTS.—The report under this paragraph shall include either a certification that such recommendation has been implemented, or, in the alternative, a description of—

(i) what steps have been taken to achieve the recommendation;

(ii) when the Director expects the recommendation to be fully implemented; and

(iii) any allocation of resources necessary to fully implement the recommendation.

(10) REPORT ON COALITION STANDARDS FOR TERRORISM DETENTION.—

(A) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Secretary of State, in consultation with the Attorney General, shall submit to the relevant congressional committees a report on current efforts to develop a common coalition approach toward the detention and humane treatment of captured terrorists, as recommended by the Commission.

(B) CONTENTS.—The report under this paragraph shall include either a certification that such recommendation has been implemented, or, in the alternative, a description of—

(i) what steps have been taken to achieve the recommendation;

(ii) when the Secretary of State expects the recommendation to be fully implemented; and

(iii) any allocation of resources necessary to fully implement the recommendation.

(11) REPORT ON USE OF ECONOMIC POLICIES TO COMBAT TERRORISM.—

(A) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Secretary of State, in consultation with the United States Trade Representative, shall submit to the relevant congressional committees a report on the development of economic policies to combat terrorism, as recommended by the Commission.

(B) CONTENTS.—The report under this paragraph shall include either a certification that such recommendation has been implemented, or, in the alternative, a description of—

(i) what steps have been taken to achieve the recommendation;

(ii) when the Secretary of State expects the recommendation to be fully implemented; and

(iii) any allocation of resources necessary to fully implement the recommendation.

(12) REPORT ON EFFORTS AGAINST TERRORIST FINANCING.—

(A) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Secretary of the Treasury, shall submit to the relevant congressional committees a report on efforts taken against terrorist financing, as recommended by the Commission.

(B) CONTENTS.—The report under this paragraph shall include either a certification that such recommendation has been implemented, or, in the alternative, a description of—

(i) what steps have been taken to achieve the recommendation;

(ii) when the Secretary of the Treasury expects the recommendation to be fully implemented; and

(iii) any allocation of resources necessary to fully implement the recommendation.

(13) REPORT ON INTERNATIONAL COLLABORATION ON BORDERS AND DOCUMENT SECURITY.—

(A) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Homeland Security, in consultation with the Secretary of State, shall submit to the relevant congressional committees a report international collaboration on borders and document security, as recommended by the Commission.

(B) CONTENTS.—The report under this paragraph shall include either a certification that such recommendation has been implemented, or, in the alternative, a description of—

(i) what steps have been taken to achieve the recommendation;

(ii) when the Secretary of Homeland Security expects the recommendation to be fully implemented; and

(iii) any allocation of resources necessary to fully implement the recommendation.

(14) REPORT ON THE STANDARDIZATION OF SECURE IDENTIFICATION.—

(A) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Homeland Security and the Secretary of Health and Human Services shall each submit to the relevant congressional committees a report on the standardization of secure identification, as recommended by the Commission.

(B) CONTENTS.—The report under this paragraph shall include either a certification that such recommendation has been implemented, or, in the alternative, a description of—

(i) what steps have been taken to achieve the recommendation;

(ii) when the Secretary of Homeland Security or the Secretary of Health and Human Services expects the recommendation to be fully implemented; and

(iii) any allocation of resources necessary to fully implement the recommendation.

(15) REPORT ON PRIVATE SECTOR PREPAREDNESS.—Not later than 90 days after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the relevant congressional committees a report outlining the steps that have been taken to enhance private sector preparedness for terrorist attacks, as recommended by the Commission.

(16) REPORT ON NATIONAL STRATEGY FOR TRANSPORTATION SECURITY.—

(A) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Transportation shall submit to the relevant congressional committees a report on the establishment of a national strategy for transportation security, as recommended by the Commission.

(B) CONTENTS.—The report under this paragraph shall include either a certification that such recommendation has been implemented, or, in the alternative, a description of—

(i) what steps have been taken to achieve the recommendation;

(ii) when the Secretary of Transportation expects the recommendation to be fully implemented; and

(iii) any allocation of resources necessary to fully implement the recommendation.

(17) REPORT ON AIRLINE PASSENGER PRESCREENING.—

(A) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Transportation shall submit to the relevant congressional committees a report on improvements made to airline passenger pre-screening, as recommended by the Commission.

(B) CONTENTS.—The report under this paragraph shall include either a certification that such recommendation has been implemented, or, in the alternative, a description of—

(i) what steps have been taken to achieve the recommendation;

(ii) when the Secretary of Transportation expects the recommendation to be fully implemented; and

(iii) any allocation of resources necessary to fully implement the recommendation.

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**SA 4976.** Mrs. BOXER submitted an amendment intended to be proposed by her to the bill H.R. 4954, to improve maritime and cargo security through enhanced layered defenses, and for other purposes; as follows:

At the appropriate place, insert the following:

**SEC. ____. MAN-PORTABLE AIR DEFENSE SYSTEMS.**

(a) IN GENERAL.—It is the sense of Congress that the budget of the United States Government submitted by the President for fiscal year 2008 under section 1105(a) of title 31, United States Code, should include an acquisition fund for the procurement and installation of countermeasure technology, proven through the successful completion of operational test and evaluation, to protect commercial aircraft from the threat of Man-Portable Air Defense systems (MANPADS).

(b) DEFINITION OF MANPADS.—In this section, the term ''MANPADS'' means—

(1) a surface-to-air missile system designed to be man-portable and carried and fired by a single individual; and

(2) any other surface-to-air missile system designed to be operated and fired by more than one individual acting as a crew and portable by several individuals.

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**SA 4977.** Mr. LEVIN submitted an amendment intended to be proposed by him to the bill H.R. 4954, to improve maritime and cargo security through enhanced layered defenses, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. 501. APPLICATION TO LAND PORTS.**

The provisions of sections 203, 204, and 303 shall also apply with respect to land ports of entry.

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**SA 4978.** Mrs. BOXER submitted an amendment intended to be proposed by her to the bill H.R. 4954, to improve maritime and cargo security through enhanced layered defenses, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. ____. BLAST-RESISTANT CONTAINERS.**

Section 41704 of title 49, United States Code, is amended by adding at the end the following: ''Each aircraft used to provide air transportation for individuals and their baggage or other cargo shall be equipped with not less than 1 hardened, blast-resistant cargo container.''.

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**SA 4979.** Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill H.R. 4954, to improve maritime and cargo security through enhanced layered defenses, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. ____. STUDY OF UNSAFE PESTICIDE CHEMICAL RESIDUES IN GINSENG AND PRODUCTS CONTAINING GINSENG.**

(a) IN GENERAL.—The Food and Drug Administration, in cooperation with the United States Customs and Border Protection, shall—

(1) conduct a study on the levels of pesticide chemical residue, as such term is defined in section 201(q)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(q)(2)), in ginseng and products containing ginseng; and

(2) submit to Congress a report that describes the findings of such study.

(b) CONTENT AND DESIGN.—The study conducted under subsection (a) shall—

(1) compare the pesticide chemical residue in ginseng that is known to be foreign-grown with such residue in ginseng that is known to be domestically-grown;

(2) sample and test retail and wholesale samples, both in warehouses and at the ports of entry into the United States, of raw ginseng and products containing ginseng for pesticide chemical residue and, if possible, determine the prevalence of ginseng and products containing ginseng that are mislabeled as grown in the United States or in Wisconsin;

(3) be designed to ensure that the samples of ginseng and products containing ginseng that are collected from retail and wholesale establishments may also be used as part of potential enforcement actions if the Food and Drug Administration, in cooperation with the United States Customs and Border Protection, finds that the level of pesticide chemical residue in such ginseng or products is unsafe; and

(4) assess and identify whether ginseng and products containing ginseng are imported into the United States by being classified under an improper heading under the Harmonized Tariff Schedule of the United States.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

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**SA 4980.** Ms. STABENOW submitted an amendment intended to be proposed by her to the bill H.R. 4954, to improve maritime and cargo security through enhanced layered defenses, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. ___. EMERGENCY COMMUNICATIONS AND INTEROPERABILITY GRANTS.**

(a) IN GENERAL.—The Secretary, through the Office of Domestic Preparedness of the Office of State and Local Government Preparedness and Coordination, may make grants to States, eligible regions, and local governments for initiatives necessary to improve emergency communications capabilities and to achieve short-term or long-term solutions to statewide, regional, national, and, where appropriate, international interoperability.

(b) USE OF GRANT FUNDS.—A grant awarded under subsection (a) may be used for initiatives to enhance interoperable communications within the State or region and to assist with any aspect of the interoperable communications life cycle, including—

(1) statewide or regional communications planning, as it relates to the implementation of the National Incident Management System;

(2) system design and engineering;

(3) procurement and installation of equipment;

(4) training exercises;

(5) modeling and simulation exercises for operational command and control functions; and

(6) other activities determined by the Secretary to be integral to the achievement of emergency communications capabilities and communications interoperability.

(c) DEFINITIONS.—In this section—

(1) the term ''eligible region'' means—

(A) 2 or more contiguous incorporated municipalities, counties, parishes, Indian tribes, or other general purpose jurisdictions that—

(i) have joined together to enhance emergency communications capabilities or communications interoperability between emergency response providers in those jurisdictions and with State and Federal officials; and

(ii) includes the largest city in any metropolitan statistical area or metropolitan division, as those terms are defined by the Office of Management and Budget; or

(B) any other area the Secretary determines to be consistent with the definition of a region in the national preparedness guidance issued under Homeland Security Presidential Directive 8; and

(2) the terms ''emergency response providers'' and ''local government'' have the meanings given the terms in section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101).

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

(1) $1,000,000,000 for each of fiscal years 2007 through 2011; and

(2) such sums as are necessary for each fiscal year thereafter.

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**SA 4981.** Mr. CONRAD submitted an amendment intended to be proposed by him to the bill H.R. 4954, to improve maritime and cargo security through enhanced layered defenses, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. ___. NATIONAL EMERGENCY TELEMEDICAL COMMUNICATIONS.**

(a) TELEHEALTH TASK FORCE.—

(1) ESTABLISHMENT.—The Secretary of Commerce, in consultation with the Secretary of Homeland Security and the Secretary of Health and Human Services, shall establish a task force to be known as the ''National Emergency Telehealth Network Task Force'' (referred to in this subsection as the ''Task Force'') to advise the Secretary of Commerce on the use of telehealth technologies to prepare for, monitor, respond to, and manage the events of a biological, chemical, or nuclear terrorist attack or other public health emergencies.

(2) FUNCTIONS.—The Task Force shall—

(A) conduct an inventory of existing telehealth initiatives, including—

(i) the specific location of network components;

(ii) the medical, technological, and communications capabilities of such components; and

(iii) the functionality of such components;

(B) make recommendations for use by the Secretary of Commerce in establishing standards for regional interoperating and overlapping information and operational capability response grids in order to achieve coordinated capabilities based on responses among Federal, State, and local responders;

(C) recommend any changes necessary to integrate technology and clinical practices;

(D) recommend to the Secretary of Commerce acceptable standard clinical information that could be uniformly applied and available throughout a national telemedical network and tested in the regional networks;

(E) research, develop, test, and evaluate administrative, physical, and technical guidelines for protecting the confidentiality, integrity, and availability of regional networks and all associated information and advise the Secretary of Commerce on issues of patient data security, and compliance with all applicable regulations;

(F) in consultation and coordination with the regional telehealth networks established under subsection (b), test such networks for their ability to provide support for the existing and planned efforts of State and local law enforcement, fire departments, health care facilities, Indian Health Service clinics, and Federal and State public health agencies to prepare for, monitor, respond rapidly to, or manage the events of a biological, chemical, or nuclear terrorist attack or other public health emergencies with respect to each of the functions listed in subparagraphs (A) through (H) of subsection (b)(3); and

(G) facilitate the development of training programs for responders and a mechanism for training via enhanced advanced distributive learning.

(3) MEMBERSHIP.—The Task Force shall include representation from—

(A) relevant Federal agencies;

(B) relevant tribal, State, and local government agencies including public health officials;

(C) professional associations specializing in health care; and

(D) other relevant private sector organizations, including public health and national telehealth organizations and representatives of academic and corporate information management and information technology organizations.

(4) MEETINGS AND REPORTS.—

(A) MEETINGS.—The Task Force shall meet as the Secretary of Commerce may direct.

(B) REPORT.—

(i) IN GENERAL.—Not later than 3 years after the date of enactment of this Act the Task Force shall prepare and submit a report to Congress regarding the activities of the Task Force.

(ii) CONTENTS.—The report described in clause (i) shall recommend, based on the information obtained from the regional telehealth networks established under subsection (b), whether and how to build on existing telehealth networks to develop a National Emergency Telehealth Network.

(5) IMPLEMENTATION.—The Task Force may carry out activities under this subsection in cooperation with other entities, including national telehealth organizations.

(6) TERMINATION.—The Task Force shall terminate upon submission of the final report required under paragraph (4)(B).

(b) ESTABLISHMENT OF STATE AND REGIONAL TELEHEALTH NETWORKS.—

(1) PROGRAM AUTHORIZED.—

(A) IN GENERAL.—The Secretary of Commerce, in consultation with the Secretary of Homeland Security and the Secretary of Health and Human Services, is authorized to award grants to 3 regional consortia of States to carry out pilot programs for the development of statewide and regional telehealth network testbeds that build on, enhance, and securely link existing State and local telehealth programs.

(B) DURATION.—The Secretary of Commerce may award grants under this subsection for a period not to exceed 3 years. Such grants may be renewed.

(C) STATE CONSORTIUM PLANS.—Each regional consortium of States desiring to receive a grant under subparagraph (A) shall submit to the Secretary of Commerce a plan that describes how such consortium shall—

(i) interconnect existing telehealth systems in a functional and seamless fashion to enhance the ability of the States in the region to prepare for, monitor, respond to, and manage the events of a biological, chemical, or nuclear terrorist attack or other public health emergencies or natural disasters; and

(ii) link to other participating States in the region via a standard interoperable connection using standard information.

(D) PRIORITY.—In making grants under this subsection, the Secretary of Commerce shall give priority to regional consortia of States that demonstrate—

(i) the interest and participation of a broad cross section of relevant entities, including public health offices, emergency preparedness offices, and health care providers;

(ii) the ability to connect major population centers as well as isolated border, rural, and frontier communities within the region to provide medical, public health, and emergency services in response to a biological, chemical, or nuclear terrorist attack or other public health emergencies;

(iii) an existing telehealth and telecommunications infrastructure that connects relevant State agencies, health care providers, universities, relevant tribal agencies, and relevant Federal agencies; and

(iv) the ability to quickly complete development of a region-wide interoperable emergency telemedical network to expand communications and service capabilities and facilitate coordination among multiple medical, public health, and emergency response agencies, and the ability to test recommendations of the task force established under subsection (a) within 3 years.

(2) REGIONAL NETWORKS.—A consortium of States awarded a grant under paragraph (1) shall develop a regional telehealth network to support emergency response activities and

provide medical services by linking established telehealth initiatives within the region to and with the following:

(A) First responders, such as police, firefighters, and emergency medical service providers.

(B) Front line health care providers, including hospitals, emergency medical centers, medical centers of the Department of Defense and the Department of Veterans Affairs, and public, private, community, rural, and Indian Health Service clinics.

(C) State and local public health departments, offices of rural health, and relevant Federal agencies.

(D) Experts on public health, bioterrorism, nuclear safety, chemical weapons and other relevant disciplines.

(E) Other relevant entities as determined appropriate by such consortium.

(3) FUNCTIONS OF THE NETWORKS.—Once established, a regional telehealth network under this subsection shall test the feasibility of recommendations (including recommendations relating to standard clinical information, operational capability, and associated technology and information standards) described in subparagraphs (B) through (E) of subsection (a)(2), and provide reports to the task force established under subsection (a), on such network's ability, in preparation of and in response to a biological, chemical, or nuclear terrorist attack or other public health emergencies, to support each of the following functions:

(A) Rapid emergency response and coordination.

(B) Real-time data collection for information dissemination.

(C) Environmental monitoring.

(D) Early identification and monitoring of biological, chemical, or nuclear exposures.

(E) Situationally relevant expert consultative services for patient care and front-line responders.

(F) Training of responders.

(G) Development of an advanced distributive learning network.

(H) Distance learning for the purposes of medical and clinical education, and simulation scenarios for ongoing training.

(4) REQUIREMENTS.—In awarding a grant under paragraph (1), the Secretary of Commerce may—

(A) require that each regional network adopt common administrative, physical, and technical approaches for seamless interoperability and to protect the network's confidentiality, integrity, and availability, taking into consideration guidelines developed by the task force established under subsection (a); and

(B) require that each regional network inventory and report to the task force established under subsection (a), the technology and technical infrastructure available to such network.

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to carry out this section, such sums as may be necessary for each of fiscal years 2007, 2008, and 2009. Amounts made available under this paragraph shall remain available until expended.

(2) LIMIT ON ADMINISTRATIVE EXPENSES.—Not more than 5 percent of the amount made available for each fiscal year under paragraph (1) shall be used for Task Force administrative costs.

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**SA 4982.** Mr. COLEMAN (for himself, Ms. COLLINS, and Mr. STEVENS) submitted an amendment intended to be proposed by him to the bill H.R. 4954, to improve maritime and cargo security through enhanced layered defenses, and for other purposes; as follows:

On page 66, before line 9, insert the following:

**SEC. 233. SCREENING AND SCANNING OF CARGO CONTAINERS.**

(a) 100 PERCENT SCREENING OF CARGO CONTAINERS AND 100 PERCENT SCANNING OF HIGH-RISK CONTAINERS.—

(1) SCREENING OF CARGO CONTAINERS.—The Secretary shall ensure that 100 percent of the cargo containers entering the United States through a seaport undergo a screening to identify high-risk containers.

(2) SCANNING OF HIGH-RISK CONTAINERS.—The Secretary shall ensure that 100 percent of the containers that have been identified as high-risk are scanned before such containers leave a United States seaport facility.

(b) FULL-SCALE IMPLEMENTATION.—The Secretary, in coordination with the Secretary of Energy and foreign partners, shall fully deploy integrated scanning systems to scan all containers entering the United States before such containers arrive in the United States as soon as the Secretary determines that the integrated scanning system—

(1) meets the requirements set forth in section 231(c);

(2) has a sufficiently low false alarm rate for use in the supply chain;

(3) is capable of being deployed and operated at ports overseas;

(4) is capable of integrating, as necessary, with existing systems;

(5) does not significantly impact trade capacity and flow of cargo at foreign or United States ports; and

(6) provides an automated notification of questionable or high-risk cargo as a trigger for further inspection by appropriately trained personnel.

(c) REPORT.—Not later than 6 months after the submission of a report under section 231(d), and every 6 months thereafter, the Secretary shall submit a report to the appropriate congressional committees describing the status of full-scale deployment under subsection (b) and the cost of deploying the system at each foreign port.

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**SA 4983.** Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill H.R. 4954, to improve maritime and cargo security through enhanced layered defenses, and for other purposes; which was ordered to lie on the table; as follows:

On page 20, between lines 8 and 9, insert the following:

(d) CONTAINER SCANNING TECHNOLOGY GRANT PROGRAM.—

(1) NUCLEAR AND RADIOLOGICAL DETECTION DEVICES.—Section 70107(m)(1)(C) of title 46, United States Code, as redesignated by subsection (b), is amended by inserting '', underwater or water surface devices, devices that can be mounted on cranes and straddle cars used to move cargo within ports, and scanning and imaging technology'' before the semicolon at the end.

(2) CONTAINER SECURITY RESEARCH TRUST FUND.—

(A) AUTHORIZATION.—Not later than 90 days after the date of enactment of this Act, the Secretary shall establish a system for collecting an additional fee from shippers of containers entering the United States in an amount sufficient to fully fund the grant program established under this section. All amounts collected pursuant to this subparagraph shall be deposited into the Container Security Research Trust Fund.

(B) CONTAINER SECURITY RESEARCH TRUST FUND.—There is established in the Treasury of the United States a trust fund, to be known as the ''Container Security Research Trust Fund'', consisting of such amounts as are collected pursuant to subparagraph (A).

(3) USE OF FUNDS.—Amounts in the Container Security Research Trust Fund shall be used for grants to be awarded in a competitive process to public or private entities for the purpose of researching and developing nuclear and radiological detection equipment described in section 70107(m)(1)(C) of title 46, United States Code, as amended by this section.

(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated a total of $500,000,000 for fiscal years 2007 through 2009 for the purpose of researching and developing nuclear and radiological detection equipment described in section 70107(m)(1)(C) of title 46, United States Code, as amended by this section.

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**SA 4984.** Mr. LEVIN submitted an amendment intended to be proposed by him to the bill H.R. 4954, to improve maritime and cargo security through enhanced layered defenses, and for other purposes; which was ordered to lie on the table; as follows:

At the end, insert the following:

**TITLE V—MISCELLANEOUS PROVISIONS**

**SEC. 501. APPLICATION TO LAND PORTS.**

The provisions of sections 201, 211, 301, 303, and 431 also apply with respect to land ports of entry.

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**SA 4985.** Mr. BAUCUS submitted an amendment intended to be proposed by him to the bill H.R. 4954, to improve maritime and cargo security through enhanced layered defenses, and for other purposes; as follows:

At the appropriate place, insert the following:

**SEC. ___. AIR AND MARINE OPERATIONS OF THE NORTHERN BORDER AIR WING.**

In addition to any other amounts authorized to be appropriated for Air and Marine Operations of United States Customs and Border Protection, there are authorized to be appropriated for fiscal year 2007 for operating expenses of the Northern Border Air Wing—

(1) $40,000,000 for the branch in Great Falls, Montana;

(2) $40,000,000 for the branch in Bellingham, Washington;

(3) $40,000,000 for the branch in Plattsburgh, New York;

(4) $40,000,000 for the branch in Grand Forks, North Dakota; and

(5) $40,000,000 for the branch in Detroit, Michigan.

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**SA 4986.** Mr. BAUCUS submitted an amendment intended to be proposed by him to the bill H.R. 4954, to improve maritime and cargo security through enhanced layered defenses, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the bill, insert the following:

**TITLE V—METHAMPHETAMINE**

**SEC. 501. METHAMPHETAMINE AND METHAMPHETAMINE PRECURSOR CHEMICALS.**

(a) COMPLIANCE WITH PERFORMANCE PLAN REQUIREMENTS.—For each of the fiscal years of 2007 through 2011, as part of the annual performance plan required in the budget submission of the Bureau of Customs and Border Protection under section 1115 of title 31, United States Code, the Commissioner of Customs shall establish performance indicators relating to the seizure of methamphetamine and methamphetamine precursor

chemicals in order to evaluate the performance goals of the Bureau with respect to the interdiction of illegal drugs entering the United States.

(b) STUDY AND REPORT RELATING TO METHAMPHETAMINE AND METHAMPHETAMINE PRECURSOR CHEMICALS.—

(1) ANALYSIS.—The Commissioner of Customs shall, on an annual basis, analyze the movement of methamphetamine and methamphetamine precursor chemicals into the United States. In conducting the analysis, the Commissioner shall—

(A) consider the entry of methamphetamine and methamphetamine precursor chemicals through ports of entry, between ports of entry, through the mails, and through international courier services;

(B) examine the export procedures of each foreign country where the shipments of methamphetamine and methamphetamine precursor chemicals originate and determine if changes in the country's customs over time provisions would alleviate the export of methamphetamine and methamphetamine precursor chemicals; and

(C) identify emerging trends in smuggling techniques and strategies.

(2) REPORT.—Not later than 1 year after the date of the enactment of this Act, and annually thereafter, the Commissioner shall submit a report to the Committee on Finance and the Committee on Foreign Relations of the Senate, and the Committee on Ways and Means and the Committee on International Relations of the House of Representatives, that includes—

(A) the analysis described in paragraph (1); and

(B) the Bureau's utilization of the analysis to target shipments presenting a high risk for smuggling or circumvention of the Combat Methamphetamine Epidemic Act of 2005 (Public Law 109–177).

(3) AVAILABILITY OF ANALYSIS.—The Commissioner shall ensure that the analysis described in paragraph (1) is made available in a timely manner to the Secretary of State to facilitate the Secretary in fulfilling the Secretary's reporting requirements in section 722 of the Combat Methamphetamine Epidemic Act of 2005.

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**SA 4987.** Mr. LAUTENBERG (for himself, Mr. OBAMA, Mr. KERRY, Mr. BIDEN, Mr. MENENDEZ, Mr. DURBIN, Mrs. BOXER, and Mr. JEFFORDS) submitted an amendment intended to be proposed by him to the bill H.R. 4954, to improve maritime and cargo security through enhanced layered defenses, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

**TITLE V—REGULATION OF CHEMICAL FACILITIES**

**SEC. 501. SHORT TITLE.**

This title may be cited as the ''Chemical Facility Anti-Terrorism Act of 2006''.

**SEC. 502. REGULATION OF CHEMICAL FACILITIES.**

(a) IN GENERAL.—The Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended by adding at the end the following:

**"TITLE XVIII—REGULATION OF CHEMICAL FACILITIES**

**"SEC. 1801. DEFINITIONS.**

''In this title, the following definitions apply:

''(1) CHEMICAL FACILITY SECURITY MEASURE.—The term 'chemical facility security measure' means any action taken to ensure or enhance the security of a chemical facility against a chemical facility terrorist incident, including—

''(A) employee background checks;

''(B) employee training;

''(C) personnel security measures;

''(D) the limitation and prevention of access to controls of the chemical facility;

''(E) protection of the perimeter of the chemical facility or the portion or sector within the facility in which a substance of concern is stored, used or handled, utilizing fences, barriers, guards, or other means;

''(F) installation and operation of cameras or other intrusion detection sensors;

''(G) the implementation of measures to increase computer or computer network security;

''(H) contingency and evacuation plans;

''(I) the relocation or hardening of storage or containment equipment; and

''(J) other security measures to prevent, protect against, or reduce the consequences of a chemical facility terrorist incident.

''(2) CHEMICAL FACILITY TERRORIST INCIDENT.—The term 'chemical facility terrorist incident' means—

''(A) an act of terrorism committed against a chemical facility;

''(B) the release of a substance of concern from a chemical facility into the surrounding area as a consequence of an act of terrorism; or

''(C) the obtaining of a substance of concern by any person for the purposes of releasing the substance off-site in furtherance of an act of terrorism.

''(3) ENVIRONMENT.—The term 'environment' has the meaning given the term in section 101 of the Comprehensive Environmental Response Compensation and Liability Act of 1980 (42 U.S.C. 9601).

''(4) OWNER OR OPERATOR OF A CHEMICAL FACILITY.—The term 'owner or operator of a chemical facility' means any person who owns, leases, or operates a chemical facility.

''(5) RELEASE.—The term 'release' has the meaning given the term in section 101 of the Comprehensive Environmental Response Compensation and Liability Act of 1980 (42 U.S.C. 9601).

''(6) SUBSTANCE OF CONCERN.—The term 'substance of concern' means a chemical substance in quantity and form that—

''(A) is listed under paragraph (3) of section 112(r) of the Clean Air Act (42 U.S.C. 7412(r)) and has not been exempted from designation as a substance of concern by the Secretary under section 1802(a); or

''(B) is designated by the Secretary by regulation in accordance with section 1802(a).

**"SEC. 1802. DESIGNATION AND RANKING OF CHEMICAL FACILITIES.**

''(a) SUBSTANCES OF CONCERN.—

''(1) DESIGNATION BY THE SECRETARY.—The Secretary may—

''(A) designate any chemical substance as a substance of concern;

''(B) exempt any chemical substance from being designated as a substance of concern;

''(C) establish and revise, for purposes of making determinations under subsection (b), the threshold quantity for a chemical substance; or

''(D) require the submission of information with respect to the quantities of substances of concern that are used, stored, manufactured, processed, or distributed by any chemical facility.

''(2) MATTERS FOR CONSIDERATION.—

''(A) IN GENERAL.—In designating or exempting a chemical substance or establishing or adjusting the threshold quantity for a chemical substance under paragraph (1), the Secretary shall consider the potential extent of death, injury, or serious adverse effects to human health, the environment, critical infrastructure, national security, the national economy, or public welfare that would result from a terrorist release of the chemical substance.

''(B) ADOPTION OF CERTAIN THRESHOLD QUANTITIES.—The Secretary may adopt the threshold quantity established under paragraph (5) of subsection (r) of section 112 of the Clean Air Act (42 U.S.C. 7412(r)(5)) for any substance of concern that is also listed under paragraph (3) of that subsection.

''(b) LIST OF SIGNIFICANT CHEMICAL FACILITIES.—

''(1) IN GENERAL.—The Secretary shall maintain a list of significant chemical facilities in accordance with this subsection.

''(2) REQUIRED FACILITIES.—The Secretary shall include on the list maintained under paragraph (1) a chemical facility that has more than the threshold quantity established by the Secretary of any substance of concern.

''(3) AUTHORITY TO DESIGNATE CHEMICAL FACILITIES.—The Secretary may designate a chemical facility not required to be included under paragraph (2) as a significant chemical facility and shall include such a facility on the list maintained under paragraph (1). In designating a chemical facility under this paragraph, the Secretary shall use the following criteria:

''(A) The potential threat or likelihood that the chemical facility will be the target of terrorism.

''(B) The potential extent and likelihood of death, injury or serious adverse effects to human health and safety or to the environment that could result from a chemical facility terrorist incident.

''(C) The proximity of the chemical facility to population centers.

''(D) The potential threat caused by a person obtaining a substance of concern in furtherance of an act of terrorism.

''(E) The potential harm to critical infrastructure, national security, and the national economy from a chemical facility terrorist incident.

''(c) ASSIGNMENT OF CHEMICAL FACILITIES TO RISK-BASED TIERS.—

''(1) ASSIGNMENT.—The Secretary shall assign each chemical facility on the list of significant chemical facilities under subsection (b) to one of at least four risk-based tiers established by the Secretary.

''(2) PROVISION OF INFORMATION.—The Secretary may request, and the owner or operator of a chemical facility shall provide, information necessary for the Secretary to assign a chemical facility to the appropriate tier under paragraph (1).

''(3) NOTIFICATION.—Not later than 60 days after assigning a chemical facility to a tier under this subsection, the Secretary shall notify the chemical facility of the tier to which the facility is assigned and shall provide the facility with the reasons for assignment of the facility to such tier.

''(4) HIGH-RISK CHEMICAL FACILITIES.—At least one of the tiers established by the Secretary for the assignment of chemical facilities under this subsection shall be a tier designated for high-risk chemical facilities.

''(d) PERIODIC REVIEW OF LIST OF CHEMICAL FACILITIES.—

''(1) REQUIREMENT.—Not later than 3 years after the date on which the Secretary develops the list of significant chemical facilities under subsection (b)(1) and every 3 years thereafter, the Secretary shall—

''(A) consider the criteria under subsection (b)(3); and

''(B) determine whether to add a chemical facility to the list of significant chemical facilities maintained under subsection (b)(1) or to remove or change the tier assignment of any chemical facility on such list.

''(2) AUTHORITY TO REVIEW.—The Secretary may, at any time, after considering the criteria under subsections (b)(2) and (b)(3), add a chemical facility to the list of significant

chemical facilities maintained under subsection (b)(1) or remove or change the tier assignment of any chemical facility on such list.

''(3) NOTIFICATION.—Not later than 30 days after the date on which the Secretary adds a facility to the list of significant chemical facilities maintained by the Secretary under subsection (b)(1), removes a facility from such list, or changes the tier assignment of any facility on such list, the Secretary shall notify the owner of that facility of that addition, removal, or change.

**''SEC. 1803. VULNERABILITY ASSESSMENTS AND FACILITY SECURITY PLANS.**

''(a) VULNERABILITY ASSESSMENT AND FACILITY SECURITY PLAN REQUIRED FOR CHEMICAL FACILITIES.—

''(1) REQUIREMENT FOR VULNERABILITY ASSESSMENT AND SECURITY PLAN.—

''(A) REGULATIONS REQUIRED.—The Secretary shall prescribe regulations to—

''(i) establish standards, protocols, and procedures for vulnerability assessments and facility security plans to be required for chemical facilities on the list maintained by the Secretary under section 1802(b)(1);

''(ii) require the owner or operator of each such facility to—

''(I) conduct an assessment of the vulnerability of the chemical facility to a chemical facility terrorist incident;

''(II) prepare and implement a facility security plan that addresses the results of the vulnerability assessment; and

''(III) consult with the appropriate employees of the facility in developing the vulnerability assessment and security plan required under this section; and

''(iii) set deadlines for the completion of vulnerability assessments and facility security plans, such that all such plans and assessments are completed and submitted to the Secretary for approval no later than 3 years after final regulations are issued under this paragraph.

''(B) DEADLINE FOR HIGH-RISK CHEMICAL FACILITIES.—The owner or operator of a facility assigned to the high-risk tier under section 1802(c)(4) shall submit to the Secretary a vulnerability assessment and facility security plan not later than 6 months after the date on which the Secretary prescribes regulations under this subsection.

''(2) CRITERIA FOR REGULATIONS.—The regulations required under paragraph (1) shall—

''(A) be risk-based;

''(B) be performance-based; and

''(C) take into consideration—

''(i) the cost and technical feasibility of compliance by a chemical facility with the requirements under this title;

''(ii) the different quantities and forms of substances of concern stored, used, and handled at chemical facilities; and

''(iii) the matters for consideration under section 1802(a)(2).

''(3) PROVISION OF ASSISTANCE AND GUIDANCE.—The Secretary shall provide assistance and guidance to a chemical facility conducting a vulnerability assessment or facility security plan required under this section.

''(b) MINIMUM REQUIREMENTS FOR HIGH-RISK CHEMICAL FACILITIES.—

''(1) REQUIREMENTS FOR VULNERABILITY ASSESSMENTS.—In the case of a facility assigned to the high-risk tier under section 1802(c)(4), the Secretary shall require that the vulnerability assessment required under this section include each of the following:

''(A) The identification of any hazard that could result from a chemical facility terrorist incident at the facility.

''(B) The number of individuals at risk of death, injury, or severe adverse effects to human health as a result of a chemical facility terrorist incident at the facility.

''(C) Information related to the criticality of the facility for purposes of assessing the degree to which the facility is critical to the economy or national security of the United States.

''(D) The proximity or interrelationship of the facility to other critical infrastructure.

''(E) Any vulnerability of the facility with respect to—

''(i) physical security;

''(ii) programmable electronic devices, computers, computer or communications networks, or other automated systems used by the facility;

''(iii) alarms, cameras, and other protection systems;

''(iv) communication systems;

''(v) any utility or infrastructure (including transportation) upon which the facility relies to operate safely and securely; or

''(vi) the structural integrity of equipment for storage, handling, and other purposes.

''(F) Any information relating to threats relevant to the facility that is provided by the Secretary in accordance with paragraph (3).

''(G) Such other information as the Secretary determines is appropriate.

''(2) REQUIREMENTS FOR FACILITY SECURITY PLANS.—In the case of a facility assigned to the high-risk tier under section 1802(c)(4), the Secretary shall require that the facility security plan required under this section include each of the following:

''(A) Chemical facility security measures to address the vulnerabilities of the facility to a chemical facility terrorist incident.

''(B) A plan for periodic drills and exercises to be conducted at the facility that include participation by facility employees, local law enforcement agencies, and first responders, as appropriate.

''(C) Equipment, plans, and procedures to be implemented or used by or at the chemical facility in the event of a chemical facility terrorist incident that affects the facility, including site evacuation, release mitigation, and containment plans.

''(D) An identification of any steps taken to coordinate with State and local law enforcement agencies, first responders, and Federal officials on security measures and plans for response to a chemical facility terrorist incident.

''(E) Specify the security officer who will be the point of contact for the National Incident Management System and for Federal, State, and local law enforcement and first responders.

''(F) A description of enhanced security measures during periods of time when the Secretary determines that heightened threat conditions exist.

''(3) PROVISION OF THREAT-RELATED INFORMATION.—The Secretary shall provide in a timely manner, to the maximum extent practicable under applicable authority and in the interests of national security, to an owner or operator of a facility assigned to the high-risk tier under section 1802(c)(4), threat information that is relevant to the facility, including an assessment of the most likely method that could be used by terrorists to exploit any vulnerabilities of the facility and the likelihood of the success of such method.

''(4) RED TEAM EXERCISES.—The Secretary shall conduct red team exercises at facilities selected by the Secretary that have been assigned to the high-risk tier under section 1802(c)(4) such that all chemical facilities designated under that section will undergo a red team exercise during the six-year period that begins on the date on which the Secretary prescribes regulations to carry out this title. The exercises shall be—

''(A) conducted after informing the owner or operator of the facility selected; and

''(B) designed to identify at each selected facility—

''(i) any vulnerabilities of the facility;

''(ii) possible modes by which the facility could be attacked; and

''(iii) any weaknesses in the security plan of the facility.

''(c) SECURITY PERFORMANCE REQUIREMENTS.—

''(1) IN GENERAL.—The Secretary shall establish security performance requirements for the facility security plans required to be prepared by chemical facilities assigned to each risk-based tier established under section 1802(c). The requirements shall—

''(A) require separate and increasingly stringent security performance requirements for facility security plans as the level of risk associated with the tier increases; and

''(B) permit each chemical facility submitting a facility security plan to select a combination of chemical facility security measures that satisfy the security performance requirements established by the Secretary under this subsection.

''(2) CRITERIA.—In establishing the security performance requirements under paragraph (1), the Secretary shall consider the criteria under subsection (a)(2).

''(3) GUIDANCE.—The Secretary shall provide guidance to each chemical facility on the list maintained by the Secretary under section 1802(b)(1) regarding the types of chemical facility security measures that, if applied, could satisfy the requirements under this section.

''(d) CO-LOCATED CHEMICAL FACILITIES.—The Secretary shall allow the owners or operators of two or more chemical facilities that are located geographically close to each other or otherwise co-located to develop and implement coordinated vulnerability assessments and facility security plans, at the discretion of the owner or operator of the chemical facilities.

''(e) PROCEDURES, PROTOCOLS, AND STANDARDS SATISFYING REQUIREMENTS FOR VULNERABILITY ASSESSMENT AND SECURITY PLAN.—

''(1) DETERMINATION BY THE SECRETARY.—In response to a petition by any person, or at the discretion of the Secretary, the Secretary may endorse or recognize procedures, protocols, and standards that the Secretary determines meet all or part of the requirements of this section.

''(2) USE OF PROCEDURES, PROTOCOLS, AND STANDARDS.—

''(A) USE BY INDIVIDUAL FACILITIES.—Upon review and written determination by the Secretary under paragraph (1) that the procedures, protocols, or standards of a chemical facility subject to the requirements of this section satisfy some or all of the requirements of this section, the chemical facility may elect to comply with those procedures, protocols, or standards.

''(B) USE BY CLASSES OF FACILITIES.—At the discretion of the Secretary, the Secretary may identify a class or category of chemical facilities subject to the requirements of this section that may use the procedures, protocols, or standards recognized under this section in order to comply with all or part of the requirements of this section.

''(3) PARTIAL ENDORSEMENT OR RECOGNITION.—If the Secretary finds that a procedure, protocol, or standard satisfies only part of the requirements of this section, the Secretary may allow a chemical facility subject to the requirements of this section to comply with that procedure, protocol, or standard for purposes of that requirement, but shall require the facility to submit of any additional information required to satisfy the requirements of this section not met by that procedure, protocol, or standard.

''(4) NOTIFICATION.—If the Secretary does not endorse or recognize a procedure, protocol, or standard for which a petition is submitted under paragraph (1), the Secretary shall provide to the person submitting a petition under paragraph (1) written notification that includes an explanation of the reasons why the endorsement or recognition was not made.

''(5) REVIEW.—Nothing in this subsection shall relieve the Secretary (or a designee of the Secretary which may be a third party auditor certified by the Secretary) of the obligation—

''(A) to review a vulnerability assessment and facility security plan submitted by a high-risk chemical facility under this section; and

''(B) to approve or disapprove each assessment or plan on an individual basis.

''(f) OTHER AUTHORITIES.—

''(1) EXISTING AUTHORITIES.—A chemical facility on the list maintained by the Secretary under section 1802(b)(1) that is required to prepare a vulnerability assessment or facility security plan under chapter 701 of title 46, United States Code, or section 1433 of the Safe Drinking Water Act (42 U.S.C. 300i-2) shall not be subject to the requirements of this section, unless the Secretary, after reviewing the vulnerability assessment, facility security plan, or other relevant documents voluntarily offered by the chemical facility (including any updates thereof) requires more stringent performance requirements or red-team exercise under subsection (b)(4).

''(2) COORDINATION.—In the case of any storage required to be licensed under chapter 40 of title 18, United States Code, the Secretary shall prescribe the rules and regulations for the implementation of this section with the concurrence of the Attorney General and avoid unnecessary duplication of regulatory requirements.

''(g) PERIODIC REVIEW BY CHEMICAL FACILITY REQUIRED.—

''(1) SUBMISSION OF REVIEW.—Not later than 3 years after the date on which a vulnerability assessment or facility security plan required under this section is submitted, and at least once every 5 years thereafter (or on such a schedule as the Secretary may establish by regulation), the owner or operator of the chemical facility covered by the vulnerability assessment or facility security plan shall submit to the Secretary a review of the adequacy of the vulnerability assessment or facility security plan that includes a description of any changes made to the vulnerability assessment or facility security plan.

''(2) REVIEW OF REVIEW.—The Secretary shall—

''(A) ensure that a review required under paragraph (1) is submitted not later than the applicable date; and

''(B) not later than 6 months after the date on which a review is submitted under paragraph (1), review the review and notify the facility submitting the review of the Secretary's approval or disapproval of the review.

''(h) ROLE OF EMPLOYEES.—As appropriate, vulnerability assessments or facility security plans required under this section should describe the roles or responsibilities that facility employees are expected to perform to prevent or respond to a chemical facility terrorist incident.

**''SEC. 1804. RECORD KEEPING; SITE INSPECTIONS.**

''(a) RECORD KEEPING.—The Secretary shall require each chemical facility required to submit a vulnerability assessment or facility security plan under section 1803 to maintain a current copy of the assessment and the plan at the facility.

''(b) RIGHT OF ENTRY.—For purposes of carrying out this title, the Secretary (or a designee of the Secretary) shall have, on presentation of credentials, a right of entry to, on, or through any property of a chemical facility on the list maintained by the Secretary under section 1802(a)(1) or any property on which any record required to be maintained under this section is located.

''(c) INSPECTIONS AND VERIFICATIONS.—The Secretary shall, at such time and place as the Secretary determines to be appropriate, conduct or require the conduct of facility security inspections and verifications and may, by regulation, authorize third party inspections and verifications by persons trained and certified by the Secretary for that purpose. Such an inspection or verification shall include a consultation with owners, operators, and employees, as appropriate, and ensure and evaluate compliance with—

''(1) this title and any regulations prescribed to carry out this title; and

''(2) any security standards or requirements adopted by the Secretary in furtherance of the purposes of this title.

''(d) REQUESTS FOR RECORDS.—In carrying out this title, the Secretary (or a designee of the Secretary) may require the submission of or, on presentation of credentials, may at reasonable times obtain access to and copy any documentation necessary for—

''(1) reviewing or analyzing a vulnerability assessment or facility security plan submitted under section 1803; or

''(2) implementing such a facility security plan.

''(e) COMPLIANCE.—If the Secretary determines that an owner or operator of a chemical facility required to submit a vulnerability assessment or facility security plan under section 1803 fails to maintain, produce, or allow access to records or to the property of the chemical facility as required by this section, the Secretary shall issue an order requiring compliance with this section.

**''SEC. 1805. ENFORCEMENT.**

''(a) SUBMISSION OF INFORMATION.—

''(1) INITIAL SUBMISSION.—The Secretary shall specify in regulations prescribed under section 1803(a), specific deadlines for the submission of the vulnerability assessments and facility security plans required under this title to the Secretary. The Secretary may establish different submission requirements for the different tiers of chemical facilities under section 1802(c).

''(2) MAJOR CHANGES REQUIREMENT.—The Secretary shall specify in regulations prescribed under section 1803(a), specific deadlines and requirements for the submission by a facility required to submit a vulnerability assessment or facility security plan under that section of information describing—

''(A) any change in the use by the facility of more than a threshold amount of any substance of concern; and

''(B) any significant change in a vulnerability assessment or facility security plan submitted by the facility.

''(3) FAILURE TO COMPLY.—If an owner or operator of a chemical facility fails to submit a vulnerability assessment or facility security plan in accordance with this title, the Secretary shall issue an order requiring the submission of a vulnerability assessment or facility security plan in accordance with section 1804(e).

''(b) REVIEW OF SECURITY PLAN.—

''(1) IN GENERAL.—

''(A) DEADLINE FOR REVIEW.—Not later than 180 days after the date on which the Secretary receives a vulnerability assessment or facility security plan under this title, the Secretary shall review and approve or disapprove such assessment or plan.

''(B) DESIGNEE.—The Secretary may designate a person (including a third party entity certified by the Secretary) to conduct a review under this subsection.

''(2) DISAPPROVAL.—The Secretary shall disapprove a vulnerability assessment or facility security plan if the Secretary determines that—

''(A) the vulnerability assessment or facility security plan does not comply with regulations prescribed under section 1803; or

''(B) in the case of a facility security plan, the plan or the implementation of the plan is insufficient to address any vulnerabilities identified in a vulnerability assessment of the chemical facility or associated oversight actions taken under sections 1803 and 1804, including a red team exercise.

''(3) SPECIFIC SECURITY MEASURES NOT REQUIRED.—The Secretary shall not disapprove a facility security plan under this section based solely on the specific chemical facility security measures that the chemical facility selects to meet the security performance requirements established by the Secretary under section 1803(c).

''(4) PROVISION OF NOTIFICATION OF DISAPPROVAL.—If the Secretary disapproves the vulnerability assessment or facility security plan submitted by a chemical facility under this title or the implementation of a facility security plan by such a facility, the Secretary shall—

''(A) provide the owner or operator of the facility a written notification of the disapproval, that—

''(i) includes a clear explanation of deficiencies in the assessment, plan, or implementation of the plan; and

''(ii) requires the owner or operator of the facility to revise the assessment or plan to address any deficiencies and to submit to the Secretary the revised assessment or plan;

''(B) provide guidance to assist the facility in addressing such deficiency;

''(C) in the case of a facility for which the owner or operator of the facility does not address such deficiencies by such date as the Secretary determines to be appropriate, issue an order requiring the owner or operator to correct specified deficiencies by a specified date; and

''(D) in the case of a facility assigned to the high-risk tier under section 1802(c)(4), consult with the owner or operator of the facility to identify appropriate steps to be taken by the owner or operator to address the deficiencies identified by the Secretary.

''(5) NO PRIVATE RIGHT OF ACTION.—Nothing in this title confers upon any private person a right of action against an owner or operator of a chemical facility to enforce any provision of this title.

''(c) REPORTING PROCESS.—

''(1) ESTABLISHMENT.—The Secretary shall establish, and provide information to the public regarding, a process by which any person may submit a report to the Secretary regarding problems, deficiencies, or vulnerabilities at a chemical facility.

''(2) CONFIDENTIALITY.—The Secretary shall keep confidential the identity of a person that submits a report under paragraph (1) and any such report shall be treated as protected information under section 1808(f) to the extent that it does not consist of publicly available information.

''(3) ACKNOWLEDGMENT OF RECEIPT.—If a report submitted under paragraph (1) identifies the person submitting the report, the Secretary shall respond promptly to such person to acknowledge receipt of the report.

''(4) STEPS TO ADDRESS PROBLEMS.—The Secretary shall review and consider the information provided in any report submitted under paragraph (1) and shall take appropriate steps under this title to address any

problem, deficiency, or vulnerability identified in the report.

''(5) RETALIATION PROHIBITED.—

''(A) PROHIBITION.—No employer may discharge any employee or otherwise discriminate against any employee with respect to the compensation of, or terms, conditions, or privileges of the employment of, such employee because the employee (or a person acting pursuant to a request of the employee) submitted a report under paragraph (1).

''(B) ENFORCEMENT PROCESS.—The Secretary shall establish—

''(i) a process by which an employee can notify the Secretary of any retaliation prohibited under this paragraph; and

''(ii) a process by which the Secretary may take action as appropriate to enforce this section.

**''SEC. 1806. PENALTIES.**

''(a) ADMINISTRATIVE PENALTIES.—

''(1) IN GENERAL.—The Secretary may issue an administrative penalty of not more than $250,000 for failure to comply with an order issued by the Secretary under this title.

''(2) PROVISION OF NOTICE.—Before issuing a penalty under paragraph (1), the Secretary shall provide to the person against which the penalty is to be assessed—

''(A) written notice of the proposed penalty; and

''(B) to the extent possible, consistent with the provisions of title 5, United States Code, governing hearings on the record, the opportunity to request, not later than 30 days after the date on which the notice is received, a hearing on the proposed penalty.

''(3) PROCEDURES FOR REVIEW.—The Secretary may prescribe regulations outlining the procedures for administrative hearings and appropriate review, including necessary deadlines.

''(b) CIVIL PENALTIES.—

''(1) IN GENERAL.—The Secretary may bring an action in a United States district court against any owner or operator of a chemical facility that violates or fails to comply with—

''(A) any order issued by the Secretary under this title; or

''(B) any facility security plan approved by the Secretary under this title.

''(2) RELIEF.—In any action under paragraph (1), a court may issue an order for injunctive relief and may award a civil penalty of not more than $50,000 for each day on which a violation occurs or a failure to comply continues.

''(c) CRIMINAL PENALTIES.—An owner or operator of a chemical facility who knowingly and intentionally violates any order issued by the Secretary under this title shall be fined not more than $100,000, imprisoned for not more than 1 year, or both.

''(d) PENALTIES FOR UNAUTHORIZED DISCLOSURE.—Any officer or employee of a Federal, State, or local government agency who, in a manner or to an extent not authorized by law, knowingly discloses any record containing protected information described in section 1808(f) shall—

''(1) be imprisoned not more than 1 year, fined under chapter 227 of title 18, United States Code, or both; and

''(2) if an officer or employee of the Government, be removed from Federal office or employment.

''(e) TREATMENT OF INFORMATION IN ADJUDICATIVE PROCEEDINGS.—In a proceeding under this section, information protected under section 1808, or related vulnerability or security information, shall be treated in any judicial or administrative action as if the information were classified material.

**''SEC. 1807. STATE AND OTHER LAWS.**

''(a) IN GENERAL.—Nothing in this title shall preclude or deny any right of any State or political subdivision thereof to adopt or enforce any regulation, requirement, or standard of performance respecting chemical facility security that is more stringent than a regulation, requirement, or standard of performance in effect under this title, or shall otherwise impair any right or jurisdiction of the States with respect to chemical facilities within such States unless there is an actual conflict between a provision of this title and the law of the State.

''(b) OTHER REQUIREMENTS.—Nothing in this title shall preclude or deny the right of any State or political subdivision thereof to adopt or enforce any regulation, requirement, or standard of performance, including air or water pollution requirements, that are directed at problems other than reducing damage from terrorist attacks.

**''SEC. 1808. PROTECTION OF INFORMATION.**

''(a) PROHIBITION OF PUBLIC DISCLOSURE OF PROTECTED INFORMATION.—

''(1) IN GENERAL.—The Secretary shall ensure that protected information, as described in subsection (f), is not disclosed except as provided in this title.

''(2) SPECIFIC PROHIBITIONS.—In carrying out paragraph (1), the Secretary shall ensure that protected information is not disclosed—

''(A) by any Federal agency under section 552 of title 5, United States Code; or

''(B) under any State or local law.

''(b) REGULATIONS.—

''(1) IN GENERAL.—Not later than 1 year after the date of enactment of the Chemical Facility Anti-Terrorism Act of 2006, the Secretary shall prescribe such regulations, and may issue such orders, as necessary to prohibit the unauthorized disclosure of protected information, as described in subsection (f).

''(2) REQUIREMENTS.—The regulations prescribed under paragraph (1) shall—

''(A) permit information sharing, on a confidential basis, with Federal, State and local law enforcement officials and first responders and chemical facility personnel, as necessary to further the purposes of this title;

''(B) provide for the confidential use of protected information in any administrative or judicial proceeding, including placing under seal any such information that is contained in any filing, order, or other document used in such proceedings that could otherwise become part of the public record;

''(C) limit access to protected information to persons designated by the Secretary; and

''(D) ensure, to the maximum extent practicable, that—

''(i) protected information shall be maintained in a secure location; and

''(ii) access to protected information shall be limited as may be necessary to—

''(I) enable enforcement of this title; or

''(II) address an imminent and substantial threat to security.

''(c) OTHER OBLIGATIONS UNAFFECTED.—Nothing in this section affects any obligation of the owner or operator of a chemical facility to submit or make available information to facility employees, employee organizations, or a Federal, State, or local government agency under, or otherwise to comply with, any other law.

''(d) SUBMISSION OF INFORMATION TO CONGRESS.—Nothing in this title shall be construed as authorizing the withholding of any information from Congress.

''(e) DISCLOSURE OF INDEPENDENTLY FURNISHED INFORMATION.—Nothing in this title shall be construed as affecting any authority or obligation of a Federal agency to disclose any record or information that the Federal agency obtains from a chemical facility under any other law.

''(f) PROTECTED INFORMATION.—For purposes of this section, protected information includes the following:

''(1) The criteria and data used by the Secretary to assign chemical facilities to risk-based tiers under section 1802 and the tier to which each such facility is assigned.

''(2) The vulnerability assessments and facility security plans submitted to the Secretary under this title.

''(3) Information concerning the security performance requirements for a chemical facility under section 1803(c).

''(4) Any other information generated or collected by a Federal, State, or local government agency or by a chemical facility for the purpose of carrying out or complying with this title—

''(A) that describes any vulnerability of a chemical facility to an act of terrorism;

''(B) that describes the assignment of any chemical facility to a risk-based tier under this title;

''(C) that describes any security measure (including any procedure, equipment, training, or exercise) for the protection of a chemical facility from an act of terrorism; or

''(D) the disclosure of which the Secretary determines would be detrimental to the security of any chemical facility.

**''SEC. 1809. CERTIFICATION OF THIRD-PARTY ENTITIES.**

''(a) CERTIFICATION OF THIRD-PARTY ENTITIES.—The Secretary may designate a third-party entity to carry out any function under subsection (e)(5) of section 1803, subsection (b) or (c) of section 1804, or subsection (b)(1) of section 1805.

''(b) QUALIFICATIONS.—The Secretary shall establish standards for the qualifications of third-party entities, including knowledge of physical infrastructure protection, cybersecurity, facility security plans, hazard analysis, engineering, and other such factors that the Secretary determines to be necessary.

''(c) PROCEDURES AND REQUIREMENTS FOR PRIVATE ENTITIES.—Before designating a third-party entity to carry out a function under subsection (a), the Secretary shall—

''(1) develop, document, and update, as necessary, minimum standard operating procedures and requirements applicable to such entities designated under subsection (a), including—

''(A) conducting a 90-day independent review of the procedures and requirements (or updates thereto) and the results of the analyses of such procedures (or updates thereto) pursuant to subtitle G of title VIII; and

''(B) upon completion of the independent review under subparagraph (A), designating any procedure or requirement (or any update thereto) as a qualified anti-terrorism technology pursuant to section 862(b);

''(2) conduct safety and hazard analyses of the standard operating procedures and requirements developed under paragraph (1);

''(3) conduct a review of the third party entities' previous business engagements to ensure that no contractual relationship has or will exist that could compromise their independent business judgment in carrying out any functions under subsection(e)(5) of section 1803, subsection (b) or (c) of section 1804, of subsection(b)(1) of section 1805; and

''(4) conduct a review of the third party entities' business practices and disqualify any of these organizations that offer related auditing or consulting services to chemical facilities as private sector vendors.

''(d) TECHNICAL REVIEW AND APPROVAL.—Not later than 60 days after the date on which the results of the safety and hazard analysis of the standard operating procedures and requirements are completed under subsection (c)(2), the Secretary shall—

''(1) complete a technical review of the procedures and requirements (or updates thereto) under sections 862(b) and 863(d)(2); and

''(2) approve or disapprove such procedures and requirements (or updates thereto).

''(e) EFFECT OF APPROVAL.—

''(1) ISSUANCE OF CERTIFICATE OF CONFORMANCE.—In accordance with section 863(d)(3), the Secretary shall issue a certificate of conformance to a third-party entity to perform a function under subsection (a) if the entity—

''(A) demonstrates to the satisfaction of the Secretary the ability to perform functions in accordance with standard operating procedures and requirements (or updates thereto) approved by the Secretary under this section;

''(B) agrees to—

''(i) perform such function in accordance with such standard operating procedures and requirements (or updates thereto); and

''(ii) maintain liability insurance coverage at policy limits and in accordance with conditions to be established by the Secretary pursuant to section 864; and

''(C) signs an agreement to protect the proprietary and confidential information of any chemical facility with respect to which the entity will perform such function.

''(2) LITIGATION AND RISK MANAGEMENT PROTECTIONS.—A third-party entity that maintains liability insurance coverage at policy limits and in accordance with conditions to be established by the Secretary pursuant to section 864 and receives a certificate of conformance under paragraph (1) shall receive all applicable litigation and risk management protections under sections 863 and 864.

''(3) RECIPROCAL WAIVER OF CLAIMS.—A reciprocal waiver of claims shall be deemed to have been entered into between a third-party entity that receives a certificate of conformance under paragraph (1) and its contractors, subcontractors, suppliers, vendors, customers, and contractors and subcontractors of customers involved in the use or operation of any function performed by the third-party entity under subparagraph (a).

''(4) INFORMATION FOR ESTABLISHING LIMITS OF LIABILITY INSURANCE.—A third-party entity seeking a certificate of conformance under paragraph (1) shall provide to the Secretary necessary information for establishing the limits of liability insurance required to be maintained by the entity under section 864(a).

''(f) MONITORING.—The Secretary shall regularly monitor and inspect the operations of a third-party entity that performs a function under subsection (a) to ensure that the entity is meeting the minimum standard operating procedures and requirements established under subsection (c) and any other applicable requirement under this section.

''(g) RESTRICTION ON DESIGNATION.—No individual may be designated to carry out any function under this title with respect to any facility with which that individual was affiliated as an officer, director, or employee during the three-year period preceding the date of such designation.

**''SEC. 1810. METHODS TO REDUCE THE CONSEQUENCES OF A TERRORIST ATTACK.**

''(a) METHOD TO REDUCE THE CONSEQUENCES OF A TERRORIST ATTACK.—For purposes of this section, the term 'method to reduce the consequences of a terrorist attack' includes—

''(1) input substitution;

''(2) catalyst or carrier substitution;

''(3) process redesign (including reuse or recycling of a substance of concern);

''(4) product reformulation;

''(5) procedure simplification;

''(6) technology modification;

''(7) use of less hazardous substances or benign substances;

''(8) use of smaller quantities of substances of concern;

''(9) reduction of hazardous pressures or temperatures;

''(10) reduction of the possibility and potential consequences of equipment failure and human error;

''(11) improvement of inventory control and chemical use efficiency; and

''(12) reduction or elimination of the storage, transportation, handling, disposal, and discharge of substances of concern.

''(b) ASSESSMENT REQUIRED.—

''(1) IN GENERAL.—The owner or operator of a facility assigned to the high-risk tier under section 1802(c)(4), shall conduct an assessment of methods to reduce the consequences of a terrorist attack on that chemical facility.

''(2) INCLUDED INFORMATION.—An assessment under this subsection shall include information on—

''(A) each method of reducing the consequences of a terrorist attack considered for implementation at the chemical facility, including—

''(i) the quantity of any substance of concern considered for reduction or elimination and the form of any considered replacement for such substance of concern; and

''(ii) any technology or process considered for modification and a description of the considered modification;

''(B) the degree to which each such method could, if implemented, reduce the potential extent of death, injury, or serious adverse effects to human health, and the environment; and

''(C) a description of any specific considerations that led to the implementation or rejection of each such method, including—

''(i) requirements under this title;

''(ii) cost;

''(iii) liability for a chemical facility terrorist incident;

''(iv) cost savings, including whether the method would eliminate or reduce other security costs or requirements;

''(v) the availability of a replacement for a substance of concern, technology, or process that would be eliminated or altered as a result of the implementation of the method;

''(vi) the applicability of any considered replacement for the substance of concern, technology, or process to the chemical facility; and

''(vii) any other factor that the owner or operator of the chemical facility considered in judging the practicability of each method to reduce the consequences of a terrorist attack.

''(3) DEADLINE.—The deadlines for submission and review of an assessment for a facility described in this subsection shall be the same as the deadline for submission and review of the facility security plan or relevant documents submitted to the Secretary by the facility for the purposes of complying with section 1803.

''(c) REVIEW AND IMPLEMENTATION.—

''(1) REVIEW.—Not later than 180 days after receiving an assessment described in subsection (b), the Secretary shall review the assessment and provide written notice to the owner or operator of a chemical facility required to conduct an assessment under subsection (b) if the Secretary determines that the assessment described in subsection (b) is inadequate.

''(2) CONSULTATION.—The Secretary shall consult with the heads of other Federal, State, and local agencies, including the Chemical Safety and Hazard Investigation Board and the Environmental Protection Agency, in determining whether the assessment described in subsection (b) is adequate.

''(3) IMPLEMENTATION.—The owner or operator of a chemical facility required to conduct an assessment under subsection (b) shall implement methods to reduce the consequences of a terrorist attack on the chemical facility if the Secretary determines, based on an assessment in subsection (b), that the implementation of methods to reduce the consequences of a terrorist attack at the high-risk chemical facility

''(A) would significantly reduce the risk of death, injury, or serious adverse effects to human health or the environment resulting from a terrorist release;

''(B) can feasibly be incorporated into the operation of the facility; and

''(C) would not significantly and demonstrably impair the ability of the owner or operator of the facility to continue the business of the facility.

''(4) RECONSIDERATION.—

''(A) IN GENERAL.—An owner or operator of a chemical facility that determines that it is unable to comply with the Secretary's determination under subsection (c)(3) shall, within 60 days of receipt of the Secretary's determination, provide to the Panel on Methods to Reduce the Consequences of a Terrorist Attack a written explanation that includes the reasons thereto.

''(B) REVIEW.—Not later than 60 days of receipt of an explanation submitted under subsection (c)(4)(A), the Panel on Methods to Reduce the Consequences of a Terrorist Attack, after an opportunity for the owner or operator of a chemical facility to meet with the Panel on Methods to Reduce the Consequences of a Terrorist Attack, shall provide a written determination regarding the adequacy of the explanation, and shall, if appropriate, include recommendations to the chemical facility that would assist the facility in its assessment and implementation.

''(C) NOTIFICATION.—Not later than 60 days after the date of the receipt of the written determination described under subsection (c)(4)(B), the owner or operator of the chemical facility shall provide to the Secretary written notification of the owner or operator's plans to implement methods to reduce the consequences of a terrorist attack recommended by the Panel on Methods to Reduce the Consequences of a Terrorist Attack.

''(D) COMPLIANCE.—If the facility does not implement the recommendations made by the Panel on Methods to Reduce the Consequences of a Terrorist Attack, the Secretary may, within 60 days of receipt of the plans described in (4)(C), issue an order requiring the owner or operator to implement such methods by a specified date.

''(E) PANEL ON METHODS TO REDUCE THE CONSEQUENCES OF A TERRORIST ATTACK.—The Panel on Methods to Reduce the Consequences of a Terrorist Attack shall be chaired by the Secretary (or the Secretary's designee) and shall include representatives, chosen by the Secretary, of other appropriate Federal and State agencies, independent security experts and the chemical industry.

''(d) ALTERNATIVE APPROACHES CLEARINGHOUSE.—

''(1) ESTABLISHMENT.—The Secretary shall establish a publicly available clearinghouse for the compilation and dissemination of information on the use and availability of methods to reduce the consequences of a terrorist attack at a chemical facility.

''(2) INCLUSIONS.—The clearinghouse required under paragraph (1) shall include information on—

''(A) general and specific types of such methods;

''(B) combinations of chemical sources, substances of concern, and hazardous processes or conditions for which such methods could be appropriate;

''(C) the availability of specific methods to reduce the consequences of a terrorist attack;

''(D) the costs and cost savings resulting from the use of such methods;

''(E) technological transfer;

''(F) the availability of technical assistance; and

''(G) such other information as the Secretary determines is appropriate.

''(3) COLLECTION OF INFORMATION.—The Secretary shall collect information for the clearinghouse—

''(A) from documents submitted by owners or operators pursuant to this title;

''(B) by surveying owners or operators who have registered their facilities pursuant to part 68 of title 40 Code of Federal Regulations (or successor regulations); and

''(C) through such other methods as the Secretary deems appropriate.

''(4) PUBLIC AVAILABILITY.—Information available publicly through the clearinghouse shall not identify any specific facility or violate the protection of information provisions under section 1808.

''(e) PROTECTED INFORMATION.—An assessment prepared under subsection (b) is protected information for the purposes of section 1808(f).

**''SEC. 1811. ANNUAL REPORT TO CONGRESS.**

''(a) ANNUAL REPORT.—Not later than one year after the date of enactment of the Chemical Facility Anti-Terrorism Act of 2006 and annually thereafter, the Secretary shall publish a report on progress in achieving compliance with this title, including—

''(1) an assessment of the effectiveness of the facility security plans developed under this title;

''(2) any lessons learned in implementing this title (including as a result of a red-team exercise); and

''(3) any recommendations of the Secretary to improve the programs, plans, and procedures under this title, including the feasibility of programs to increase the number of economically disadvantaged businesses eligible to perform third party entity responsibilities pursuant to sections 1803(e)(5), 1804(b) and (c), and 1805(b)(1).

''(b) PROTECTED INFORMATION.—A report under this section may not include information protected under section 1808.

**''SEC. 1812. APPLICABILITY.**

''This title shall not apply to—

''(1) any facility that is owned and operated by the Department of Defense, the Department of Justice, or the Department of Energy;

''(2) the transportation in commerce, including incidental storage, of any substance of concern regulated as a hazardous material under chapter 51 of title 49, United States Code; or

''(3) any facility that is owned or operated by a licensee or certificate holder of the Nuclear Regulatory Commission.

**''SEC. 1813. SAVINGS CLAUSE.**

''Nothing in this title is intended to affect section 112 of the Clean Air Act (42 U.S.C. 7412), the Clean Water Act, the Resource Conservation and Recovery Act, the National Environmental Policy Act of 1969, and the Occupational Safety and Health Act.

**''SEC. 1814. OFFICE OF CHEMICAL FACILITY SECURITY.**

''There is in the Department an Office of Chemical Facility Security. The head of the Office of Chemical Facility Security is responsible for carrying out the responsibilities of the Secretary under this title.''.

(b) CLERICAL AMENDMENT.—The table of contents in section 1(b) of the Homeland Security Act of 2002 is amended by adding at the end the following:

''TITLE XVIII—REGULATION OF CHEMICAL FACILITIES

''Sec. 1801. Definitions.
''Sec. 1802. Designation and ranking of chemical facilities.
''Sec. 1803. Vulnerability assessments and facility security plans.
''Sec. 1804. Record keeping; site inspections.
''Sec. 1805. Enforcement.
''Sec. 1806. Penalties.
''Sec. 1807. State and other laws.
''Sec. 1808. Protection of information.
''Sec. 1809. Certification of third-party entities.
''Sec. 1810. Methods to reduce the consequences of a terrorist attack.
''Sec. 1811. Annual report to Congress.
''Sec. 1812. Applicability.
''Sec. 1813. Savings clause.
''Sec. 1814. Office of Chemical Facility Security.

**SEC. 503. REPORT TO CONGRESS.**

(a) UPDATED REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives an update of the national strategy for the chemical sector that was required to be submitted by the Secretary to the Committee on Appropriations of the House of Representatives and the Committee of Appropriations of the Senate by not later than February 10, 2006.

(b) PROTECTED INFORMATION.—The report under subsection (a) may not include information protected under section 1808 of the Homeland Security Act of 2002, as added by this Act.

**SEC. 504. INSPECTOR GENERAL REPORT.**

(a) REPORT REQUIRED.—Not later than 1 year after the date on which regulations are issued under section 505(a), the Inspector General of the Department shall submit a report to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives that reviews the effectiveness of the implementation of title XVIII of the Homeland Security Act of 2002, as added by this Act, including the effectiveness of facility security plans required under such title and any recommendations to improve the programs, plans, and procedures required under such title, including the feasibility of programs to increase the number of economically disadvantaged businesses eligible to perform third party entity responsibilities pursuant to sections 1803(e)(5), 1804(b) and (c), and 1805(b)(1) of such title.

(b) CLASSIFIED ANNEX.—The Inspector General may issue a classified annex to the report required under subsection (a), if the Inspector General determines a classified annex is necessary.

**SEC. 505. DEADLINE FOR REGULATIONS.**

(a) INTERIM FINAL RULE AUTHORITY.—Not later than 1 year after the date of enactment of this Act, and without regard to chapter 5 of title 5, United States Code, the Secretary of Homeland Security shall issue an interim final rule as a temporary regulation implementing section 1803(a) of the Homeland Security Act of 2002, as added by this Act. All regulations issued under the authority of this subsection that are not earlier superseded by final regulations shall expire not later than 2 years after the date of enactment of this Act.

(b) INITIATION OF RULEMAKING.—The Secretary may initiate a rulemaking to implement this title (including the amendments made by this title) as soon as practicable after the date of enactment of this Act. The final rule issued under that rulemaking may supersede the interim final rule promulgated under subsection (a).

**SEC. 506. CHEMICAL FACILITY TRAINING PROGRAM.**

(a) IN GENERAL.—Subtitle A of title VIII of the Homeland Security Act of 2002 (6 U.S.C. 361) is amended by adding at the end the following:

**''SEC. 802. CHEMICAL FACILITY TRAINING PROGRAM.**

''(a) IN GENERAL.—The Secretary, acting through the Departmental official with general responsibility for training and in coordination with components of the Department with chemical facility security expertise, shall establish a Chemical Facility Security Training Program (hereinafter in this section referred to as the 'Program') for the purpose of enhancing the capabilities of chemical facilities to prevent, prepare for, respond to, mitigate against, and recover from threatened or actual acts of terrorism.

''(b) REQUIREMENTS.—The Program shall provide voluntary training that—

''(1) reaches multiple disciplines, including Federal, State, and local government officials, chemical facility owners, operators and employees and governmental and nongovernmental emergency response providers;

''(2) utilizes multiple training mediums and methods;

''(3) addresses chemical facility security and facility security plans, including—

''(A) facility security plans and procedures for differing threat levels;

''(B) physical security, security equipment and systems, access control, and methods for preventing and countering theft;

''(C) recognition and detection of weapons and devices;

''(D) security incident procedures, including procedures for communicating with emergency response providers;

''(E) evacuation procedures and use of appropriate personal protective equipment; and

''(F) other requirements that the Secretary deems appropriate;

''(4) is consistent with, and supports implementation of, the National Incident Management System, the National Response Plan, the National Infrastructure Protection Plan, the National Preparedness Guidance, the National Preparedness Goal, and other national initiatives;

''(5) includes consideration of existing security and hazardous chemical training programs including Federal or industry programs; and

''(6) is evaluated against clear and consistent performance measures.

''(c) NATIONAL VOLUNTARY CONSENSUS STANDARDS.—The Secretary shall—

''(1) support the promulgation, and regular updating as necessary of national voluntary consensus standards for chemical facility security training ensuring that training is consistent with such standards; and

''(2) ensure that the training provided under this section is consistent with such standards.

''(d) TRAINING PARTNERS.—In developing and delivering training under the Program, the Secretary shall—

''(1) work with government training programs, facilities, academic institutions, industry and private organizations, employee organizations, and other relevant entities that provide specialized, state-of-the-art training; and

''(2) utilize, as appropriate, training provided by industry, public safety academies, Federal programs, employee organizations, State and private colleges and universities, and other facilities.''

(b) CLERICAL AMENDMENT.—The table of contents in section 1(b) of the Homeland Security Act of 2002 is amended by inserting after the item relating to section 801 the following:

''Sec. 802. Chemical facility training program.''.

**SA 4988.** Mr. LAUTENBERG submitted an amendment intended to be proposed by him to the bill H.R. 4954, to improve maritime and cargo security through enhanced layered defenses, and for other purposes; as follows:

At the appropriate place insert the following:

**TITLE —IMPROVED MOTOR CARRIER, BUS, AND HAZARDOUS MATERIAL SECURITY**

**SEC. —100. SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This title may be cited as the ''Transportation Security Improvement Act of 2006''.

(b) TABLE OF CONTENTS.—The table of contents for this title is as follows:

Sec. —100. Short title; table of contents.
Sec. —101. Hazardous materials highway routing.
Sec. —102. Motor carrier high hazard material tracking.
Sec. —103. Hazardous materials security inspections and enforcement.
Sec. —104. Truck security assessment.
Sec. —105. National public sector response system.
Sec. —106. Over-the-road bus security assistance.
Sec. —107. Pipeline security and incident recovery plan.
Sec. —108. Pipeline security inspections and enforcement.

**SEC. —101. HAZARDOUS MATERIALS HIGHWAY ROUTING.**

(a) ROUTE PLAN GUIDANCE.—Within one year after the date of enactment of this Act, the Secretary of Transportation, in consultation with the Secretary of Homeland Security, shall—

(1) document existing and proposed routes for the transportation of radioactive and non-radioactive hazardous materials by motor carrier, and develop a framework for using a Geographic Information System-based approach to characterize routes in the National Hazardous Materials Route Registry;

(2) assess and characterize existing and proposed routes for the transportation of radioactive and non-radioactive hazardous materials by motor carrier for the purpose of identifying measurable criteria for selecting routes based on safety and security concerns;

(3) analyze current route-related hazardous materials regulations in the United States, Canada, and Mexico to identify cross-border differences and conflicting regulations;

(4) document the concerns of the public, motor carriers, and State, local, territorial, and tribal governments about the highway routing of hazardous materials for the purpose of identifying and mitigating security vulnerabilities associated with hazardous material routes;

(5) prepare guidance materials for State officials to assist them in identifying and reducing both safety concerns and security vulnerabilities when designating highway routes for hazardous materials consistent with the 13 safety-based non-radioactive materials routing criteria and radioactive materials routing criteria in Subpart C part 397 of title 49, Code of Federal Regulations;

(6) develop a tool that will enable State officials to examine potential routes for the highway transportation of hazardous material and assess specific security vulnerabilities associated with each route and explore alternative mitigation measures; and

(7) transmit to the Senate Committee on Commerce, Science, and Transportation, and the House of Representatives Committee on Transportation and Infrastructure a report on the actions taken to fulfill paragraphs (1) through (6) of this subsection and any recommended changes to the routing requirements for the highway transportation of hazardous materials in part 397 of title 49, Code of Federal Regulations.

(b) ROUTE PLANS.—

(1) ASSESSMENT.—Within one year after the date of enactment of this Act, the Secretary of Transportation shall complete an assessment of the safety and national security benefits achieved under existing requirements for route plans, in written or electronic format, for explosives and radioactive materials. The assessment shall, at a minimum—

(A) compare the percentage of Department of Transportation recordable incidents and the severity of such incidents for shipments of explosives and radioactive materials for which such route plans are required with the percentage of recordable incidents and the severity of such incidents for shipments of explosives and radioactive materials not subject to such route plans; and

(B) quantify the security and safety benefits, feasibility, and costs of requiring each motor carrier that is required to have a hazardous material safety permit under part 385 of title 49, Code of Federal Regulations, to maintain, follow, and carry such a route plan that meets the requirements of section 397.101 of that title when transporting the type and quantity of hazardous materials described in section 385.403 of that title, taking into account the various segments of the trucking industry, including tank truck, truckload and less than truckload carriers.

(2) REPORT.—Within one year after the date of enactment of this Act, the Secretary of Transportation shall submit a report to the Senate Committee on Commerce, Science, and Transportation, and the House of Representatives Committee on Transportation and Infrastructure containing the findings and conclusions of the assessment.

(c) REQUIREMENT.—The Secretary shall require motor carriers that have a hazardous material safety permit under part 385 of title 49, Code of Federal Regulations, to maintain, follow, and carry a route plan, in written or electronic format, that meets the requirements of section 397.101 of that title when transporting the type and quantity of hazardous materials described in section 385.403 of that title if the Secretary determines, under the assessment required in subsection (b), that such a requirement would enhance the security and safety of the nation without imposing unreasonable costs or burdens upon motor carriers.

**SEC. —102. MOTOR CARRIER HIGH HAZARD MATERIAL TRACKING.**

(a) WIRELESS COMMUNICATIONS—

(1) IN GENERAL.—Consistent with the findings of the Transportation Security Administration's Hazmat Truck Security Pilot Program and within 6 months after the date of enactment of this Act, the Secretary of Homeland Security, through the Transportation Security Administration and in consultation with the Secretary of Transportation, shall develop a program to encourage the equipping of motor carriers transporting high hazard materials in quantities equal to or greater than the quantities specified in subpart 171.800 of title 49, Code of Federal Regulations, with wireless communications technology that provides—

(A) continuous communications;

(B) vehicle position location and tracking capabilities; and

(C) a feature that allows a driver of such vehicles to broadcast an emergency message.

(2) CONSIDERATIONS.—In developing the program required by paragraph (1), the Secretary shall—

(A) consult with the Secretary of Transportation to coordinate the program with any ongoing or planned efforts for motor carrier tracking at the Department of Transportation;

(B) take into consideration the recommendations and findings of the report on theHazardous Material Safety and Security Operation Field Test released by the Federal Motor Carrier Safety Administration on November 11, 2004;

(C) evaluate—

(i) any new information related to the cost and benefits of deploying and utilizing truck tracking technology for motor carriers transporting high hazard materials not included in the Hazardous Material Safety and Security Operation Field Test Report released by the Federal Motor Carrier Safety Administration on November 11, 2004;

(ii) the ability of truck tracking technology to resist tampering and disabling;

(iii) the capability of truck tracking technology to collect, display, and store information regarding the movements of shipments of high hazard materials by commercial motor vehicles;

(iv) the appropriate range of contact intervals between the tracking technology and a commercial motor vehicle transporting high hazard materials; and

(v) technology that allows the installation by a motor carrier of concealed electronic devices on commercial motor vehicles that can be activated by law enforcement authorities and alert emergency response resources to locate and recover security sensitive material in the event of loss or theft of such material.

(b) FUNDING.—There are authorized to be appropriated to the Secretary of Homeland Security to carry out this section $3,000,000 for each of fiscal years 2007, 2008, and 2009.

**SEC. —103. HAZARDOUS MATERIALS SECURITY INSPECTIONS AND ENFORCEMENT.**

(a) IN GENERAL.—The Secretary of Homeland Security shall establish a program within the Transportation Security Administration, in consultation with the Secretary of Transportation, for reviewing hazardous materials security plans required under part 172, title 49, Code of Federal Regulations, within 180 days after the date of enactment of this Act. In establishing the program, the Secretary shall ensure that—

(1) the program does not subject carriers to unnecessarily duplicative reviews of their security plans by the 2 departments; and

(2) a common set of standards is used to review the security plans.

(b) CIVIL PENALTY.—The failure, by a shipper, carrier, or other person subject to part 172 of title 49, Code of Federal Regulations, to comply with any applicable section of that part within 180 days after being notified by the Secretary of such failure to comply, is punishable by a civil penalty imposed by the Secretary under title 49, United States Code. For purposes of this subsection, each day of noncompliance after the 181st day following the date on which the shipper, carrier, or other person received notice of the failure shall constitute a separate failure.

(c) COMPLIANCE REVIEW.—In reviewing the compliance of hazardous materials shippers, carriers, or other persons subject to part 172 of title 49, Code of Federal Regulations, with the provisions of that part, the Secretary shall utilize risk assessment methodologies to prioritize review and enforcement actions to the most vulnerable and critical hazardous materials transportation operations.

(d) TRANSPORTATION COSTS STUDY.—Within 1 year after the date of enactment of this Act, the Secretary of Transportation, in conjunction with the Secretary of Homeland Security, shall study to what extent the insurance, security, and safety costs borne by railroad carriers, motor carriers, pipeline carriers, air carriers, and maritime carriers

associated with the transportation of hazardous materials are reflected in the rates paid by shippers of such commodities as compared to the costs and rates respectively for the transportation of non-hazardous materials.

(e) FUNDING.—There are authorized to be appropriated to the Secretary of Homeland Security to carry out this section—

(1) $2,000,000 for fiscal year 2007;

(2) $2,000,000 for fiscal year 2008; and

(3) $2,000,000 for fiscal year 2009.

**SEC. —104. TRUCK SECURITY ASSESSMENT.**

Not later than 1 year after the date of enactment of this Act, the Secretary of Transportation shall transmit to the Senate Committee on Commerce, Science, and Transportation, the House of Representatives Committee on Transportation and Infrastructure, and the House of Representatives Committee on Homeland Security a report on security issues related to the trucking industry that includes—

(1) an assessment of actions already taken to address identified security issues by both public and private entities;

(2) an assessment of the economic impact that security upgrades of trucks, truck equipment, or truck facilities may have on the trucking industry and its employees, including independent owner-operators;

(3) an assessment of ongoing research and the need for additional research on truck security; and

(4) an assessment of industry best practices to enhance security.

**SEC. —105. NATIONAL PUBLIC SECTOR RESPONSE SYSTEM.**

(a) DEVELOPMENT.—The Secretary of Homeland Security, in conjunction with the Secretary of Transportation, shall consider the development of a national public sector response system to receive security alerts, emergency messages, and other information used to track the transportation of high hazard materials which can provide accurate, timely, and actionable information to appropriate first responder, law enforcement and public safety, and homeland security officials, as appropriate, regarding accidents, threats, thefts, or other safety and security risks or incidents. In considering the development of this system, they shall consult with law enforcement and public safety officials, hazardous material shippers, motor carriers, railroads, organizations representing hazardous material employees, State transportation and hazardous materials officials, private for-profit and nonprofit emergency response organizations, and commercial motor vehicle and hazardous material safety groups. Consideration of development of the national public sector response system shall be based upon the public sector response center developed for the Transportation Security Administration hazardous material truck security pilot program and hazardous material safety and security operational field test undertaken by the Federal Motor Carrier Safety Administration.

(b) CAPABILITY.—The national public sector response system to be considered shall be able to receive, as appropriate—

(1) negative driver verification alerts;

(2) out-of-route alerts;

(3) driver panic or emergency alerts; and

(4) tampering or release alerts.

(c) CHARACTERISTICS.—The national public sector response system to be considered shall—

(1) be an exception-based system;

(2) be integrated with other private and public sector operation reporting and response systems and all Federal homeland security threat analysis systems or centers (including the National Response Center); and

(3) provide users the ability to create rules for alert notification messages.

(d) CARRIER PARTICIPATION.—The Secretary of Homeland Security shall coordinate with motor carriers and railroads transporting high hazard materials, entities acting on their behalf who receive communication alerts from motor carriers or railroads, or other Federal agencies that receive security and emergency related notification regarding high hazard materials in transit to facilitate the provisions of the information listed in subsection (b) to the national public sector response system to the extent possible if the system is established.

(e) DATA PRIVACY.—The national public sector response system shall be designed to ensure appropriate protection of data and information relating to motor carriers, railroads, and employees.

(f) REPORT.—Not later than 180 days after the date of enactment of this Act, the Secretary shall transmit to the Senate Committee on Commerce, Science, and Transportation, the House of Representatives Committee on Transportation and Infrastructure, and the House of Representatives Committee on Homeland Security a report on whether to establish a national public sector response system and the estimated total public and private sector costs to establish and annually operate such a system, together with any recommendations for generating private sector participation and investment in the development and operation of such a system.

(g) FUNDING.—There are authorized to be appropriated to the Secretary of Homeland Security to carry out this section—

(1) $1,000,000 for fiscal year 2007;

(2) $1,000,000 for fiscal year 2008; and

(3) $1,000,000 for fiscal year 2009.

**SEC. —106. OVER-THE-ROAD BUS SECURITY ASSISTANCE.**

(a) IN GENERAL.—The Secretary of Homeland Security shall establish a program within the Transportation Security Administration for making grants to private operators of over-the-road buses or over-the-road-bus terminal operators for system-wide security improvements to their operations, including—

(1) constructing and modifying terminals, garages, facilities, or over-the-road buses to assure their security;

(2) protecting or isolating the driver;

(3) acquiring, upgrading, installing, or operating equipment, software, or accessorial services for collection, storage, or exchange of passenger and driver information through ticketing systems or otherwise, and information links with government agencies;

(4) training employees in recognizing and responding to security threats, evacuation procedures, passenger screening procedures, and baggage inspection;

(5) hiring and training security officers;

(6) installing cameras and video surveillance equipment on over-the-road buses and at terminals, garages, and over-the-road bus facilities;

(7) creating a program for employee identification or background investigation;

(8) establishing and upgrading an emergency communications system linking operational headquarters, over-the-road buses, law enforcement, and emergency personnel; and

(9) implementing and operating passenger screening programs at terminals and on over-the-road buses.

(b) FEDERAL SHARE.—The Federal share of the cost for which any grant is made under this section shall be 80 percent.

(c) DUE CONSIDERATION.—In making grants under this section, the Secretary shall give due consideration to private operators of over-the-road buses that have taken measures to enhance bus transportation security from those in effect before September 11, 2001, and shall prioritize grant funding based on the magnitude and severity of the security threat to bus passengers and the ability of the funded project to reduce, or respond to, that threat.

(d) GRANT REQUIREMENTS.—A grant under this section shall be subject to all the terms and conditions that a grant is subject to under section 3038(f) of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note; 112 Stat. 393).

(e) PLAN REQUIREMENT.—

(1) IN GENERAL.—The Secretary may not make a grant under this section to a private operator of over-the-road buses until the operator has first submitted to the Secretary—

(A) a plan for making security improvements described in subsection (a) and the Secretary has approved the plan; and

(B) such additional information as the Secretary may require to ensure accountability for the obligation and expenditure of amounts made available to the operator under the grant.

(2) COORDINATION.—To the extent that an application for a grant under this section proposes security improvements within a specific terminal owned and operated by an entity other than the applicant, the applicant shall demonstrate to the satisfaction of the Secretary that the applicant has coordinated the security improvements for the terminal with that entity.

(f) OVER-THE-ROAD BUS DEFINED.—In this section, the term ''over-the-road bus'' means a bus characterized by an elevated passenger deck located over a baggage compartment.

(g) BUS SECURITY ASSESSMENT.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall transmit to the Senate Committee on Commerce, Science, and Transportation, the House of Representatives Committee on Transportation and Infrastructure, and the House of Representatives Committee on Homeland Security a preliminary report in accordance with the requirements of this section.

(2) CONTENTS OF PRELIMINARY REPORT.—The preliminary report shall include—

(A) an assessment of the over-the-road bus security grant program;

(B) an assessment of actions already taken to address identified security issues by both public and private entities and recommendations on whether additional safety and security enforcement actions are needed;

(C) an assessment of whether additional legislation is needed to provide for the security of Americans traveling on over-the-road buses;

(D) an assessment of the economic impact that security upgrades of buses and bus facilities may have on the over-the-road bus transportation industry and its employees;

(E) an assessment of ongoing research and the need for additional research on over-the-road bus security, including engine shut-off mechanisms, chemical and biological weapon detection technology, and the feasibility of compartmentalization of the driver; and

(F) an assessment of industry best practices to enhance security.

(3) CONSULTATION WITH INDUSTRY, LABOR, AND OTHER GROUPS.—In carrying out this section, the Secretary shall consult with over-the-road bus management and labor representatives, public safety and law enforcement officials, and the National Academy of Sciences.

(h) FUNDING.—There are authorized to be appropriated to the Secretary of Homeland Security to carry out this section—

(1) $12,000,000 for fiscal year 2007;

(2) $25,000,000 for fiscal year 2008; and

(3) $25,000,000 for fiscal year 2009.

Amounts made available pursuant to this subsection shall remain available until expended.

**SEC. —107. PIPELINE SECURITY AND INCIDENT RECOVERY PLAN.**

(a) IN GENERAL.—The Secretary of Homeland Security, in consultation with the Secretary of Transportation and the Pipeline and Hazardous Materials Safety Administration, and in accordance with the Memorandum of Understanding Annex executed under section —108, shall develop a Pipeline Security and Incident Recovery Protocols Plan. The plan shall include—

(1) a plan for the Federal Government to provide increased security support to the most critical interstate and intrastate natural gas and hazardous liquid transmission pipeline infrastructure and operations as determined under section —108—

(A) at high or severe security threat levels of alert; and

(B) when specific security threat information relating to such pipeline infrastructure or operations exists; and

(2) an incident recovery protocol plan, developed in conjunction with interstate and intrastate transmission and distribution pipeline operators and terminals and facilities operators connected to pipelines, to develop protocols to ensure the continued transportation of natural gas and hazardous liquids to essential markets and for essential public health or national defense uses in the event of an incident affecting the interstate and intrastate natural gas and hazardous liquid transmission and distribution pipeline system, which shall include protocols for granting access to pipeline operators for pipeline infrastructure repair, replacement or bypass following an incident.

(b) EXISTING PRIVATE AND PUBLIC SECTOR EFFORTS.—The plan shall take into account actions taken or planned by both private and public entities to address identified pipeline security issues and assess the effective integration of such actions.

(c) CONSULTATION.—In developing the plan under subsection (a), the Secretary of Homeland Security shall consult with the Secretary of Transportation, interstate and intrastate transmission and distribution pipeline operators, pipeline labor, first responders, shippers of hazardous materials, State Departments of Transportation, public safety officials, and other relevant parties.

(d) REPORT.—

(1) CONTENTS.—Not later than 1 year after the date of enactment of this Act, the Secretary of Homeland Security shall transmit to the Committee on Commerce, Science, and Transportation of the Senate, the Committee on Homeland Security of the House of Representatives, and the Committee on Transportation and Infrastructure of the House of Representatives a report containing the plan required by subsection (a), along with an estimate of the private and public sector costs to implement any recommendations.

(2) FORMAT.—The Secretary may submit the report in both classified and redacted formats if the Secretary determines that such action is appropriate or necessary.

(e) FUNDING.—There are authorized to be appropriated to the Secretary of Homeland Security to carry out this section $1,000,000 for fiscal year 2007.

**SEC. —108. PIPELINE SECURITY INSPECTIONS AND ENFORCEMENT.**

(a) IN GENERAL.—Within 1 year after the date of enactment of this Act the Secretary of Homeland Security, in consultation with the Secretary of Transportation, shall establish a program for reviewing pipeline operator adoption of recommendations in the September, 5, 2002, Department of Transportation Research and Special Programs Administration Pipeline Security Information Circular, including the review of pipeline security plans and critical facility inspections.

(b) REVIEW AND INSPECTION.—Within 9 months after the date of enactment of this Act the Secretary shall complete a review of the pipeline security plan and an inspection of the critical facilities of the 100 most critical pipeline operators covered by the September, 5, 2002, circular, where such facilities have not been inspected for security purposes since September 5, 2002, by either the Department of Homeland Security or the Department of Transportation, as determined by the Secretary in consultation with the Secretary of Transportation.

(c) COMPLIANCE REVIEW METHODOLOGY.—In reviewing pipeline operator compliance under subsections (a) and (b), the Secretary shall utilize risk assessment methodologies to prioritize vulnerabilities and to target inspection and enforcement actions to the most vulnerable and critical pipeline assets.

(d) REGULATIONS.—Within 1 year after the date of enactment of this Act, the Secretary shall transmit to pipeline operators and the Secretary of Transportation security recommendations for natural gas and hazardous liquid pipelines and pipeline facilities. If the Secretary of Homeland Security determines that regulations are appropriate, the Secretary shall promulgate such regulations and carry out necessary inspection and enforcement actions. Any regulations should incorporate the guidance provided to pipeline operators by the September 5, 2002, Department of Transportation Research and Special Programs Administration's Pipeline Security Information Circular and contain additional requirements as necessary based upon the results of the inspections performed under subsection (b). The regulations shall include the imposition of civil penalties for non-compliance.

(e) FUNDING.—There are authorized to be appropriated to the Secretary of Homeland Security to carry out this section—

(1) $2,000,000 for fiscal year 2007; and

(2) $2,000,000 for fiscal year 2008.

**SEC. —109. TECHNICAL CORRECTIONS.**

(a) HAZMAT LICENSES.—Section 5103a of title 49, United States Code, is amended—

(1) by inserting ''of Homeland Security'' each place it appears in subsections (a)(1), (d)(1)(b), and (e); and

(2) by redesignating subsection (h) as subsection (i) and inserting the following after subsection (g):

''(h) RELATIONSHIP TO TRANSPORTATION SECURITY CARDS.—Upon application, a State shall issue to an individual a license to operate a motor vehicle transporting in commerce a hazardous material without the security assessment required by this section, provided the individual meets all other applicable requirements for such a license, if the Secretary of Homeland Security has previously determined, under section 70105 of title 46, United States Code, that the individual does not pose a security risk.''.

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**SA 4989.** Ms. COLLINS (for herself and Mr. LIEBERMAN) submitted an amendment intended to be proposed by him to the bill H.R. 4954, to improve maritime and cargo security through enhanced layered defenses, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. _____. INTEROPERABLE COMMUNICATIONS.**

(a) IN GENERAL.—Title V of the Homeland Security Act of 2002 (6 U.S.C. 331 et seq.) is amended—

(1) by inserting after the title heading the following:

**"Subtitle A—Preparedness and Response";**

and

(2) by adding at the end the following:

**"Subtitle B—Emergency Communications**

**"SEC. 551. DEFINITIONS.**

''In this subtitle—

''(1) the term 'Administrator' means the Administrator of the Agency;

''(2) the term 'Agency' means the Federal Emergency Management Agency;

''(3) the term 'eligible region' means—

''(A) 2 or more contiguous incorporated municipalities, counties, parishes, Indian tribes, or other general purpose jurisdictions that—

''(i) have joined together to enhance emergency communications capabilities or communications interoperability among emergency response providers in those jurisdictions and with State and Federal officials; and

''(ii) includes the largest city in any metropolitan statistical area or metropolitan division, as defined by the Office of Management and Budget; or

''(B) any other area the Secretary determines to be consistent with the definition of a region in the national preparedness guidance issued under Homeland Security Presidential Directive 8;

''(4) the term 'emergency communications capabilities' means the ability to provide and maintain, throughout an emergency response operation, a continuous flow of information among emergency response providers, emergency response agencies, and government officials from multiple disciplines and jurisdictions and at all levels of government, in the event of a natural or man-made disaster (including where there has been significant damage to, or destruction of, critical infrastructure (including substantial loss of ordinary telecommunications infrastructure and sustained loss of electricity));

''(5) the terms 'interoperable emergency communications system' and 'communications interoperability' mean the ability of emergency response providers and relevant Federal, State, and local government officials to—

''(A) communicate with each other as necessary, using information technology systems and radio communications systems; and

''(B) exchange voice, data, or video with each other on demand, in real time, as necessary;

''(6) the term 'National Emergency Communications Strategy' means the strategy established under section 553; and

''(7) the term 'Office of Emergency Communications' means the office established under section 552.

**"SEC. 552. OFFICE OF EMERGENCY COMMUNICATIONS.**

''(a) IN GENERAL.—There is established in the Agency an Office of Emergency Communications.

''(b) DIRECTOR.—The head of the Office of Emergency Communications shall be the Director for Emergency Communications. The Director shall report to the Assistant Secretary for Cybersecurity and Telecommunications.

''(c) RESPONSIBILITIES.—The Director for Emergency Communications shall—

''(1) assist the Secretary and the Administrator in developing and implementing the program described in section 7303(a)(1) of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 194(a)(1));

''(2) carry out the responsibilities and authorities of the Department relating to the

development and implementation of a strategy to achieve national communications interoperability and emergency communications capabilities and promulgating grant guidance for that purpose;

''(3) carry out the responsibilities under section 509;

''(4) conduct extensive, nationwide outreach and foster the development of emergency communications capabilities and interoperable communications systems by Federal, State, and local governments and public safety agencies, and by regional consortia thereof, by—

''(A) developing, updating, and implementing a national strategy to achieve emergency communications capabilities, with goals and timetables;

''(B) developing, updating, and implementing a national strategy to achieve communications interoperability, with goals and timetables;

''(C) developing a national architecture, which defines the components of an interoperable system and how the components are constructed;

''(D) establishing and maintaining a task force that represents the broad customer base of public safety agencies of State and local governments, and Federal agencies, involved in public safety disciplines such as law enforcement, firefighting, emergency medical services, public health, and disaster recovery, in order to receive input and coordinate efforts to achieve emergency communications capabilities and communications interoperability;

''(E) working with the Interoperable Communications Technical Assistance Program to provide technical assistance to State and local government officials;

''(F) promoting a greater understanding of the importance of emergency communications capabilities, communications interoperability, and the benefits of sharing resources among all levels of Federal, State, and local government;

''(G) promoting development of standard operating procedures for incident response and facilitating the sharing of information on best practices (including from governments abroad) for achieving emergency communications capabilities and communications interoperability;

''(H) making recommendations to Congress about any changes in Federal law necessary to remove barriers to achieving emergency communications capabilities and communications interoperability;

''(I) funding and conducting pilot programs, as necessary, in order to—

''(i) evaluate and validate technology concepts in real-world environments to achieve emergency communications capabilities and communications interoperability;

''(ii) encourage more efficient use of resources, including equipment and spectrum; and

''(iii) test and deploy public safety communications systems that are less prone to failure, support nonvoice services, consume less spectrum, and cost less;

''(J) liaisoning with the private sector to develop solutions to improve emergency communications capabilities and achieve communications interoperability;

''(K) using modeling and simulation for training exercises and command and control functions at the operational level; and

''(L) performing other functions necessary to improve emergency communications capabilities and achieve communications interoperability;

''(5) administer the responsibilities and authorities of the Department relating to the Integrated Wireless Network Program;

''(6) administer the responsibilities and authorities of the Department relating to the National Communications System;

''(7) administer the responsibilities and authorities of the Department related to the Emergency Alert System and the Integrated Public Alert and Warning System;

''(8) establish an effective, reliable, integrated, flexible, and comprehensive system to alert and warn the people of the United States in the event of a natural or man-made disaster;

''(9) administer the responsibilities and authorities of the Department relating to Office of Interoperability and Compatibility;

''(10) coordinate the establishment of a national response capability with initial and ongoing planning, implementation, and training for the deployment of backup communications services in the event of a catastrophic loss of local and regional emergency communications services;

''(11) assist the President, the National Security Council, the Homeland Security Council, the Director of the Office of Science and Technology Policy, and the Director of the Office of Management and Budget in ensuring emergency communications capabilities;

''(12) review, in consultation with the Assistant Secretary for Grants and Training, all interoperable emergency communications plans of Federal, State, and local governments, including Statewide and tactical interoperability plans; and

''(13) create an interactive database that contains an inventory of emergency communications assets maintained by the Federal Government and, where appropriate, State and local governments and the private sector, that—

''(A) can be deployed rapidly following a natural or man-made disaster to assist emergency response providers and State and local governments; and

''(B) includes land mobile radio systems, satellite phones, portable infrastructure equipment, backup power system equipment, and other appropriate equipment and systems.

**''SEC. 553. NATIONAL EMERGENCY COMMUNICATIONS STRATEGY.**

''(a) IN GENERAL.—Not later than 180 days after the completion of the baseline assessment under section 554, and in cooperation with State and local governments, Federal departments and agencies, emergency response providers, and the private sector, the Administrator, acting through the Director for Emergency Communications, shall develop a National Emergency Communications Strategy to achieve national emergency communications capabilities and interoperable emergency communications.

''(b) CONTENTS.—The National Emergency Communication Strategy shall—

''(1) include, in consultation with the National Institute of Standards and Technology, a process for expediting national voluntary consensus-based emergency communications equipment standards for the purchase and use by public safety agencies of interoperable emergency communications equipment and technologies;

''(2) identify the appropriate emergency communications capabilities and communications interoperability necessary for Federal, State, and local governments to operate during natural and man-made disasters;

''(3) address both short-term and long-term solutions to achieving Federal, State, and local government emergency communications capabilities and interoperable emergency communications systems, including provision of commercially available equipment that facilitates operability, interoperability, coordination, and integration among emergency communications systems;

''(4) identify how Federal departments and agencies that respond to natural or man-made disasters can work effectively with State and local governments, in all States, and with such other entities as are necessary to implement the strategy;

''(5) include measures to identify and overcome all obstacles to achieving interoperable emergency communications;

''(6) set goals and establish timetables for the development of an emergency, command-level communication system based on equipment available across the United States and a nationwide interoperable emergency communications system;

''(7) identify appropriate and reasonable measures public safety agencies should employ to ensure that their network infrastructure remains operable during a natural or man-made disaster;

''(8) include education of State and local government emergency response providers about the availability of backup emergency communications assets and their importance in planning for natural and man-made disasters;

''(9) identify, in consultation with the Federal Communications Commission, measures State and local governments should employ to ensure operability of 911, E911 and public safety answering points during natural and man-made disasters; and

''(10) include building the capability to adapt the distribution and content of emergency alerts on the basis of geographic location, risks, or personal user preferences, as appropriate.

**''SEC. 554. ASSESSMENTS AND REPORTS.**

''(a) BASELINE OPERABILITY AND INTEROPERABILITY ASSESSMENT.—Not later than June 1, 2007, and periodically thereafter, but not less frequently than every 5 years, the Administrator, acting through the Director for Emergency Communications, shall conduct an assessment of Federal, State, and local governments to—

''(1) define the range of emergency communications capabilities and communications interoperability needed for specific events;

''(2) assess the capabilities to meet such communications needs;

''(3) determine the degree to which necessary emergency communications capabilities and communications interoperability have been achieved;

''(4) ascertain the needs that remain for communications interoperability to be achieved;

''(5) assess the ability of communities to provide and maintain emergency communications capabilities and communications interoperability among emergency response providers, and government officials in the event of a natural or man-made disaster, including when there is substantial damage to ordinary communications infrastructure or a sustained loss of electricity;

''(6) include a national interoperable emergency communication inventory that—

''(A) identifies for each Federal department and agency—

''(i) the channels and frequencies used;

''(ii) the nomenclature used to refer to each channel or frequency used; and

''(iii) the types of communications system and equipment used;

''(B) identifies the interoperable emergency communication systems in use for public safety systems in the United States; and

''(C) provides a listing of public safety mutual aid channels in operation and their ability to connect to an interoperable emergency communications system; and

''(7) compile a list of best practices among communities for providing and maintaining emergency communications capabilities and

communications interoperability in the event of a natural or man-made disaster.

''(b) MOBILE COMMUNICATIONS.—The Administrator, acting through the Director of Emergency Communications, shall evaluate the feasibility and desirability of the Department developing, on its own or in conjunction with the Department of Defense, a mobile communications capability, modeled on the Army Signal Corps, that could be deployed to support emergency communications at the site of a natural or man-made disaster.

''(c) ANNUAL REPORT.—Not later than 1 year after the date of enactment of the Port Security Improvements Act of 2006, and annually thereafter until the date that is 10 years after such date, the Administrator, acting through the Director for Emergency Communications, shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives a report on the progress of the Department in implementing and achieving the goals of this subtitle, including a description of the findings of the most recent nationwide assessment conducted under subsection (a).

**''SEC. 555. COORDINATION OF FEDERAL EMERGENCY COMMUNICATIONS GRANT PROGRAMS.**

''(a) ASSESSMENT OF GRANTS AND STANDARDS PROGRAMS.—The Secretary, acting through the Director for Emergency Communications, in coordination with other Federal departments and agencies, shall review Federal emergency communications grants and standards programs across the Federal government to—

''(1) integrate and coordinate Federal grant guidelines for the use of Federal assistance relating to interoperable emergency communications and emergency communications capabilities;

''(2) assess and make recommendations to ensure that such guidelines are consistent across the Federal Government; and

''(3) assess and make recommendations to ensure conformity with the goals and objectives identified in the National Emergency Communications Strategy.

''(b) DENIAL OF ELIGIBILITY FOR GRANTS.—

''(1) IN GENERAL.—The Secretary may prohibit any State or local government from using Federal homeland security assistance administered by the Department to achieve, maintain, or enhance interoperable emergency communications capabilities if—

''(A) such government has not complied with the requirement to submit a Statewide Interoperable Communications Plan under section 7303(f) of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 194(f));

''(B) the State or local government has not taken adequate steps to maintain operability of network infrastructure in order to prepare for a natural or man-made disaster; or

''(C) a grant request does not comply with interoperable communications equipment standards, after those standards have been developed through a voluntary consensus-based process or are promulgated under the authority under paragraph (2).

''(2) STANDARDS.—If the Secretary determines that inadequate progress is being made on the completion of voluntary consensus-based interoperable communications equipment standards, the Secretary may promulgate such standards and include them in interoperable communications grant guidance.

**''SEC. 556. EMERGENCY COMMUNICATIONS INTEROPERABILITY RESEARCH AND DEVELOPMENT.**

''(a) IN GENERAL.—The Secretary shall establish a comprehensive research and development program to promote emergency communications capabilities and communications interoperability among emergency response providers, including by promoting research on a competitive basis through the Directorate of Science and Technology Homeland Security Advanced Research Projects Agency.

''(b) PURPOSES.—The purposes of the program established under subsection (a) include—

''(1) understanding the strengths and weaknesses of the diverse public safety communications systems;

''(2) examining how current and emerging technology can make public safety organizations more effective, and how Federal, State, and local government agencies can use this technology in a coherent and cost-effective manner;

''(3) exploring Federal, State, and local government policies that shall move systematically towards long-term solutions;

''(4) evaluating and validating technology concepts, and promoting the deployment of advanced public safety information technologies for emergency communications capabilities and communications interoperability; and

''(5) advancing the creation of a national strategy to enhance emergency communications capabilities, promote communications interoperability and efficient use of spectrum in communications systems, improve information sharing across organizations, and use advanced information technology to increase the effectiveness of emergency response providers in valuable new ways.

**''SEC. 557. EMERGENCY COMMUNICATIONS PILOT PROJECTS.**

''(a) ESTABLISHMENT.—

''(1) IN GENERAL.—Not later than 1 year after the date of enactment of the Port Security Improvements Act of 2006, the Administrator shall establish not fewer than 2 pilot projects to develop and evaluate strategies and technologies for providing and maintaining emergency communications capabilities and communications interoperability among emergency response providers and government officials in the event of a natural or man-made disaster in which there is significant damage to, or destruction of, critical infrastructure, including substantial loss of ordinary telecommunications infrastructure and sustained loss of electricity.

''(2) INTEROPERABLE DATA COMMUNICATIONS.—Not less than 1 pilot project under this section shall involve the development of interoperable data communications, including medical and victim information, so that this information can be shared among emergency response providers, as needed, at all levels of government, and in accordance with the regulations promulgated under the Health Insurance Portability and Accountability Act of 1996 (Public Law 104–91; 110 Stat. 1936).

''(b) SELECTION CRITERIA.—In selecting areas for the location of the pilot projects under this section, the Administrator shall consider—

''(1) the risk to the area from a large-scale terrorist attack or natural disaster;

''(2) the number of potential victims from a large-scale terrorist attack or natural disaster in the area;

''(3) the capabilities of the emergency communications systems of the area and capabilities for the development of modeling and simulation training and command and control functions; and

''(4) such other criteria as the Administrator may determine appropriate.

**''SEC. 558. EMERGENCY COMMUNICATIONS AND INTEROPERABILITY GRANTS.**

''(a) IN GENERAL.—The Administrator, through the Office of the Grants and Training, shall make grants to States and eligible regions for initiatives necessary to improve emergency communications capabilities and to achieve short-term or long-term solutions to statewide, regional, national, and, where appropriate, international interoperability.

''(b) USE OF GRANT FUNDS.—Grants awarded under subsection (a) may be used for initiatives to achieve short-term or long-term solutions for emergency communications capabilities and communications interoperability within the State or region and to assist with any aspect of the communication life cycle, including—

''(1) statewide or regional communications planning;

''(2) system design and engineering;

''(3) procurement and installation of equipment;

''(4) exercises;

''(5) modeling and simulation exercises for operational command and control functions;

''(6) other activities determined by the Administrator to be integral to the achievement of emergency communications capabilities and communications interoperability; and

''(7) technical assistance and training.

''(c) COORDINATION.—The Administrator shall ensure that the Office of Grants and Training coordinates its activities with the Office of Emergency Communications, the Directorate of Science and Technology and other Federal entities so that grants awarded under this section, and other grant programs related to homeland security, fulfill the purposes of this section and facilitate the achievement of emergency communications capabilities and communications interoperability consistent with the national strategy.

''(d) APPLICATION.—

''(1) IN GENERAL.—A State or eligible region desiring a grant under this section shall submit an application at such time, in such manner, and accompanied by such information as the Administrator may reasonably require.

''(2) MINIMUM CONTENTS.—At a minimum, each application submitted under paragraph (1) shall—

''(A) identify the critical aspects of the communications life cycle, including planning, system design and engineering, procurement and installation, and training for which funding is requested;

''(B) describe how—

''(i) the proposed use of funds would be consistent with and address the goals in any applicable State homeland security plan, and, unless the Secretary determines otherwise, is consistent with the national strategy and architecture; and

''(ii) the applicant intends to spend funds under the grant, to administer such funds, and to allocate such funds among any participating local governments; and

''(C) be consistent with the Interoperable Communications Plan required by section 7303(f) of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 194(f)).

''(e) STATE REVIEW AND SUBMISSION.—

''(1) IN GENERAL.—To ensure consistency with State homeland security plans, an eligible region applying for a grant under this section shall submit its application to each State within which any part of the eligible region is located for review before submission of such application to the Administrator.

''(2) DEADLINE.—Not later than 30 days after receiving an application from an eligible region under paragraph (1), each such State shall transmit the application to the Administrator.

''(3) STATE DISAGREEMENT.—If the Governor of any such State determines that a regional

application is inconsistent with the State homeland security plan of that State, or otherwise does not support the application, the Governor shall—

''(A) notify the Administrator in writing of that fact; and

''(B) provide an explanation of the reasons for not supporting the application at the time of transmission of the application.

''(f) AWARD OF GRANTS.—

''(1) CONSIDERATIONS.—In approving applications and awarding grants under this section, the Administrator shall consider—

''(A) the nature of the threat to the State or eligible region from natural or man-made disasters;

''(B) the location, risk, or vulnerability of critical infrastructure and key national assets, including the consequences from damage to critical infrastructure in nearby jurisdictions as a result of a natural or man-made disaster;

''(C) the size of the population, and the population density of the area, that will be served by the interoperable emergency communications systems, except that the Secretary shall not establish a minimum population requirement that would disqualify from consideration an area that otherwise faces significant threats, vulnerabilities, or consequences from a natural or man-made disaster;

''(D) the extent to which grants will be used to implement emergency communications and interoperability solutions—

''(i) consistent with the national strategy and compatible with national infrastructure and equipment standards; and

''(ii) more efficient and cost effective than current approaches;

''(E) the number of jurisdictions within regions participating in the development of emergency communications capabilities and interoperable emergency communications systems, including the extent to which the application includes all incorporated municipalities, counties, parishes, and tribal governments within the State or eligible region, and their coordination with Federal and State agencies;

''(F) the extent to which a grant would expedite the achievement of emergency communications capabilities and communications interoperability in the State or eligible region with Federal, State, and local government agencies;

''(G) the extent to which a State or eligible region, given its financial capability, demonstrates its commitment to expeditiously achieving emergency communications capabilities and communications interoperability by supplementing Federal funds with non-Federal funds;

''(H) whether the State or eligible region is on or near an international border;

''(I) whether the State or eligible region encompasses an economically significant border crossing;

''(J) whether the State or eligible region has a coastline bordering an ocean or international waters including the Great Lakes;

''(K) the extent to which geographic barriers pose unusual obstacles to achieving emergency communications capabilities or communications interoperability;

''(L) the threats, vulnerabilities, and consequences faced by the State or eligible region related to at-risk sites or activities in nearby jurisdictions, including the need to respond to natural or man-made disasters arising in those jurisdictions;

''(M) the need to achieve nationwide emergency communications capabilities and communications interoperability, consistent with the national strategies;

''(N) the extent to which the State has formulated a State executive interoperability committee or conducted similar statewide planning efforts;

''(O) whether the activity for which a grant requested is being funded under another homeland security grant program; and

''(P) such other factors as are specified by the Secretary in writing.

''(2) REVIEW PANEL.—

''(A) IN GENERAL.—The Secretary shall establish a review panel under section 871(a) to assist in reviewing grant applications under this section.

''(B) RECOMMENDATIONS.—The review panel established under subparagraph (A) shall make recommendations to the Administrator regarding applications for grants under this section.

''(C) MEMBERSHIP.—The review panel established under subparagraph (A) shall include individuals with technical expertise in emergency communications and communications interoperability and emergency response providers and other relevant State and local government officials.

''(3) AVAILABILITY OF FUNDS.—Any grant funds awarded that may be used to support emergency communications capabilities or communications interoperability shall, as the Administrator may determine, remain available for up to 3 years, consistent with section 7303(e) of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 194(e)).''.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out subtitle B of title V of the Homeland Security Act of 2002, as added by this Act—

(1) $400,000,000 for each of fiscal years 2007 through 2011; and

(2) such sums as are necessary for each fiscal year thereafter.

(c) CONFORMING AMENDMENTS RELATING TO INTELLIGENCE REFORM.—Section 7303(g) of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 194(g)) is amended—

(1) by striking paragraph (1) and inserting the following:

''(1) INTEROPERABLE EMERGENCY COMMUNICATIONS SYSTEM AND COMMUNICATIONS INTEROPERABILITY.—The terms 'interoperable emergency communications system' and 'communications interoperability' mean the ability of emergency response providers and relevant Federal, State, and local government agencies to—

''(A) communicate with each other as necessary, using information technology systems and radio communications systems; and

''(B) exchange voice, data, or video with each other on demand, in real time, as necessary.''; and

(2) by adding at the end the following:

''(3) EMERGENCY COMMUNICATIONS CAPABILITIES.—The term 'emergency communications capabilities' means the ability to provide and maintain, throughout an emergency response operation, a continuous flow of information among emergency responders, agencies, and government officials from multiple disciplines and jurisdictions and at all levels of government in the event of a natural disaster, terrorist attack, or other large-scale or catastrophic emergency, including where there has been significant damage to, or destruction of, critical infrastructure, substantial loss of ordinary telecommunications infrastructure, and sustained loss of electricity.''.

(d) BORDER INTEROPERABILITY DEMONSTRATION PROJECTS.—

(1) DEFINITIONS.—In this subsection—

(A) the term ''demonstration project'' means a demonstration project established under paragraph (2)(A); and

(B) the term ''interoperable emergency communications system'' has the meaning given that term in section 551 of the Homeland Security Act of 2002, as added by this Act.

(2) IN GENERAL.—

(A) ESTABLISHMENT.—There is established in the Department an ''International Border Community Interoperable Communications Demonstration Project''.

(B) MINIMUM NUMBER OF COMMUNITIES.—The Secretary shall select not fewer than 6 communities to participate in a demonstration project.

(C) LOCATION OF COMMUNITIES.—Not fewer than 3 of the communities selected under subparagraph (B) shall be located on the northern border of the United States and not fewer than 3 of the communities selected under subparagraph (B) shall be located on the southern border of the United States.

(3) PROJECT REQUIREMENTS.—A demonstration project shall—

(A) address the interoperable emergency communications system needs of police officers, firefighters, emergency medical technicians, National Guard, and other emergency response providers;

(B) foster interoperable emergency communications systems—

(i) among Federal, State, local, and tribal government agencies in the United States involved in preventing or responding to terrorist attacks or other catastrophic events; and

(ii) with similar agencies in Canada or Mexico;

(C) identify common international cross-border frequencies for communications equipment, including radio or computer messaging equipment;

(D) foster the standardization of equipment for interoperable emergency communications systems;

(E) identify solutions that will facilitate communications interoperability across national borders expeditiously;

(F) ensure that emergency response providers can communicate with each other and the public at disaster sites;

(G) provide training and equipment to enable emergency response providers to deal with threats and contingencies in a variety of environments; and

(H) identify and secure appropriate joint-use equipment to ensure communications access.

(4) DISTRIBUTION OF FUNDS.—

(A) IN GENERAL.—The Secretary shall distribute funds under this subsection to each community participating in a demonstration project through the State, or States, in which each community is located.

(B) OTHER PARTICIPANTS.—Not later than 60 days after receiving funds under subparagraph (A), a State receiving funds under this subsection shall make the funds available to the local governments and emergency response providers selected by the Secretary to participate in a demonstration project.

(5) REPORTING.—Not later than December 31, 2007, and each year thereafter in which funds are appropriated for a demonstration project, the Secretary shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives a report on the demonstration projects.

(e) TECHNICAL AMENDMENTS.—

(1) IN GENERAL.—The Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended by redesignating the section 510 relating to urban and other high risk area communications capabilities as section 511.

(2) TABLE OF CONTENTS.—The table of contents in section 1(b) of the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended—

(A) by inserting before the item relating to section 501 the following:

''Subtitle A—Preparedness and Response'';

and

(B) by adding after the item relating to section 509 the following:

''Sec. 510. Procurement of security countermeasures for strategic national stockpile.
''Sec. 511. Urban and other high risk area communications capabilities.

''Subtitle B—Emergency Communications

''Sec. 551. Definitions.
''Sec. 552. Office of Emergency Communications.
''Sec. 553. National Emergency Communications Strategy.
''Sec. 554. Assessments and reports.
''Sec. 555. Coordination of Federal emergency communications grant programs.
''Sec. 556. Emergency communications interoperability research and development.
''Sec. 557. Emergency communications pilot projects.
''Sec. 558. Emergency communications and interoperability grants.''.

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**SA 4990.** Mr. SANTORUM submitted an amendment intended to be proposed by him to the bill H.R. 4954, to improve maritime and cargo security through enhanced layered defenses, and for other purposes; as follows:

On page 87, after line 18, add the following:

**SEC. 501. SHORT TITLE.**

This title may be cited as the ''Border Security First Act of 2006''.

**SEC. 502. REFERENCE TO THE IMMIGRATION AND NATIONALITY ACT.**

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).

**SEC. 503. DEFINITIONS.**

In this title:

(1) DEPARTMENT.—Except as otherwise provided, the term ''Department'' means the Department of Homeland Security.

(2) SECRETARY.—Except as otherwise provided, the term ''Secretary'' means the Secretary of Homeland Security.

**SEC. 504. SEVERABILITY.**

If any provision of this title, any amendment made by this title, or the application of such provision or amendment to any person or circumstance is held to be invalid for any reason, the remainder of this title, the amendments made by this title, and the application of the provisions of such to any other person or circumstance shall not be affected by such holding.

**Subtitle A—Border Enforcement**

**CHAPTER 1—ASSETS FOR CONTROLLING UNITED STATES BORDERS**

**SEC. 511. ENFORCEMENT PERSONNEL.**

(a) ADDITIONAL PERSONNEL.—

(1) PORT OF ENTRY INSPECTORS.—In each of the fiscal years 2007 through 2011, the Secretary shall, subject to the availability of appropriations, increase by not less than 500 the number of positions for full-time active duty port of entry inspectors and provide appropriate training, equipment, and support to such additional inspectors.

(2) INVESTIGATIVE PERSONNEL.—

(A) IMMIGRATION AND CUSTOMS ENFORCEMENT INVESTIGATORS.—Section 5203 of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458; 118 Stat. 3734) is amended by striking ''800'' and inserting ''1000''.

(B) ADDITIONAL PERSONNEL.—In addition to the positions authorized under section 5203 of the Intelligence Reform and Terrorism Prevention Act of 2004, as amended by subparagraph (A), during each of the fiscal years 2007 through 2011, the Secretary shall, subject to the availability of appropriations, increase by not less than 200 the number of positions for personnel within the Department assigned to investigate alien smuggling.

(3) DEPUTY UNITED STATES MARSHALS.—In each of the fiscal years 2007 through 2011, the Attorney General shall, subject to the availability of appropriations, increase by not less than 50 the number of positions for full-time active duty Deputy United States Marshals that investigate criminal matters related to immigration.

(4) RECRUITMENT OF FORMER MILITARY PERSONNEL.—

(A) IN GENERAL.—The Commissioner of United States Customs and Border Protection, in conjunction with the Secretary of Defense or a designee of the Secretary of Defense, shall establish a program to actively recruit members of the Army, Navy, Air Force, Marine Corps, and Coast Guard who have elected to separate from active duty.

(B) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Commissioner shall submit a report on the implementation of the recruitment program established pursuant to subparagraph (A) to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives.

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) PORT OF ENTRY INSPECTORS.—There are authorized to be appropriated to the Secretary such sums as may be necessary for each of the fiscal years 2007 through 2011 to carry out subsection (a)(1).

(2) DEPUTY UNITED STATES MARSHALS.—There are authorized to be appropriated to the Attorney General such sums as may be necessary for each of the fiscal years 2007 through 2011 to carry out subsection (a)(3).

(3) BORDER PATROL AGENTS.—Section 5202 of the Intelligence Reform and Terrorism Prevention Act of 2004 (118 Stat. 3734) is amended to read as follows:

**''SEC. 5202. INCREASE IN FULL-TIME BORDER PATROL AGENTS.**

''(a) ANNUAL INCREASES.—The Secretary of Homeland Security shall, subject to the availability of appropriations for such purpose, increase the number of positions for full-time active-duty border patrol agents within the Department of Homeland Security (above the number of such positions for which funds were appropriated for the preceding fiscal year), by—

''(1) 2,000 in fiscal year 2006;
''(2) 2,400 in fiscal year 2007;
''(3) 2,400 in fiscal year 2008;
''(4) 2,400 in fiscal year 2009;
''(5) 2,400 in fiscal year 2010; and
''(6) 2,400 in fiscal year 2011.

''(b) NORTHERN BORDER.—In each of the fiscal years 2006 through 2011, in addition to the border patrol agents assigned along the northern border of the United States during the previous fiscal year, the Secretary shall assign a number of border patrol agents equal to not less than 20 percent of the net increase in border patrol agents during each such fiscal year.

''(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for each of fiscal years 2007 through 2011 to carry out this section.''.

**SEC. 512. TECHNOLOGICAL ASSETS.**

(a) ACQUISITION.—Subject to the availability of appropriations, the Secretary shall procure additional unmanned aerial vehicles, cameras, poles, sensors, and other technologies necessary to achieve operational control of the international borders of the United States and to establish a security perimeter known as a ''virtual fence'' along such international borders to provide a barrier to illegal immigration.

(b) INCREASED AVAILABILITY OF EQUIPMENT.—The Secretary and the Secretary of Defense shall develop and implement a plan to use authorities provided to the Secretary of Defense under chapter 18 of title 10, United States Code, to increase the availability and use of Department of Defense equipment, including unmanned aerial vehicles, tethered aerostat radars, and other surveillance equipment, to assist the Secretary in carrying out surveillance activities conducted at or near the international land borders of the United States to prevent illegal immigration.

(c) REPORT.—Not later than 6 months after the date of enactment of this Act, the Secretary and the Secretary of Defense shall submit to Congress a report that contains—

(1) a description of the current use of Department of Defense equipment to assist the Secretary in carrying out surveillance of the international land borders of the United States and assessment of the risks to citizens of the United States and foreign policy interests associated with the use of such equipment;

(2) the plan developed under subsection (b) to increase the use of Department of Defense equipment to assist such surveillance activities; and

(3) a description of the types of equipment and other support to be provided by the Secretary of Defense under such plan during the 1-year period beginning on the date of the submission of the report.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as may be necessary for each of the fiscal years 2007 through 2011 to carry out subsection (a).

(e) UNMANNED AERIAL VEHICLE PILOT PROGRAM.—During the 1-year period beginning on the date on which the report is submitted under subsection (c), the Secretary shall conduct a pilot program to test unmanned aerial vehicles for border surveillance along the international border between Canada and the United States.

(f) CONSTRUCTION.—Nothing in this section may be construed as altering or amending the prohibition on the use of any part of the Army or the Air Force as a posse comitatus under section 1385 of title 18, United States Code.

**SEC. 513. INFRASTRUCTURE.**

(a) CONSTRUCTION OF BORDER CONTROL FACILITIES.—Subject to the availability of appropriations, the Secretary shall construct all-weather roads and acquire additional vehicle barriers and facilities necessary to achieve operational control of the international borders of the United States.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as may be necessary for each of the fiscal years 2007 through 2011 to carry out subsection (a).

**SEC. 514. BORDER PATROL CHECKPOINTS.**

The Secretary may maintain temporary or permanent checkpoints on roadways in border patrol sectors that are located in proximity to the international border between the United States and Mexico.

**SEC. 515. PORTS OF ENTRY.**

The Secretary is authorized to—

(1) construct additional ports of entry along the international land borders of the United States, at locations to be determined by the Secretary; and

(2) make necessary improvements to the ports of entry in existence on the date of the enactment of this Act.

**SEC. 516. CONSTRUCTION OF STRATEGIC BORDER FENCING AND VEHICLE BARRIERS.**

(a) TUCSON SECTOR.—The Secretary shall—

(1) replace all aged, deteriorating, or damaged primary fencing in the Tucson Sector located proximate to population centers in Douglas, Nogales, Naco, and Lukeville, Arizona with double- or triple-layered fencing running parallel to the international border between the United States and Mexico;

(2) extend the double- or triple-layered fencing for a distance of not less than 2 miles beyond urban areas, except that the double- or triple-layered fence shall extend west of Naco, Arizona, for a distance of 10 miles; and

(3) construct not less than 150 miles of vehicle barriers and all-weather roads in the Tucson Sector running parallel to the international border between the United States and Mexico in areas that are known transit points for illegal cross-border traffic.

(b) YUMA SECTOR.—The Secretary shall—

(1) replace all aged, deteriorating, or damaged primary fencing in the Yuma Sector located proximate to population centers in Yuma, Somerton, and San Luis, Arizona with double- or triple-layered fencing running parallel to the international border between the United States and Mexico;

(2) extend the double- or triple-layered fencing for a distance of not less than 2 miles beyond urban areas in the Yuma Sector; and

(3) construct not less than 50 miles of vehicle barriers and all-weather roads in the Yuma Sector running parallel to the international border between the United States and Mexico in areas that are known transit points for illegal cross-border traffic.

(c) OTHER HIGH TRAFFICKED AREAS.—The Secretary shall construct not less than 370 miles of triple-layered fencing which may include portions already constructed in San Diego, Tucson, and Yuma Sectors, and 500 miles of vehicle barriers in other areas along the southwest border that the Secretary determines are areas that are most often used by smugglers and illegal aliens attempting to gain illegal entry into the United States.

(d) CONSTRUCTION DEADLINE.—The Secretary shall immediately commence construction of the fencing, barriers, and roads described in subsections (a), (b), and (c) and shall complete such construction not later than 2 years after the date of the enactment of this Act.

(e) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives that describes the progress that has been made in constructing the fencing, barriers, and roads described in subsections (a), (b), and (c).

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

## CHAPTER 2—BORDER SECURITY PLANS, STRATEGIES, AND REPORTS

**SEC. 521. SURVEILLANCE PLAN.**

(a) REQUIREMENT FOR PLAN.—The Secretary shall develop a comprehensive plan for the systematic surveillance of the international land and maritime borders of the United States.

(b) CONTENT.—The plan required by subsection (a) shall include the following:

(1) An assessment of existing technologies employed on the international land and maritime borders of the United States.

(2) A description of the compatibility of new surveillance technologies with surveillance technologies in use by the Secretary on the date of the enactment of this Act.

(3) A description of how the Commissioner of the United States Customs and Border Protection of the Department is working, or is expected to work, with the Under Secretary for Science and Technology of the Department to identify and test surveillance technology.

(4) A description of the specific surveillance technology to be deployed.

(5) Identification of any obstacles that may impede such deployment.

(6) A detailed estimate of all costs associated with such deployment and with continued maintenance of such technologies.

(7) A description of how the Secretary is working with the Administrator of the Federal Aviation Administration on safety and airspace control issues associated with the use of unmanned aerial vehicles.

(c) SUBMISSION TO CONGRESS.—Not later than 6 months after the date of the enactment of this Act, the Secretary shall submit to Congress the plan required by this section.

**SEC. 522. NATIONAL STRATEGY FOR BORDER SECURITY.**

(a) REQUIREMENT FOR STRATEGY.—The Secretary, in consultation with the heads of other appropriate Federal agencies, shall develop a National Strategy for Border Security that describes actions to be carried out to achieve operational control over all ports of entry into the United States and the international land and maritime borders of the United States.

(b) CONTENT.—The National Strategy for Border Security shall include the following:

(1) The implementation schedule for the comprehensive plan for systematic surveillance described in section 521.

(2) An assessment of the threat posed by terrorists and terrorist groups that may try to infiltrate the United States at locations along the international land and maritime borders of the United States.

(3) A risk assessment for all United States ports of entry and all portions of the international land and maritime borders of the United States that includes a description of activities being undertaken—

(A) to prevent the entry of terrorists, other unlawful aliens, instruments of terrorism, narcotics, and other contraband into the United States; and

(B) to protect critical infrastructure at or near such ports of entry or borders.

(4) An assessment of the legal requirements that prevent achieving and maintaining operational control over the entire international land and maritime borders of the United States.

(5) An assessment of the most appropriate, practical, and cost-effective means of defending the international land and maritime borders of the United States against threats to security and illegal transit, including intelligence capacities, technology, equipment, personnel, and training needed to address security vulnerabilities.

(6) An assessment of staffing needs for all border security functions, taking into account threat and vulnerability information pertaining to the borders and the impact of new security programs, policies, and technologies.

(7) A description of the border security roles and missions of Federal, State, regional, local, and tribal authorities, and recommendations regarding actions the Secretary can carry out to improve coordination with such authorities to enable border security and enforcement activities to be carried out in a more efficient and effective manner.

(8) An assessment of existing efforts and technologies used for border security and the effect of the use of such efforts and technologies on civil rights, personal property rights, privacy rights, and civil liberties, including an assessment of efforts to take into account asylum seekers, trafficking victims, unaccompanied minor aliens, and other vulnerable populations.

(9) A prioritized list of research and development objectives to enhance the security of the international land and maritime borders of the United States.

(10) A description of ways to ensure that the free flow of travel and commerce is not diminished by efforts, activities, and programs aimed at securing the international land and maritime borders of the United States.

(11) An assessment of additional detention facilities and beds that are needed to detain unlawful aliens apprehended at United States ports of entry or along the international land borders of the United States.

(12) A description of the performance metrics to be used to ensure accountability by the bureaus of the Department in implementing such Strategy.

(13) A schedule for the implementation of the security measures described in such Strategy, including a prioritization of security measures, realistic deadlines for addressing the security and enforcement needs, an estimate of the resources needed to carry out such measures, and a description of how such resources should be allocated.

(c) CONSULTATION.—In developing the National Strategy for Border Security, the Secretary shall consult with representatives of—

(1) State, local, and tribal authorities with responsibility for locations along the international land and maritime borders of the United States; and

(2) appropriate private sector entities, nongovernmental organizations, and affected communities that have expertise in areas related to border security.

(d) COORDINATION.—The National Strategy for Border Security shall be consistent with the National Strategy for Maritime Security developed pursuant to Homeland Security Presidential Directive 13, dated December 21, 2004.

(e) SUBMISSION TO CONGRESS.—

(1) STRATEGY.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit to Congress the National Strategy for Border Security.

(2) UPDATES.—The Secretary shall submit to Congress any update of such Strategy that the Secretary determines is necessary, not later than 30 days after such update is developed.

(f) IMMEDIATE ACTION.—Nothing in this section or section 521 may be construed to relieve the Secretary of the responsibility to take all actions necessary and appropriate to achieve and maintain operational control over the entire international land and maritime borders of the United States.

**SEC. 523. REPORTS ON IMPROVING THE EXCHANGE OF INFORMATION ON NORTH AMERICAN SECURITY.**

(a) REQUIREMENT FOR REPORTS.—Not later than 1 year after the date of the enactment of this Act, and annually thereafter, the Secretary of State, in coordination with the Secretary and the heads of other appropriate Federal agencies, shall submit to Congress a report on improving the exchange of information related to the security of North America.

(b) CONTENTS.—Each report submitted under subsection (a) shall contain a description of the following:

(1) SECURITY CLEARANCES AND DOCUMENT INTEGRITY.—The progress made toward the development of common enrollment, security,

technical, and biometric standards for the issuance, authentication, validation, and repudiation of secure documents, including—

(A) technical and biometric standards based on best practices and consistent with international standards for the issuance, authentication, validation, and repudiation of travel documents, including—

(i) passports;

(ii) visas; and

(iii) permanent resident cards;

(B) working with Canada and Mexico to encourage foreign governments to enact laws to combat alien smuggling and trafficking, and laws to forbid the use and manufacture of fraudulent travel documents and to promote information sharing;

(C) applying the necessary pressures and support to ensure that other countries meet proper travel document standards and are committed to travel document verification before the citizens of such countries travel internationally, including travel by such citizens to the United States; and

(D) providing technical assistance for the development and maintenance of a national database built upon identified best practices for biometrics associated with visa and travel documents.

(2) IMMIGRATION AND VISA MANAGEMENT.—The progress of efforts to share information regarding high-risk individuals who may attempt to enter Canada, Mexico, or the United States, including the progress made—

(A) in implementing the Statement of Mutual Understanding on Information Sharing, signed by Canada and the United States in February 2003; and

(B) in identifying trends related to immigration fraud, including asylum and document fraud, and to analyze such trends.

(3) VISA POLICY COORDINATION AND IMMIGRATION SECURITY.—The progress made by Canada, Mexico, and the United States to enhance the security of North America by cooperating on visa policy and identifying best practices regarding immigration security, including the progress made—

(A) in enhancing consultation among officials who issue visas at the consulates or embassies of Canada, Mexico, or the United States throughout the world to share information, trends, and best practices on visa flows;

(B) in comparing the procedures and policies of Canada and the United States related to visitor visa processing, including—

(i) application process;

(ii) interview policy;

(iii) general screening procedures;

(iv) visa validity;

(v) quality control measures; and

(vi) access to appeal or review;

(C) in exploring methods for Canada, Mexico, and the United States to waive visa requirements for nationals and citizens of the same foreign countries;

(D) in providing technical assistance for the development and maintenance of a national database built upon identified best practices for biometrics associated with immigration violators;

(E) in developing and implementing an immigration security strategy for North America that works toward the development of a common security perimeter by enhancing technical assistance for programs and systems to support advanced automated reporting and risk targeting of international passengers;

(F) in sharing information on lost and stolen passports on a real-time basis among immigration or law enforcement officials of Canada, Mexico, and the United States; and

(G) in collecting 10 fingerprints from each individual who applies for a visa.

(4) NORTH AMERICAN VISITOR OVERSTAY PROGRAM.—The progress made by Canada and the United States in implementing parallel entry-exit tracking systems that, while respecting the privacy laws of both countries, share information regarding third country nationals who have overstayed their period of authorized admission in either Canada or the United States.

(5) TERRORIST WATCH LISTS.—The progress made in enhancing the capacity of the United States to combat terrorism through the coordination of counterterrorism efforts, including the progress made—

(A) in developing and implementing bilateral agreements between Canada and the United States and between Mexico and the United States to govern the sharing of terrorist watch list data and to comprehensively enumerate the uses of such data by the governments of each country;

(B) in establishing appropriate linkages among Canada, Mexico, and the United States Terrorist Screening Center; and

(C) in exploring with foreign governments the establishment of a multilateral watch list mechanism that would facilitate direct coordination between the country that identifies an individual as an individual included on a watch list, and the country that owns such list, including procedures that satisfy the security concerns and are consistent with the privacy and other laws of each participating country.

(6) MONEY LAUNDERING, CURRENCY SMUGGLING, AND ALIEN SMUGGLING.—The progress made in improving information sharing and law enforcement cooperation in combating organized crime, including the progress made—

(A) in combating currency smuggling, money laundering, alien smuggling, and trafficking in alcohol, firearms, and explosives;

(B) in implementing the agreement between Canada and the United States known as the Firearms Trafficking Action Plan;

(C) in determining the feasibility of formulating a firearms trafficking action plan between Mexico and the United States;

(D) in developing a joint threat assessment on organized crime between Canada and the United States;

(E) in determining the feasibility of formulating a joint threat assessment on organized crime between Mexico and the United States;

(F) in developing mechanisms to exchange information on findings, seizures, and capture of individuals transporting undeclared currency; and

(G) in developing and implementing a plan to combat the transnational threat of illegal drug trafficking.

(7) LAW ENFORCEMENT COOPERATION.—The progress made in enhancing law enforcement cooperation among Canada, Mexico, and the United States through enhanced technical assistance for the development and maintenance of a national database built upon identified best practices for biometrics associated with known and suspected criminals or terrorists, including exploring the formation of law enforcement teams that include personnel from the United States and Mexico, and appropriate procedures for such teams.

**SEC. 524. IMPROVING THE SECURITY OF MEXICO'S SOUTHERN BORDER.**

(a) TECHNICAL ASSISTANCE.—The Secretary of State, in coordination with the Secretary, shall work to cooperate with the head of Foreign Affairs Canada and the appropriate officials of the Government of Mexico to establish a program—

(1) to assess the specific needs of Guatemala and Belize in maintaining the security of the international borders of such countries;

(2) to use the assessment made under paragraph (1) to determine the financial and technical support needed by Guatemala and Belize from Canada, Mexico, and the United States to meet such needs;

(3) to provide technical assistance to Guatemala and Belize to promote issuance of secure passports and travel documents by such countries; and

(4) to encourage Guatemala and Belize—

(A) to control alien smuggling and trafficking;

(B) to prevent the use and manufacture of fraudulent travel documents; and

(C) to share relevant information with Mexico, Canada, and the United States.

(b) BORDER SECURITY FOR BELIZE, GUATEMALA, AND MEXICO.—The Secretary, in consultation with the Secretary of State, shall work to cooperate—

(1) with the appropriate officials of the Government of Guatemala and the Government of Belize to provide law enforcement assistance to Guatemala and Belize that specifically addresses immigration issues to increase the ability of the Government of Guatemala to dismantle human smuggling organizations and gain additional control over the international border between Guatemala and Belize; and

(2) with the appropriate officials of the Government of Belize, the Government of Guatemala, the Government of Mexico, and the governments of neighboring contiguous countries to establish a program to provide needed equipment, technical assistance, and vehicles to manage, regulate, and patrol the international borders between Mexico and Guatemala and between Mexico and Belize.

(c) TRACKING CENTRAL AMERICAN GANGS.—The Secretary of State, in coordination with the Secretary and the Director of the Federal Bureau of Investigation, shall work to cooperate with the appropriate officials of the Government of Mexico, the Government of Guatemala, the Government of Belize, and the governments of other Central American countries—

(1) to assess the direct and indirect impact on the United States and Central America of deporting violent criminal aliens;

(2) to establish a program and database to track individuals involved in Central American gang activities;

(3) to develop a mechanism that is acceptable to the governments of Belize, Guatemala, Mexico, the United States, and other appropriate countries to notify such a government if an individual suspected of gang activity will be deported to that country prior to the deportation and to provide support for the reintegration of such deportees into that country; and

(4) to develop an agreement to share all relevant information related to individuals connected with Central American gangs.

(d) LIMITATIONS ON ASSISTANCE.—Any funds made available to carry out this section shall be subject to the limitations contained in section 551 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act of 2006 (Public Law 109–102; 119 Stat. 2218).

**SEC. 525. COMBATING HUMAN SMUGGLING.**

(a) REQUIREMENT FOR PLAN.—The Secretary shall develop and implement a plan to improve coordination between the Bureau of Immigration and Customs Enforcement and the Bureau of Customs and Border Protection of the Department and any other Federal, State, local, or tribal authorities, as determined appropriate by the Secretary, to improve coordination efforts to combat human smuggling.

(b) CONTENT.—In developing the plan required by subsection (a), the Secretary shall consider—

(1) the interoperability of databases utilized to prevent human smuggling;

(2) adequate and effective personnel training;

(3) methods and programs to effectively target networks that engage in such smuggling;

(4) effective utilization of—

(A) visas for victims of trafficking and other crimes; and

(B) investigatory techniques, equipment, and procedures that prevent, detect, and prosecute international money laundering and other operations that are utilized in smuggling;

(5) joint measures with the Secretary of State to enhance intelligence sharing and cooperation with foreign governments whose citizens are preyed on by human smugglers; and

(6) other measures that the Secretary considers appropriate to combat human smuggling.

(c) REPORT.—Not later than 1 year after implementing the plan described in subsection (a), the Secretary shall submit to Congress a report on such plan, including any recommendations for legislative action to improve efforts to combating human smuggling.

(d) SAVINGS PROVISION.—Nothing in this section may be construed to provide additional authority to any State or local entity to enforce Federal immigration laws.

**SEC. 526. DEATHS AT UNITED STATES-MEXICO BORDER.**

(a) COLLECTION OF STATISTICS.—The Commissioner of the Bureau of Customs and Border Protection shall collect statistics relating to deaths occurring at the border between the United States and Mexico, including—

(1) the causes of the deaths; and

(2) the total number of deaths.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, and annually thereafter, the Commissioner of the Bureau of Customs and Border Protection shall submit to the Secretary a report that—

(1) analyzes trends with respect to the statistics collected under subsection (a) during the preceding year; and

(2) recommends actions to reduce the deaths described in subsection (a).

## CHAPTER 3—OTHER BORDER SECURITY INITIATIVES

**SEC. 531. BIOMETRIC DATA ENHANCEMENTS.**

Not later than October 1, 2007, the Secretary shall—

(1) in consultation with the Attorney General, enhance connectivity between the Automated Biometric Fingerprint Identification System (IDENT) of the Department and the Integrated Automated Fingerprint Identification System (IAFIS) of the Federal Bureau of Investigation to ensure more expeditious data searches; and

(2) in consultation with the Secretary of State, collect all fingerprints from each alien required to provide fingerprints during the alien's initial enrollment in the integrated entry and exit data system described in section 110 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1365a).

**SEC. 532. SECURE COMMUNICATION.**

The Secretary shall, as expeditiously as practicable, develop and implement a plan to improve the use of satellite communications and other technologies to ensure clear and secure 2-way communication capabilities—

(1) among all border patrol agents conducting operations between ports of entry;

(2) between border patrol agents and their respective border patrol stations;

(3) between border patrol agents and residents in remote areas along the international land borders of the United States; and

(4) between all appropriate border security agencies of the Department and State, local, and tribal law enforcement agencies.

**SEC. 533. BORDER PATROL TRAINING CAPACITY REVIEW.**

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a review of the basic training provided to border patrol agents by the Secretary to ensure that such training is provided as efficiently and cost-effectively as possible.

(b) COMPONENTS OF REVIEW.—The review under subsection (a) shall include the following components:

(1) An evaluation of the length and content of the basic training curriculum provided to new border patrol agents by the Federal Law Enforcement Training Center, including a description of how such curriculum has changed since September 11, 2001, and an evaluation of language and cultural diversity training programs provided within such curriculum.

(2) A review and a detailed breakdown of the costs incurred by the Bureau of Customs and Border Protection and the Federal Law Enforcement Training Center to train 1 new border patrol agent.

(3) A comparison, based on the review and breakdown under paragraph (2), of the costs, effectiveness, scope, and quality, including geographic characteristics, with other similar training programs provided by State and local agencies, nonprofit organizations, universities, and the private sector.

(4) An evaluation of whether utilizing comparable non-Federal training programs, proficiency testing, and long-distance learning programs may affect—

(A) the cost-effectiveness of increasing the number of border patrol agents trained per year;

(B) the per agent costs of basic training; and

(C) the scope and quality of basic training needed to fulfill the mission and duties of a border patrol agent.

**SEC. 534. US-VISIT SYSTEM.**

Not later than 6 months after the date of the enactment of this Act, the Secretary, in consultation with the heads of other appropriate Federal agencies, shall submit to Congress a schedule for—

(1) equipping all land border ports of entry of the United States with the U.S.-Visitor and Immigrant Status Indicator Technology (US-VISIT) system implemented under section 110 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1365a);

(2) developing and deploying at such ports of entry the exit component of the US-VISIT system; and

(3) making interoperable all immigration screening systems operated by the Secretary.

**SEC. 535. DOCUMENT FRAUD DETECTION.**

(a) TRAINING.—Subject to the availability of appropriations, the Secretary shall provide all Customs and Border Protection officers with training in identifying and detecting fraudulent travel documents. Such training shall be developed in consultation with the head of the Forensic Document Laboratory of the Bureau of Immigration and Customs Enforcement.

(b) FORENSIC DOCUMENT LABORATORY.—The Secretary shall provide all Customs and Border Protection officers with access to the Forensic Document Laboratory.

(c) ASSESSMENT.—

(1) REQUIREMENT FOR ASSESSMENT.—The Inspector General of the Department shall conduct an independent assessment of the accuracy and reliability of the Forensic Document Laboratory.

(2) REPORT TO CONGRESS.—Not later than 6 months after the date of the enactment of this Act, the Inspector General shall submit to Congress the findings of the assessment required by paragraph (1).

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as may be necessary for each of fiscal years 2007 through 2011 to carry out this section.

**SEC. 536. IMPROVED DOCUMENT INTEGRITY.**

(a) IN GENERAL.—Section 303 of the Enhanced Border Security and Visa Entry Reform Act of 2002 (8 U.S.C. 1732) is amended—

(1) by striking ''Attorney General'' each place it appears and inserting ''Secretary of Homeland Security'';

(2) in the heading, by striking ''**ENTRY AND EXIT DOCUMENTS**'' and inserting ''**TRAVEL AND ENTRY DOCUMENTS AND EVIDENCE OF STATUS**'';

(3) in subsection (b)(1)—

(A) by striking ''Not later than October 26, 2004, the'' and inserting ''The''; and

(B) by striking ''visas and'' both places it appears and inserting ''visas, evidence of status, and'';

(4) by redesignating subsection (d) as subsection (e); and

(5) by inserting after subsection (c) the following:

''(d) OTHER DOCUMENTS.—Not later than October 26, 2007, every document, other than an interim document, issued by the Secretary of Homeland Security, which may be used as evidence of an alien's status as an immigrant, nonimmigrant, parolee, asylee, or refugee, shall be machine-readable and tamper-resistant, and shall incorporate a biometric identifier to allow the Secretary of Homeland Security to verify electronically the identity and status of the alien.''.

**SEC. 537. CANCELLATION OF VISAS.**

Section 222(g) (8 U.S.C. 1202(g)) is amended—

(1) in paragraph (1)—

(A) by striking ''Attorney General'' and inserting ''Secretary of Homeland Security''; and

(B) by inserting ''and any other nonimmigrant visa issued by the United States that is in the possession of the alien'' after ''such visa''; and

(2) in paragraph (2)(A), by striking ''(other than the visa described in paragraph (1)) issued in a consular office located in the country of the alien's nationality'' and inserting ''(other than a visa described in paragraph (1)) issued in a consular office located in the country of the alien's nationality or foreign residence''.

**SEC. 538. BIOMETRIC ENTRY-EXIT SYSTEM.**

(a) COLLECTION OF BIOMETRIC DATA FROM ALIENS DEPARTING THE UNITED STATES.—Section 215 (8 U.S.C. 1185) is amended—

(1) by redesignating subsection (c) as subsection (g);

(2) by moving subsection (g), as redesignated by paragraph (1), to the end; and

(3) by inserting after subsection (b) the following:

''(c) The Secretary of Homeland Security is authorized to require aliens departing the United States to provide biometric data and other information relating to their immigration status.''.

(b) INSPECTION OF APPLICANTS FOR ADMISSION.—Section 235(d) (8 U.S.C. 1225(d)) is amended by adding at the end the following:

''(5) AUTHORITY TO COLLECT BIOMETRIC DATA.—In conducting inspections under subsection (b), immigration officers are authorized to collect biometric data from—

''(A) any applicant for admission or alien seeking to transit through the United States; or

''(B) any lawful permanent resident who is entering the United States and who is not regarded as seeking admission pursuant to section 101(a)(13)(C).''.

(c) COLLECTION OF BIOMETRIC DATA FROM ALIEN CREWMEN.—Section 252 (8 U.S.C. 1282)

is amended by adding at the end the following:

''(d) An immigration officer is authorized to collect biometric data from an alien crewman seeking permission to land temporarily in the United States.''.

(d) GROUNDS OF INADMISSIBILITY.—Section 212 (8 U.S.C. 1182) is amended—

(1) in subsection (a)(7), by adding at the end the following:

''(C) WITHHOLDERS OF BIOMETRIC DATA.—Any alien who knowingly fails to comply with a lawful request for biometric data under section 215(c) or 235(d) is inadmissible.''; and

(2) in subsection (d), by inserting after paragraph (1) the following:

''(2) The Secretary of Homeland Security shall determine whether a ground for inadmissibility exists with respect to an alien described in subparagraph (C) of subsection (a)(7) and may waive the application of such subparagraph for an individual alien or a class of aliens, at the discretion of the Secretary.''.

(e) IMPLEMENTATION.—Section 7208 of the 9/11 Commission Implementation Act of 2004 (8 U.S.C. 1365b) is amended—

(1) in subsection (c), by adding at the end the following:

''(3) IMPLEMENTATION.—In fully implementing the automated biometric entry and exit data system under this section, the Secretary is not required to comply with the requirements of chapter 5 of title 5, United States Code (commonly referred to as the Administrative Procedure Act) or any other law relating to rulemaking, information collection, or publication in the Federal Register.''; and

(2) in subsection (l)—

(A) by striking ''There are authorized'' and inserting the following:

''(1) IN GENERAL.—There are authorized''; and

(B) by adding at the end the following:

''(2) IMPLEMENTATION AT ALL LAND BORDER PORTS OF ENTRY.—There are authorized to be appropriated such sums as may be necessary for each of fiscal years 2007 and 2008 to implement the automated biometric entry and exit data system at all land border ports of entry.''.

**SEC. 539. BORDER STUDY.**

(a) SOUTHERN BORDER STUDY.—The Secretary, in consultation with the Attorney General, the Secretary of the Interior, the Secretary of Agriculture, the Secretary of Defense, the Secretary of Commerce, and the Administrator of the Environmental Protection Agency, shall conduct a study on the construction of a system of physical barriers along the southern international land and maritime border of the United States.

(b) REPORT.—Not later than 9 months after the date of the enactment of this Act, the Secretary shall submit to Congress a report on the study described in subsection (a).

**SEC. 540. SECURE BORDER INITIATIVE FINANCIAL ACCOUNTABILITY.**

(a) IN GENERAL.—The Inspector General of the Department shall review each contract action relating to the Secure Border Initiative having a value of more than $20,000,000, to determine whether each such action fully complies with applicable cost requirements, performance objectives, program milestones, inclusion of small, minority, and women-owned business, and time lines. The Inspector General shall complete a review under this subsection with respect to each contract action—

(1) not later than 60 days after the date of the initiation of the action; and

(2) upon the conclusion of the performance of the contract.

(b) INSPECTOR GENERAL.—

(1) ACTION.—If the Inspector General becomes aware of any improper conduct or wrongdoing in the course of conducting a contract review under subsection (a), the Inspector General shall, as expeditiously as practicable, refer information relating to such improper conduct or wrongdoing to the Secretary, or to another appropriate official of the Department, who shall determine whether to temporarily suspend the contractor from further participation in the Secure Border Initiative.

(2) REPORT.—Upon the completion of each review described in subsection (a), the Inspector General shall submit to the Secretary a report containing the findings of the review, including findings regarding—

(A) cost overruns;

(B) significant delays in contract execution;

(C) lack of rigorous departmental contract management;

(D) insufficient departmental financial oversight;

(E) bundling that limits the ability of small businesses to compete; or

(F) other high-risk business practices.

(c) REPORTS BY THE SECRETARY.—

(1) IN GENERAL.—Not later than 30 days after the receipt of each report required under subsection (b)(2), the Secretary shall submit a report, to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives, that describes—

(A) the findings of the report received from the Inspector General; and

(B) the steps the Secretary has taken, or plans to take, to address the problems identified in such report.

(2) CONTRACTS WITH FOREIGN COMPANIES.—Not later than 60 days after the initiation of each contract action with a company whose headquarters is not based in the United States, the Secretary shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives, regarding the Secure Border Initiative.

(d) REPORTS ON UNITED STATES PORTS.—Not later than 30 days after receiving information regarding a proposed purchase of a contract to manage the operations of a United States port by a foreign entity, the Committee on Foreign Investment in the United States shall submit a report to Congress that describes—

(1) the proposed purchase;

(2) any security concerns related to the proposed purchase; and

(3) the manner in which such security concerns have been addressed.

(e) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts that are otherwise authorized to be appropriated to the Office of the Inspector General of the Department, there are authorized to be appropriated to the Office, to enable the Office to carry out this section—

(1) for fiscal year 2007, not less than 5 percent of the overall budget of the Office for such fiscal year;

(2) for fiscal year 2008, not less than 6 percent of the overall budget of the Office for such fiscal year; and

(3) for fiscal year 2009, not less than 7 percent of the overall budget of the Office for such fiscal year.

**SEC. 541. MANDATORY DETENTION FOR ALIENS APPREHENDED AT OR BETWEEN PORTS OF ENTRY.**

(a) IN GENERAL.—Beginning on October 1, 2007, an alien (other than a national of Mexico) who is attempting to illegally enter the United States and who is apprehended at a United States port of entry or along the international land and maritime border of the United States shall be detained until removed or a final decision granting admission has been determined, unless the alien—

(1) is permitted to withdraw an application for admission under section 235(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1225(a)(4)) and immediately departs from the United States pursuant to such section; or

(2) is paroled into the United States by the Secretary for urgent humanitarian reasons or significant public benefit in accordance with section 212(d)(5)(A) of such Act (8 U.S.C. 1182(d)(5)(A)).

(b) REQUIREMENTS DURING INTERIM PERIOD.—Beginning 60 days after the date of the enactment of this Act and before October 1, 2007, an alien described in subsection (a) may be released with a notice to appear only if—

(1) the Secretary determines, after conducting all appropriate background and security checks on the alien, that the alien does not pose a national security risk; and

(2) the alien provides a bond of not less than $5,000.

(c) RULES OF CONSTRUCTION.—

(1) ASYLUM AND REMOVAL.—Nothing in this section shall be construed as limiting the right of an alien to apply for asylum or for relief or deferral of removal based on a fear of persecution.

(2) TREATMENT OF CERTAIN ALIENS.—The mandatory detention requirement in subsection (a) does not apply to any alien who is a native or citizen of a country in the Western Hemisphere with whose government the United States does not have full diplomatic relations.

(3) DISCRETION.—Nothing in this section shall be construed as limiting the authority of the Secretary, in the Secretary's sole unreviewable discretion, to determine whether an alien described in clause (ii) of section 235(b)(1)(B) of the Immigration and Nationality Act shall be detained or released after a finding of a credible fear of persecution (as defined in clause (v) of such section).

**SEC. 542. EVASION OF INSPECTION OR VIOLATION OF ARRIVAL, REPORTING, ENTRY, OR CLEARANCE REQUIREMENTS.**

(a) IN GENERAL.—Chapter 27 of title 18, United States Code, is amended by adding at the end the following:

**''§ 555. Evasion of inspection or during violation of arrival, reporting, entry, or clearance requirements**

''(a) PROHIBITION.—A person shall be punished as described in subsection (b) if such person attempts to elude or eludes customs, immigration, or agriculture inspection or fails to stop at the command of an officer or employee of the United States charged with enforcing the immigration, customs, or other laws of the United States at a port of entry or customs or immigration checkpoint.

''(b) PENALTIES.—A person who commits an offense described in subsection (a) shall be—

''(1) fined under this title;

''(2)(A) imprisoned for not more than 3 years, or both;

''(B) imprisoned for not more than 10 years, or both, if in commission of this violation, attempts to inflict or inflicts bodily injury (as defined in section 1365(g) of this title); or

''(C) imprisoned for any term of years or for life, or both, if death results, and may be sentenced to death; or

''(3) both fined and imprisoned under this subsection.

''(c) CONSPIRACY.—If 2 or more persons conspire to commit an offense described in subsection (a), and 1 or more of such persons do any act to effect the object of the conspiracy, each shall be punishable as a principal, except that the sentence of death may not be imposed.

''(d) PRIMA FACIE EVIDENCE.—For the purposes of seizure and forfeiture under applicable law, in the case of use of a vehicle or other conveyance in the commission of this offense, or in the case of disregarding or disobeying the lawful authority or command of any officer or employee of the United States under section 111(b), such conduct shall constitute prima facie evidence of smuggling aliens or merchandise.''.

(b) CONFORMING AMENDMENT.—The table of sections for chapter 27 of title 18, United States Code, is amended by adding at the end the following:

''555. Evasion of inspection or during violation of arrival, reporting, entry, or clearance requirements''.

(c) FAILURE TO OBEY BORDER ENFORCEMENT OFFICERS.—Section 111 of title 18, United States Code, is amended by inserting after subsection (b) the following:

''(c) FAILURE TO OBEY LAWFUL ORDERS OF BORDER ENFORCEMENT OFFICERS.—Whoever willfully disregards or disobeys the lawful authority or command of any officer or employee of the United States charged with enforcing the immigration, customs, or other laws of the United States while engaged in, or on account of, the performance of official duties shall be fined under this title or imprisoned for not more than 5 years, or both.''.

**SEC. 543. TEMPORARY NATIONAL GUARD SUPPORT FOR SECURING THE SOUTHERN LAND BORDER OF THE UNITED STATES.**

(a) AUTHORITY TO PROVIDE ASSISTANCE.—

(1) ANNUAL TRAINING DUTY.—With the approval of the Secretary of Defense, the Governor of a State may order any units or personnel of the National Guard of such State to perform annual training duty under section 502(a) of title 32, United States Code, to carry out in any State along the southern land border of the United States the activities authorized in subsection (b), for the purpose of securing such border. Such duty shall not exceed 21 days in any year.

(2) OTHER SUPPORT.—With the approval of the Secretary of Defense, the Governor of a State may order any units or personnel of the National Guard of such State to perform duty under section 502(f) of title 32, United States Code, to provide command, control, and continuity of support for units or personnel performing annual training duty under paragraph (1).

(b) AUTHORIZED ACTIVITIES.—The activities authorized by this subsection are any of the following:

(1) Ground reconnaissance activities.

(2) Airborne reconnaissance activities.

(3) Logistical support.

(4) Provision of translation services and training.

(5) Administrative support services.

(6) Technical training services.

(7) Emergency medical assistance and services.

(8) Communications services.

(9) Rescue of aliens in peril.

(10) Construction of roadways, patrol roads, fences, barriers, and other facilities to secure the southern land border of the United States.

(11) Ground and air transportation.

(c) COOPERATIVE AGREEMENTS.—Units and personnel of the National Guard of a State may perform activities in another State under subsection (a) only pursuant to the terms of an emergency management assistance compact or other cooperative arrangement entered into between Governors of such States for purposes of this section, and only with the approval of the Secretary of Defense.

(d) COORDINATION OF ASSISTANCE.—The Secretary shall, in consultation with the Secretary of Defense and the Governors of the States concerned, coordinate the performance of activities under this section by units and personnel of the National Guard.

(e) ANNUAL TRAINING.—Annual training duty performed by members of the National Guard under subsection (a) shall be appropriate for the units and individual members concerned, taking into account the types of units and military occupational specialties of individual members performing such duty.

(f) DEFINITIONS.—In this section:

(1) GOVERNOR OF A STATE.—The term ''Governor of a State'' means, in the case of the District of Columbia, the Commanding General of the National Guard of the District of Columbia.

(2) STATE.—The term ''State'' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, and the Virgin Islands.

(3) STATE ALONG THE SOUTHERN BORDER OF THE UNITED STATES.—The term ''State along the southern border of the United States'' means each of the following:

(A) The State of Arizona.

(B) The State of California.

(C) The State of New Mexico.

(D) The State of Texas.

(g) DURATION OF AUTHORITY.—The authority of this section shall expire on January 1, 2009.

(h) PROHIBITION ON DIRECT PARTICIPATION IN LAW ENFORCEMENT.—Activities carried out under the authority of this section shall not include the direct participation of a member of the National Guard in a search, seizure, arrest, or similar activity.

**SEC. 544. REPORT ON INCENTIVES TO ENCOURAGE CERTAIN MEMBERS AND FORMER MEMBERS OF THE ARMED FORCES TO SERVE IN THE BUREAU OF CUSTOMS AND BORDER PROTECTION.**

(a) REPORT REQUIRED.—Not later than 60 days after the date of the enactment of this Act, the Secretary and the Secretary of Defense shall jointly submit to the appropriate committees of Congress a report assessing the desirability and feasibility of offering incentives to covered members and former members of the Armed Forces for the purpose of encouraging such members to serve in the Bureau of Customs and Border Protection.

(b) COVERED MEMBERS AND FORMER MEMBERS OF THE ARMED FORCES.—For purposes of this section, covered members and former members of the Armed Forces are the following:

(1) Members of the reserve components of the Armed Forces.

(2) Former members of the Armed Forces within 2 years of separation from service in the Armed Forces.

(c) REQUIREMENTS AND LIMITATIONS.—

(1) NATURE OF INCENTIVES.—In considering incentives for purposes of the report required by subsection (a), the Secretaries shall consider such incentives, whether monetary or otherwise and whether or not authorized by current law or regulations, as the Secretaries jointly consider appropriate.

(2) TARGETING OF INCENTIVES.—In assessing any incentive for purposes of the report, the Secretaries shall give particular attention to the utility of such incentive in—

(A) encouraging service in the Bureau of Customs and Border Protection after service in the Armed Forces by covered members and former members of the Armed Forces who have provided border patrol or border security assistance to the Bureau as part of their duties as members of the Armed Forces; and

(B) leveraging military training and experience by accelerating training, or allowing credit to be applied to related areas of training, required for service with the Bureau of Customs and Border Protection.

(3) PAYMENT.—In assessing incentives for purposes of the report, the Secretaries shall assume that any costs of such incentives shall be borne by the Department.

(d) ELEMENTS.—The report required by subsection (a) shall include the following:

(1) A description of various monetary and non-monetary incentives considered for purposes of the report.

(2) An assessment of the desirability and feasibility of utilizing any such incentive for the purpose specified in subsection (a), including an assessment of the particular utility of such incentive in encouraging service in the Bureau of Customs and Border Protection after service in the Armed Forces by covered members and former members of the Armed Forces described in subsection (c)(2).

(3) Any other matters that the Secretaries jointly consider appropriate.

(e) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term ''appropriate committees of Congress'' means—

(1) the Committees on Armed Services, Homeland Security and Governmental Affairs, and Appropriations of the Senate; and

(2) the Committees on Armed Services, Homeland Security, and Appropriations of the House of Representatives.

## CHAPTER 4—BORDER TUNNEL PREVENTION ACT

**SEC. 546. SHORT TITLE.**

This chapter may be cited as the ''Border Tunnel Prevention Act''.

**SEC. 547. CONSTRUCTION OF BORDER TUNNEL OR PASSAGE.**

(a) IN GENERAL.—Chapter 27 of title 18, United States Code, as amended by section 542, is further amended by adding at the end the following:

**''§ 556. Border tunnels and passages**

''(a) Any person who knowingly constructs or finances the construction of a tunnel or subterranean passage that crosses the international border between the United States and another country, other than a lawfully authorized tunnel or passage known to the Secretary of Homeland Security and subject to inspection by the Bureau of Immigration and Customs Enforcement, shall be fined under this title and imprisoned for not more than 20 years.

''(b) Any person who knows or recklessly disregards the construction or use of a tunnel or passage described in subsection (a) on land that the person owns or controls shall be fined under this title and imprisoned for not more than 10 years.

''(c) Any person who uses a tunnel or passage described in subsection (a) to unlawfully smuggle an alien, goods (in violation of section 545), controlled substances, weapons of mass destruction (including biological weapons), or a member of a terrorist organization (as defined in section 212(a)(3)(B)(vi) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(vi))) shall be subject to a maximum term of imprisonment that is twice the maximum term of imprisonment that would have otherwise been applicable had the unlawful activity not made use of such a tunnel or passage.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 27 of title 18, United States Code, as amended by section 542, is further amended by adding at the end the following:

''Sec. 556. Border tunnels and passages''.

(c) CRIMINAL FORFEITURE.—Section 982(a)(6) of title 18, United States Code, is amended by inserting ''556,'' before ''1425,''.

**SEC. 548. DIRECTIVE TO THE UNITED STATES SENTENCING COMMISSION.**

(a) IN GENERAL.—Pursuant to its authority under section 994 of title 28, United States

Code, and in accordance with this section, the United States Sentencing Commission shall promulgate or amend sentencing guidelines to provide for increased penalties for persons convicted of offenses described in section 556 of title 18, United States Code, as added by section 547.

(b) REQUIREMENTS.—In carrying out this section, the United States Sentencing Commission shall—

(1) ensure that the sentencing guidelines, policy statements, and official commentary reflect the serious nature of the offenses described in section 556 of title 18, United States Code, and the need for aggressive and appropriate law enforcement action to prevent such offenses;

(2) provide adequate base offense levels for offenses under such section;

(3) account for any aggravating or mitigating circumstances that might justify exceptions, including—

(A) the use of a tunnel or passage described in subsection (a) of such section to facilitate other felonies; and

(B) the circumstances for which the sentencing guidelines currently provide applicable sentencing enhancements;

(4) ensure reasonable consistency with other relevant directives, other sentencing guidelines, and statutes;

(5) make any necessary and conforming changes to the sentencing guidelines and policy statements; and

(6) ensure that the sentencing guidelines adequately meet the purposes of sentencing set forth in section 3553(a)(2) of title 18, United States Code.

## CHAPTER 5—RAPID RESPONSE MEASURES

### SEC. 551. DEPLOYMENT OF BORDER PATROL AGENTS.

(a) EMERGENCY DEPLOYMENT OF BORDER PATROL AGENTS.—

(1) IN GENERAL.—If the Governor of a State on an international border of the United States declares an international border security emergency and requests additional United States border patrol agents (referred to in this chapter as ''agents'') from the Secretary, the Secretary, subject to paragraphs (1) and (2), may provide the State with not more than 1,000 additional agents for the purpose of patrolling and defending the international border, in order to prevent individuals from crossing the international border into the United States at any location other than an authorized port of entry.

(2) CONSULTATION.—Upon receiving a request for agents under paragraph (1), the Secretary, after consultation with the President, shall grant such request to the extent that providing such agents will not significantly impair the Department's ability to provide border security for any other State.

(3) COLLECTIVE BARGAINING.—Emergency deployments under this subsection shall be made in accordance with all applicable collective bargaining agreements and obligations.

(b) ELIMINATION OF FIXED DEPLOYMENT OF BORDER PATROL AGENTS.—The Secretary shall ensure that agents are not precluded from performing patrol duties and apprehending violators of law, except in unusual circumstances if the temporary use of fixed deployment positions is necessary.

(c) INCREASE IN FULL-TIME BORDER PATROL AGENTS.—Section 5202(a)(1) of the Intelligence Reform and Terrorism Prevention Act of 2004 (118 Stat. 3734), as amended by section 511(b)(2), is further amended by striking ''2,000'' and inserting ''3,000''.

### SEC. 552. BORDER PATROL MAJOR ASSETS.

(a) CONTROL OF BORDER PATROL ASSETS.—The United States Border Patrol shall have complete and exclusive administrative and operational control over all the assets utilized in carrying out its mission, including, aircraft, watercraft, vehicles, detention space, transportation, and all of the personnel associated with such assets.

(b) HELICOPTERS AND POWER BOATS.—

(1) HELICOPTERS.—The Secretary shall increase, by not less than 100, the number of helicopters under the control of the United States Border Patrol. The Secretary shall ensure that appropriate types of helicopters are procured for the various missions being performed.

(2) POWER BOATS.—The Secretary shall increase, by not less than 250, the number of power boats under the control of the United States Border Patrol. The Secretary shall ensure that the types of power boats that are procured are appropriate for both the waterways in which they are used and the mission requirements.

(3) USE AND TRAINING.—The Secretary shall—

(A) establish an overall policy on how the helicopters and power boats procured under this subsection will be used; and

(B) implement training programs for the agents who use such assets, including safe operating procedures and rescue operations.

(c) MOTOR VEHICLES.—

(1) QUANTITY.—The Secretary shall establish a fleet of motor vehicles appropriate for use by the United States Border Patrol that will permit a ratio of not less than 1 police-type vehicle for every 3 agents. These police-type vehicles shall be replaced not less than every 3 years. The Secretary shall ensure that there are sufficient numbers and types of other motor vehicles to support the mission of the United States Border Patrol.

(2) FEATURES.—All motor vehicles purchased for the United States Border Patrol shall—

(A) be appropriate for the mission of the United States Border Patrol; and

(B) have a panic button and a global positioning system device that is activated solely in emergency situations to track the location of agents in distress.

### SEC. 553. ELECTRONIC EQUIPMENT.

(a) PORTABLE COMPUTERS.—The Secretary shall ensure that each police-type motor vehicle in the fleet of the United States Border Patrol is equipped with a portable computer with access to all necessary law enforcement databases and otherwise suited to the unique operational requirements of the United States Border Patrol.

(b) RADIO COMMUNICATIONS.—The Secretary shall augment the existing radio communications system so that all law enforcement personnel working in each area where United States Border Patrol operations are conducted have clear and encrypted 2-way radio communication capabilities at all times. Each portable communications device shall be equipped with a panic button and a global positioning system device that is activated solely in emergency situations to track the location of agents in distress.

(c) HAND-HELD GLOBAL POSITIONING SYSTEM DEVICES.—The Secretary shall ensure that each United States Border Patrol agent is issued a state-of-the-art hand-held global positioning system device for navigational purposes.

(d) NIGHT VISION EQUIPMENT.—The Secretary shall ensure that sufficient quantities of state-of-the-art night vision equipment are procured and maintained to enable each United States Border Patrol agent working during the hours of darkness to be equipped with a portable night vision device.

### SEC. 554. PERSONAL EQUIPMENT.

(a) BODY ARMOR.—The Secretary shall ensure that every agent is issued high-quality body armor that is appropriate for the climate and risks faced by the agent. Each agent shall be permitted to select from among a variety of approved brands and styles. Agents shall be strongly encouraged, but not required, to wear such body armor whenever practicable. All body armor shall be replaced not less than every 5 years.

(b) WEAPONS.—The Secretary shall ensure that agents are equipped with weapons that are reliable and effective to protect themselves, their fellow agents, and innocent third parties from the threats posed by armed criminals. The Secretary shall ensure that the policies of the Department authorize all agents to carry weapons that are suited to the potential threats that they face.

(c) UNIFORMS.—The Secretary shall ensure that all agents are provided with all necessary uniform items, including outerwear suited to the climate, footwear, belts, holsters, and personal protective equipment, at no cost to such agents. Such items shall be replaced at no cost to such agents as they become worn, unserviceable, or no longer fit properly.

### SEC. 555. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary such sums as may be necessary for each of the fiscal years 2007 through 2011 to carry out this chapter.

## Subtitle B—Border Law Enforcement Relief

## CHAPTER 1—BORDER LAW ENFORCEMENT RELIEF ACT

### SEC. 561. SHORT TITLE.

This chapter may be cited as the ''Border Law Enforcement Relief Act of 2006''.

### SEC. 562. FINDINGS.

Congress finds the following:

(1) It is the obligation of the Federal Government of the United States to adequately secure the Nation's borders and prevent the flow of undocumented persons and illegal drugs into the United States.

(2) Despite the fact that the United States Border Patrol apprehends over 1,000,000 people each year trying to illegally enter the United States, according to the Congressional Research Service, the net growth in the number of unauthorized aliens has increased by approximately 500,000 each year. The Southwest border accounts for approximately 94 percent of all migrant apprehensions each year. Currently, there are an estimated 11,000,000 unauthorized aliens in the United States.

(3) The border region is also a major corridor for the shipment of drugs. According to the El Paso Intelligence Center, 65 percent of the narcotics that are sold in the markets of the United States enter the country through the Southwest border.

(4) Border communities continue to incur significant costs due to the lack of adequate border security. A 2001 study by the United States-Mexico Border Counties Coalition found that law enforcement and criminal justice expenses associated with illegal immigration exceed $89,000,000 annually for the Southwest border counties.

(5) In August 2005, the States of New Mexico and Arizona declared states of emergency in order to provide local law enforcement immediate assistance in addressing criminal activity along the Southwest border.

(6) While the Federal Government provides States and localities assistance in covering costs related to the detention of certain criminal aliens and the prosecution of Federal drug cases, local law enforcement along the border are provided no assistance in covering such expenses and must use their limited resources to combat drug trafficking, human smuggling, kidnappings, the destruction of private property, and other border-related crimes.

(7) The United States shares 5,525 miles of border with Canada and 1,989 miles with

Mexico. Many of the local law enforcement agencies located along the border are small, rural departments charged with patrolling large areas of land. Counties along the Southwest United States-Mexico border are some of the poorest in the country and lack the financial resources to cover the additional costs associated with illegal immigration, drug trafficking, and other border-related crimes.

(8) Federal assistance is required to help local law enforcement operating along the border address the unique challenges that arise as a result of their proximity to an international border and the lack of overall border security in the region.

**SEC. 563. BORDER RELIEF GRANT PROGRAM.**

(a) GRANTS AUTHORIZED.—

(1) IN GENERAL.—The Secretary is authorized to award grants, subject to the availability of appropriations, to an eligible law enforcement agency to provide assistance to such agency to address—

(A) criminal activity that occurs in the jurisdiction of such agency by virtue of such agency's proximity to the United States border; and

(B) the impact of any lack of security along the United States border.

(2) DURATION.—Grants may be awarded under this subsection during fiscal years 2007 through 2011.

(3) COMPETITIVE BASIS.—The Secretary shall award grants under this subsection on a competitive basis, except that the Secretary shall give priority to applications from any eligible law enforcement agency serving a community—

(A) with a population of less than 50,000; and

(B) located no more than 100 miles from a United States border with—

(i) Canada; or

(ii) Mexico.

(b) USE OF FUNDS.—Grants awarded pursuant to subsection (a) may only be used to provide additional resources for an eligible law enforcement agency to address criminal activity occurring along any such border, including—

(1) to obtain equipment;

(2) to hire additional personnel;

(3) to upgrade and maintain law enforcement technology;

(4) to cover operational costs, including overtime and transportation costs; and

(5) such other resources as are available to assist that agency.

(c) APPLICATION.—

(1) IN GENERAL.—Each eligible law enforcement agency seeking a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

(2) CONTENTS.—Each application submitted pursuant to paragraph (1) shall—

(A) describe the activities for which assistance under this section is sought; and

(B) provide such additional assurances as the Secretary determines to be essential to ensure compliance with the requirements of this section.

(d) DEFINITIONS.—In this section:

(1) ELIGIBLE LAW ENFORCEMENT AGENCY.—The term ''eligible law enforcement agency'' means a tribal, State, or local law enforcement agency—

(A) located in a county no more than 100 miles from a United States border with—

(i) Canada; or

(ii) Mexico; or

(B) located in a county more than 100 miles from any such border, but where such county has been certified by the Secretary as a High Impact Area.

(2) HIGH IMPACT AREA.—The term ''High Impact Area'' means any county designated by the Secretary as such, taking into consideration—

(A) whether local law enforcement agencies in that county have the resources to protect the lives, property, safety, or welfare of the residents of that county;

(B) the relationship between any lack of security along the United States border and the rise, if any, of criminal activity in that county; and

(C) any other unique challenges that local law enforcement face due to a lack of security along the United States border.

(e) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated $50,000,000 for each of fiscal years 2007 through 2011 to carry out the provisions of this section.

(2) DIVISION OF AUTHORIZED FUNDS.—Of the amounts authorized under paragraph (1)—

(A) ⅔ shall be set aside for eligible law enforcement agencies located in the 6 States with the largest number of undocumented alien apprehensions; and

(B) ⅓ shall be set aside for areas designated as a High Impact Area under subsection (d).

(f) SUPPLEMENT NOT SUPPLANT.—Amounts appropriated for grants under this section shall be used to supplement and not supplant other State and local public funds obligated for the purposes provided under this subtitle.

**SEC. 564. ENFORCEMENT OF FEDERAL IMMIGRATION LAW.**

Nothing in this chapter shall be construed to authorize State or local law enforcement agencies or their officers to exercise Federal immigration law enforcement authority.

## CHAPTER 2—ADDITIONAL LAW ENFORCEMENT RELIEF

**SEC. 571. STATE CRIMINAL ALIEN ASSISTANCE PROGRAM.**

(a) REIMBURSEMENT FOR COSTS ASSOCIATED WITH PROCESSING CRIMINAL ILLEGAL ALIENS.—The Secretary shall reimburse States and units of local government for costs associated with processing undocumented criminal aliens through the criminal justice system, including—

(1) indigent defense;

(2) criminal prosecution;

(3) autopsies;

(4) translators and interpreters; and

(5) court costs.

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) PROCESSING CRIMINAL ILLEGAL ALIENS.—There are authorized to be appropriated $400,000,000 for each of the fiscal years 2007 through 2012 to carry out subsection (a).

(2) COMPENSATION UPON REQUEST.—Section 241(i)(5) (8 U.S.C. 1231(i)) is amended to read as follows:

''(5) There are authorized to be appropriated to carry this subsection—

''(A) such sums as may be necessary for fiscal year 2007;

''(B) $750,000,000 for fiscal year 2008;

''(C) $850,000,000 for fiscal year 2009; and

''(D) $950,000,000 for each of the fiscal years 2010 through 2012.''.

(c) TECHNICAL AMENDMENT.—Section 501 of the Immigration Reform and Control Act of 1986 (8 U.S.C. 1365) is amended by striking ''Attorney General'' each place it appears and inserting ''Secretary of Homeland Security''.

**SEC. 572. TRANSPORTATION AND PROCESSING OF ILLEGAL ALIENS APPREHENDED BY STATE AND LOCAL LAW ENFORCEMENT OFFICERS.**

(a) IN GENERAL.—The Secretary shall provide sufficient transportation and officers to take illegal aliens apprehended by State and local law enforcement officers into custody for processing at a detention facility operated by the Department.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for each of fiscal years 2007 through 2011 to carry out this section.

**SEC. 573. EXPEDITED REMOVAL OF CRIMINAL ALIENS.**

(a) IN GENERAL.—Section 238 (8 U.S.C. 1228) is amended—

(1) by striking the section heading and inserting ''**EXPEDITED REMOVAL OF CRIMINAL ALIENS**'';

(2) in subsection (a), by striking the subsection heading and inserting: ''EXPEDITED REMOVAL FROM CORRECTIONAL FACILITIES.—'';

(3) in subsection (b), by striking the subsection heading and inserting: ''REMOVAL OF CRIMINAL ALIENS.—'';

(4) in subsection (b), by striking paragraphs (1) and (2) and inserting the following:

''(1) IN GENERAL.—The Secretary of Homeland Security may, in the case of an alien described in paragraph (2), determine the deportability of such alien and issue an order of removal pursuant to the procedures set forth in this subsection or section 240.

''(2) ALIENS DESCRIBED.—An alien is described in this paragraph if the alien—

''(A) has not been lawfully admitted to the United States for permanent residence; and

''(B) was convicted of any criminal offense described in subparagraph (A)(iii), (C), or (D) of section 237(a)(2).'';

(5) in the subsection (c) that relates to presumption of deportability, by striking ''convicted of an aggravated felony'' and inserting ''described in subsection (b)(2)'';

(6) by redesignating the subsection (c) that relates to judicial removal as subsection (d); and

(7) in subsection (d)(5) (as so redesignated), by striking '', who is deportable under this Act,''.

(b) APPLICATION TO CERTAIN ALIENS.—

(1) IN GENERAL.—Section 235(b)(1)(A)(iii) (8 U.S.C. 1225(b)(1)(A)(iii)) is amended—

(A) in subclause (I), by striking ''Attorney General'' and inserting ''Secretary of Homeland Security'' each place it appears; and

(B) by adding at the end the following new subclause:

''(III) EXCEPTION.—Notwithstanding subclauses (I) and (II), the Secretary of Homeland Security shall apply clauses (i) and (ii) of this subparagraph to any alien (other than an alien described in subparagraph (F)) who is not a national of a country contiguous to the United States, who has not been admitted or paroled into the United States, and who is apprehended within 100 miles of an international land border of the United States and within 14 days of entry.''.

(2) EXCEPTION.—Section 235(b)(1)(F) (8 U.S.C. 1225(b)(1)(F)) is amended to read as follows:

''(F) EXCEPTION.—Subparagraph (A) shall not apply to an alien—

''(i) who is a native or citizen of a country in the Western Hemisphere with whose government the United States does not have full diplomatic relations; and

''(ii) who—

''(I) arrives by aircraft at a port of entry; or

''(II) is present in the United States and arrived in any manner at or between a port of entry.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to all aliens apprehended or convicted on or after such date.

**SEC. 574. INCREASE OF FEDERAL DETENTION SPACE AND THE UTILIZATION OF FACILITIES IDENTIFIED FOR CLOSURE AS A RESULT OF THE DEFENSE BASE CLOSURE REALIGNMENT ACT OF 1990.**

(a) CONSTRUCTION OR ACQUISITION OF DETENTION FACILITIES.—

(1) IN GENERAL.—The Secretary shall construct or acquire, in addition to existing facilities for the detention of aliens, at least 20 detention facilities in the United States that have the capacity to detain a combined total of not less than 20,000 individuals at any time for aliens detained pending removal or a decision on removal of such aliens from the United States subject to available appropriations.

(b) CONSTRUCTION OF OR ACQUISITION OF DETENTION FACILITIES.—

(1) REQUIREMENT TO CONSTRUCT OR ACQUIRE.—The Secretary shall construct or acquire additional detention facilities in the United States to accommodate the detention beds required by section 5204(a) of the Intelligence Reform and Terrorism Protection Act of 2004, as amended by subsection (a), subject to available appropriations.

(2) USE OF ALTERNATE DETENTION FACILITIES.—Subject to the availability of appropriations, the Secretary shall fully utilize all possible options to cost effectively increase available detention capacities, and shall utilize detention facilities that are owned and operated by the Federal Government if the use of such facilities is cost effective.

(3) USE OF INSTALLATIONS UNDER BASE CLOSURE LAWS.—In acquiring additional detention facilities under this subsection, the Secretary shall consider the transfer of appropriate portions of military installations approved for closure or realignment under the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) for use in accordance with subsection (a).

(4) DETERMINATION OF LOCATION.—The location of any detention facility constructed or acquired in accordance with this subsection shall be determined, with the concurrence of the Secretary, by the senior officer responsible for Detention and Removal Operations in the Department. The detention facilities shall be located so as to enable the officers and employees of the Department to increase to the maximum extent practicable the annual rate and level of removals of illegal aliens from the United States.

(c) ANNUAL REPORT TO CONGRESS.—Not later than 1 year after the date of the enactment of this Act, and annually thereafter, in consultation with the heads of other appropriate Federal agencies, the Secretary shall submit to Congress an assessment of the additional detention facilities and bed space needed to detain unlawful aliens apprehended at United States ports of entry or along the international land borders of the United States.

(d) TECHNICAL AND CONFORMING AMENDMENT.—Section 241(g)(1) (8 U.S.C. 1231(g)(1)) is amended by striking ''may expend'' and inserting ''shall expend''.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

**SEC. 575. NORTHERN BORDER PROSECUTION INITIATIVE.**

(a) INITIATIVE REQUIRED.—

(1) IN GENERAL.—From amounts made available to carry out this section, the Attorney General, acting through the Director of the Bureau of Justice Assistance of the Office of Justice Programs, shall establish and carry out a program, to be known as the Northern Border Prosecution Initiative, to provide funds to reimburse eligible northern border entities for costs incurred by those entities for handling case dispositions of criminal cases that are federally initiated but federally declined-referred.

(2) RELATION WITH SOUTHWESTERN BORDER PROSECUTION INITIATIVE.—The program established in paragraph (1) shall—

(A) be modeled after the Southwestern Border Prosecution Initiative; and

(B) serve as a partner program to that initiative to reimburse local jurisdictions for processing Federal cases.

(b) PROVISION AND ALLOCATION OF FUNDS.—Funds provided under the program established in subsection (a) shall be—

(1) provided in the form of direct reimbursements; and

(2) allocated in a manner consistent with the manner under which funds are allocated under the Southwestern Border Prosecution Initiative.

(c) USE OF FUNDS.—Funds provided to an eligible northern border entity under this section may be used by the entity for any lawful purpose, including:

(1) prosecution and related costs;

(2) court costs;

(3) costs of courtroom technology;

(4) costs of constructing holding spaces;

(5) costs of administrative staff;

(6) costs of defense counsel for indigent defendants; and

(7) detention costs, including pretrial and posttrial detention.

(d) DEFINITIONS.—In this section:

(1) CASE DISPOSITION.—The term ''case disposition''—

(A) for purposes of the Northern Border Prosecution Initiative, refers to the time between the arrest of a suspect and the resolution of the criminal charges through a county or State judicial or prosecutorial process; and

(B) does not include incarceration time for sentenced offenders or time spent by prosecutors on judicial appeals.

(2) ELIGIBLE NORTHERN BORDER ENTITY.—The term ''eligible northern border entity'' means—

(A) the States of Alaska, Idaho, Maine, Michigan, Minnesota, Montana, New Hampshire, New York, North Dakota, Ohio, Pennsylvania, Vermont, Washington, and Wisconsin; or

(B) any unit of local government within a State referred to in subparagraph (A).

(3) FEDERALLY DECLINED-REFERRED.—The term ''federally declined-referred''—

(A) means, with respect to a criminal case, that a decision has been made in that case by a United States Attorney or a Federal law enforcement agency during a Federal investigation to no longer pursue Federal criminal charges against a defendant and to refer such investigation to a State or local jurisdiction for possible prosecution; and

(B) includes a decision made on a case-by-case basis as well as a decision made pursuant to a general policy or practice or pursuant to prosecutorial discretion.

(4) FEDERALLY INITIATED.—The term ''federally initiated'' means, with respect to a criminal case, that the case results from a criminal investigation or an arrest involving Federal law enforcement authorities for a potential violation of Federal criminal law, including investigations resulting from multi-jurisdictional task forces.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $28,000,000 for fiscal year 2006 and such sums as may be necessary for fiscal years thereafter.

**SEC. 576. SOUTHWEST BORDER PROSECUTION INITIATIVE.**

(a) REIMBURSEMENT TO STATE AND LOCAL PROSECUTORS FOR PROSECUTING FEDERALLY INITIATED DRUG CASES.—The Attorney General shall, subject to the availability of appropriations, reimburse Southern Border State and county prosecutors for prosecuting federally initiated and referred drug cases.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $50,000,000 for each of the fiscal years 2007 through 2012 to carry out subsection (a).

**SEC. 577. LAW ENFORCEMENT AUTHORITY OF STATES AND POLITICAL SUBDIVISIONS AND TRANSFER TO FEDERAL CUSTODY.**

(a) IN GENERAL.—Title II (8 U.S.C. 1151 et. seq.) is amended by adding after section 240C the following:

**''SEC. 240D. LAW ENFORCEMENT AUTHORITY OF STATES AND POLITICAL SUBDIVISIONS AND TRANSFER OF ALIENS TO FEDERAL CUSTODY.**

''(a) AUTHORITY.—Notwithstanding any other provision of law, law enforcement personnel of a State, or a political subdivision of a State, have the inherent authority of a sovereign entity to investigate, apprehend, arrest, detain, or transfer to Federal custody (including transporting across State lines to detention centers) an alien for the purpose of assisting in the enforcement of the criminal provisions of the immigration laws of the United States in the normal course of carrying out the law enforcement duties of such personnel. This State authority has never been displaced or preempted by a Federal law.

''(b) CONSTRUCTION.—Nothing in this section shall be construed to require law enforcement personnel of a State or a political subdivision to assist in the enforcement of the immigration laws of the United States.

''(c) TRANSFER.—If the head of a law enforcement entity of a State (or, if appropriate, a political subdivision of the State) exercising authority with respect to the apprehension or arrest of an alien submits a request to the Secretary of Homeland Security that the alien be taken into Federal custody, the Secretary of Homeland Security—

''(1) shall—

''(A) deem the request to include the inquiry to verify immigration status described in section 642(c) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1373(c)), and expeditiously inform the requesting entity whether such individual is an alien lawfully admitted to the United States or is otherwise lawfully present in the United States; and

''(B) if the individual is an alien who is not lawfully admitted to the United States or otherwise is not lawfully present in the United States—

''(i) take the illegal alien into the custody of the Federal Government not later than 72 hours after—

''(I) the conclusion of the State charging process or dismissal process; or

''(II) the illegal alien is apprehended, if no State charging or dismissal process is required; or

''(ii) request that the relevant State or local law enforcement agency temporarily detain or transport the alien to a location for transfer to Federal custody; and

''(2) shall designate at least 1 Federal, State, or local prison or jail or a private contracted prison or detention facility within each State as the central facility for that State to transfer custody of aliens to the Department of Homeland Security.

''(d) REIMBURSEMENT.—

''(1) IN GENERAL.—The Secretary of Homeland Security shall reimburse a State, or a political subdivision of a State, for expenses, as verified by the Secretary, incurred by the State or political subdivision in the detention and transportation of an alien as described in subparagraphs (A) and (B) of subsection (c)(1).

''(2) COST COMPUTATION.—Compensation provided for costs incurred under subparagraphs (A) and (B) of subsection (c)(1) shall be the sum of—

''(A) the product of—

''(i) the average daily cost of incarceration of a prisoner in the relevant State, as determined by the chief executive officer of a

State (or, as appropriate, a political subdivision of the State); multiplied by

''(ii) the number of days that the alien was in the custody of the State or political subdivision;

''(B) the cost of transporting the alien from the point of apprehension or arrest to the location of detention, and if the location of detention and of custody transfer are different, to the custody transfer point; and

''(C) the cost of uncompensated emergency medical care provided to a detained alien during the period between the time of transmittal of the request described in subsection (c) and the time of transfer into Federal custody.

''(e) REQUIREMENT FOR APPROPRIATE SECURITY.—The Secretary of Homeland Security shall ensure that—

''(1) aliens incarcerated in a Federal facility pursuant to this section are held in facilities which provide an appropriate level of security; and

''(2) aliens detained solely for civil violations of Federal immigration law are separated within a facility or facilities, if practicable.

''(f) REQUIREMENT FOR SCHEDULE.—In carrying out this section, the Secretary of Homeland Security shall establish a regular circuit and schedule for the prompt transportation of apprehended aliens from the custody of those States, and political subdivisions of States, which routinely submit requests described in subsection (c), into Federal custody.

''(g) AUTHORITY FOR CONTRACTS.—

''(1) IN GENERAL.—The Secretary of Homeland Security may enter into contracts or cooperative agreements with appropriate State and local law enforcement and detention agencies to implement this section.

''(2) DETERMINATION BY SECRETARY.—Before entering into a contract or cooperative agreement with a State or political subdivision of a State under paragraph (1), the Secretary shall determine whether the State, or if appropriate, the political subdivision in which the agencies are located, has in place any formal or informal policy that violates section 642 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1373). The Secretary shall not allocate any of the funds made available under this section to any State or political subdivision that has in place a policy that violates such section.''.

(b) AUTHORIZATION OF APPROPRIATIONS FOR THE DETENTION AND TRANSPORTATION TO FEDERAL CUSTODY OF ALIENS NOT LAWFULLY PRESENT.—There are authorized to be appropriated $850,000,000 for fiscal year 2007 and for each subsequent fiscal year for the detention and removal of aliens not lawfully present in the United States under the Immigration and Nationality Act (8 U.S.C. 1101 et. seq.).

## Subtitle C—Border Infrastructure and Technology Modernization

## CHAPTER 1—BORDER INFRASTRUCTURE AND TECHNOLOGY MODERNIZATION ACT

### SEC. 581. SHORT TITLE.

This chapter may be cited as the ''Border Infrastructure and Technology Modernization Act''.

### SEC. 582. DEFINITIONS.

In this chapter:

(1) COMMISSIONER.—The term ''Commissioner'' means the Commissioner of the Bureau of Customs and Border Protection of the Department.

(2) MAQUILADORA.—The term ''maquiladora'' means an entity located in Mexico that assembles and produces goods from imported parts for export to the United States.

(3) NORTHERN BORDER.—The term ''northern border'' means the international border between the United States and Canada.

(4) SOUTHERN BORDER.—The term ''southern border'' means the international border between the United States and Mexico.

### SEC. 583. PORT OF ENTRY INFRASTRUCTURE ASSESSMENT STUDY.

(a) REQUIREMENT TO UPDATE.—Not later than January 31 of each year, the Administrator of General Services shall update the Port of Entry Infrastructure Assessment Study prepared by the Bureau of Customs and Border Protection in accordance with the matter relating to the ports of entry infrastructure assessment that is set out in the joint explanatory statement in the conference report accompanying H.R. 2490 of the 106th Congress, 1st session (House of Representatives Rep. No. 106–319, on page 67) and submit such updated study to Congress.

(b) CONSULTATION.—In preparing the updated studies required in subsection (a), the Administrator of General Services shall consult with the Director of the Office of Management and Budget, the Secretary, and the Commissioner.

(c) CONTENT.—Each updated study required in subsection (a) shall—

(1) identify port of entry infrastructure and technology improvement projects that would enhance border security and facilitate the flow of legitimate commerce if implemented;

(2) include the projects identified in the National Land Border Security Plan required by section 584; and

(3) prioritize the projects described in paragraphs (1) and (2) based on the ability of a project to—

(A) fulfill immediate security requirements; and

(B) facilitate trade across the borders of the United States.

(d) PROJECT IMPLEMENTATION.—The Commissioner shall implement the infrastructure and technology improvement projects described in subsection (c) in the order of priority assigned to each project under subsection (c)(3).

(e) DIVERGENCE FROM PRIORITIES.—The Commissioner may diverge from the priority order if the Commissioner determines that significantly changed circumstances, such as immediate security needs or changes in infrastructure in Mexico or Canada, compellingly alter the need for a project in the United States.

### SEC. 584. NATIONAL LAND BORDER SECURITY PLAN.

(a) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, and annually thereafter, the Secretary, after consultation with representatives of Federal, State, and local law enforcement agencies and private entities that are involved in international trade across the northern border or the southern border, shall submit a National Land Border Security Plan to Congress.

(b) VULNERABILITY ASSESSMENT.—

(1) IN GENERAL.—The plan required in subsection (a) shall include a vulnerability assessment of each port of entry located on the northern border or the southern border.

(2) PORT SECURITY COORDINATORS.—The Secretary may establish 1 or more port security coordinators at each port of entry located on the northern border or the southern border—

(A) to assist in conducting a vulnerability assessment at such port; and

(B) to provide other assistance with the preparation of the plan required in subsection (a).

### SEC. 585. EXPANSION OF COMMERCE SECURITY PROGRAMS.

(a) CUSTOMS-TRADE PARTNERSHIP AGAINST TERRORISM.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Commissioner, in consultation with the Secretary, shall develop a plan to expand the size and scope, including personnel, of the Customs-Trade Partnership Against Terrorism programs along the northern border and southern border, including—

(A) the Business Anti-Smuggling Coalition;

(B) the Carrier Initiative Program;

(C) the Americas Counter Smuggling Initiative;

(D) the Container Security Initiative;

(E) the Free and Secure Trade Initiative; and

(F) other Industry Partnership Programs administered by the Commissioner.

(2) SOUTHERN BORDER DEMONSTRATION PROGRAM.—Not later than 180 days after the date of enactment of this Act, the Commissioner shall implement, on a demonstration basis, at least 1 Customs–Trade Partnership Against Terrorism program along the southern border, which has been successfully implemented along the northern border.

(b) MAQUILADORA DEMONSTRATION PROGRAM.—Not later than 180 days after the date of enactment of this Act, the Commissioner shall establish a demonstration program to develop a cooperative trade security system to improve supply chain security.

### SEC. 586. PORT OF ENTRY TECHNOLOGY DEMONSTRATION PROGRAM.

(a) ESTABLISHMENT.—The Secretary shall carry out a technology demonstration program to—

(1) test and evaluate new port of entry technologies;

(2) refine port of entry technologies and operational concepts; and

(3) train personnel under realistic conditions.

(b) TECHNOLOGY AND FACILITIES.—

(1) TECHNOLOGY TESTING.—Under the technology demonstration program, the Secretary shall test technologies that enhance port of entry operations, including operations related to—

(A) inspections;

(B) communications;

(C) port tracking;

(D) identification of persons and cargo;

(E) sensory devices;

(F) personal detection;

(G) decision support; and

(H) the detection and identification of weapons of mass destruction.

(2) DEVELOPMENT OF FACILITIES.—At a demonstration site selected pursuant to subsection (c)(2), the Secretary shall develop facilities to provide appropriate training to law enforcement personnel who have responsibility for border security, including—

(A) cross-training among agencies;

(B) advanced law enforcement training; and

(C) equipment orientation.

(c) DEMONSTRATION SITES.—

(1) NUMBER.—The Secretary shall carry out the demonstration program at not less than 3 sites and not more than 5 sites.

(2) SELECTION CRITERIA.—To ensure that at least 1 of the facilities selected as a port of entry demonstration site for the demonstration program has the most up-to-date design, contains sufficient space to conduct the demonstration program, has a traffic volume low enough to easily incorporate new technologies without interrupting normal processing activity, and can efficiently carry out demonstration and port of entry operations, at least 1 port of entry selected as a demonstration site shall—

(A) have been established not more than 15 years before the date of the enactment of this Act;

(B) consist of not less than 65 acres, with the possibility of expansion to not less than 25 adjacent acres; and

(C) have serviced an average of not more than 50,000 vehicles per month during the 1-year period ending on the date of the enactment of this Act.

(d) RELATIONSHIP WITH OTHER AGENCIES.—The Secretary shall permit personnel from an appropriate Federal or State agency to utilize a demonstration site described in subsection (c) to test technologies that enhance port of entry operations, including technologies described in subparagraphs (A) through (H) of subsection (b)(1).

(e) REPORT.—

(1) REQUIREMENT.—Not later than 1 year after the date of the enactment of this Act, and annually thereafter, the Secretary shall submit to Congress a report on the activities carried out at each demonstration site under the technology demonstration program established under this section.

(2) CONTENT.—The report submitted under paragraph (1) shall include an assessment by the Secretary of the feasibility of incorporating any demonstrated technology for use throughout the Bureau of Customs and Border Protection.

**SEC. 587. AUTHORIZATION OF APPROPRIATIONS.**

(a) IN GENERAL.—In addition to any funds otherwise available, there are authorized to be appropriated—

(1) such sums as may be necessary for the fiscal years 2007 through 2011 to carry out the provisions of section 583(a);

(2) to carry out section 583(d)—

(A) $100,000,000 for each of the fiscal years 2007 through 2011; and

(B) such sums as may be necessary in any succeeding fiscal year;

(3) to carry out section 585(a)—

(A) $30,000,000 for fiscal year 2007, of which $5,000,000 shall be made available to fund the demonstration project established in section 586(a)(2); and

(B) such sums as may be necessary for the fiscal years 2008 through 2011;

(4) to carry out section 585(b)—

(A) $5,000,000 for fiscal year 2007; and

(B) such sums as may be necessary for the fiscal years 2008 through 2011; and

(5) to carry out section 586, provided that not more than $10,000,000 may be expended for technology demonstration program activities at any 1 port of entry demonstration site in any fiscal year—

(A) $50,000,000 for fiscal year 2007; and

(B) such sums as may be necessary for each of the fiscal years 2008 through 2011.

(b) INTERNATIONAL AGREEMENTS.—Amounts authorized to be appropriated under this chapter may be used for the implementation of projects described in the Declaration on Embracing Technology and Cooperation to Promote the Secure and Efficient Flow of People and Commerce across our Shared Border between the United States and Mexico, agreed to March 22, 2002, Monterrey, Mexico (commonly known as the Border Partnership Action Plan) or the Smart Border Declaration between the United States and Canada, agreed to December 12, 2001, Ottawa, Canada that are consistent with the provisions of this chapter.

## CHAPTER 2—ADDITIONAL INFRASTRUCTURE ELEMENTS

**SEC. 591. SURVEILLANCE TECHNOLOGIES PROGRAMS.**

(a) AERIAL SURVEILLANCE PROGRAM.—

(1) IN GENERAL.—In conjunction with the border surveillance plan developed under section 5201 of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458; 8 U.S.C. 1701 note), the Secretary, not later than 90 days after the date of enactment of this Act, shall develop and implement a program to fully integrate and utilize aerial surveillance technologies, including unmanned aerial vehicles, to enhance the security of the international border between the United States and Canada and the international border between the United States and Mexico. The goal of the program shall be to ensure continuous monitoring of each mile of each such border.

(2) ASSESSMENT AND CONSULTATION REQUIREMENTS.—In developing the program under this subsection, the Secretary shall—

(A) consider current and proposed aerial surveillance technologies;

(B) assess the feasibility and advisability of utilizing such technologies to address border threats, including an assessment of the technologies considered best suited to address respective threats;

(C) consult with the Secretary of Defense regarding any technologies or equipment, which the Secretary may deploy along an international border of the United States; and

(D) consult with the Administrator of the Federal Aviation Administration regarding safety, airspace coordination and regulation, and any other issues necessary for implementation of the program.

(3) ADDITIONAL REQUIREMENTS.—

(A) IN GENERAL.—The program developed under this subsection shall include the use of a variety of aerial surveillance technologies in a variety of topographies and areas, including populated and unpopulated areas located on or near an international border of the United States, in order to evaluate, for a range of circumstances—

(i) the significance of previous experiences with such technologies in border security or critical infrastructure protection;

(ii) the cost and effectiveness of various technologies for border security, including varying levels of technical complexity; and

(iii) liability, safety, and privacy concerns relating to the utilization of such technologies for border security.

(4) CONTINUED USE OF AERIAL SURVEILLANCE TECHNOLOGIES.—The Secretary may continue the operation of aerial surveillance technologies while assessing the effectiveness of the utilization of such technologies.

(5) REPORT TO CONGRESS.—Not later than 180 days after implementing the program under this subsection, the Secretary shall submit a report to Congress regarding the program developed under this subsection. The Secretary shall include in the report a description of the program together with such recommendations as the Secretary finds appropriate for enhancing the program.

(6) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this subsection.

(b) INTEGRATED AND AUTOMATED SURVEILLANCE PROGRAM.—

(1) REQUIREMENT FOR PROGRAM.—Subject to the availability of appropriations, the Secretary shall establish a program to procure additional unmanned aerial vehicles, cameras, poles, sensors, satellites, radar coverage, and other technologies necessary to achieve operational control of the international borders of the United States and to establish a security perimeter known as a ''virtual fence'' along such international borders to provide a barrier to illegal immigration. Such program shall be known as the Integrated and Automated Surveillance Program.

(2) PROGRAM COMPONENTS.—The Secretary shall ensure, to the maximum extent feasible, the Integrated and Automated Surveillance Program is carried out in a manner that—

(A) the technologies utilized in the Program are integrated and function cohesively in an automated fashion, including the integration of motion sensor alerts and cameras, whereby a sensor alert automatically activates a corresponding camera to pan and tilt in the direction of the triggered sensor;

(B) cameras utilized in the Program do not have to be manually operated;

(C) such camera views and positions are not fixed;

(D) surveillance video taken by such cameras can be viewed at multiple designated communications centers;

(E) a standard process is used to collect, catalog, and report intrusion and response data collected under the Program;

(F) future remote surveillance technology investments and upgrades for the Program can be integrated with existing systems;

(G) performance measures are developed and applied that can evaluate whether the Program is providing desired results and increasing response effectiveness in monitoring and detecting illegal intrusions along the international borders of the United States;

(H) plans are developed under the Program to streamline site selection, site validation, and environmental assessment processes to minimize delays of installing surveillance technology infrastructure;

(I) standards are developed under the Program to expand the shared use of existing private and governmental structures to install remote surveillance technology infrastructure where possible; and

(J) standards are developed under the Program to identify and deploy the use of nonpermanent or mobile surveillance platforms that will increase the Secretary's mobility and ability to identify illegal border intrusions.

(3) REPORT TO CONGRESS.—Not later than 1 year after the initial implementation of the Integrated and Automated Surveillance Program, the Secretary shall submit to Congress a report regarding the Program. The Secretary shall include in the report a description of the Program together with any recommendation that the Secretary finds appropriate for enhancing the program.

(4) EVALUATION OF CONTRACTORS.—

(A) REQUIREMENT FOR STANDARDS.—The Secretary shall develop appropriate standards to evaluate the performance of any contractor providing goods or services to carry out the Integrated and Automated Surveillance Program.

(B) REVIEW BY THE INSPECTOR GENERAL.—The Inspector General of the Department shall timely review each new contract related to the Program that has a value of more than $5,000,000, to determine whether such contract fully complies with applicable cost requirements, performance objectives, program milestones, and schedules. The Inspector General shall report the findings of such review to the Secretary in a timely manner. Not later than 30 days after the date the Secretary receives a report of findings from the Inspector General, the Secretary shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives a report of such findings and a description of any the steps that the Secretary has taken or plans to take in response to such findings.

(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this subsection.

**SEC. 592. BORDER SECURITY ON CERTAIN FEDERAL LAND.**

(a) DEFINITIONS.—In this section:

(1) PROTECTED LAND.—The term ''protected land'' means land under the jurisdiction of the Secretary concerned.

(2) SECRETARY CONCERNED.—The term ''Secretary concerned'' means—

(A) with respect to land under the jurisdiction of the Secretary of Agriculture, the Secretary of Agriculture; and

(B) with respect to land under the jurisdiction of the Secretary of the Interior, the Secretary of the Interior.

(b) SUPPORT FOR BORDER SECURITY NEEDS.—

(1) IN GENERAL.—To gain operational control over the international land borders of the United States and to prevent the entry of terrorists, unlawful aliens, narcotics, and other contraband into the United States, the Secretary, in cooperation with the Secretary concerned, shall provide—

(A) increased Customs and Border Protection personnel to secure protected land along the international land borders of the United States;

(B) Federal land resource training for Customs and Border Protection agents dedicated to protected land; and

(C) Unmanned Aerial Vehicles, aerial assets, Remote Video Surveillance camera systems, and sensors on protected land that is directly adjacent to the international land border of the United States, with priority given to units of the National Park System.

(2) COORDINATION.—In providing training for Customs and Border Protection agents under paragraph (1)(B), the Secretary shall coordinate with the Secretary concerned to ensure that the training is appropriate to the mission of the National Park Service, the United States Fish and Wildlife Service, the Forest Service, or the relevant agency of the Department of the Interior or the Department of Agriculture to minimize the adverse impact on natural and cultural resources from border protection activities.

(c) INVENTORY OF COSTS AND ACTIVITIES.—The Secretary concerned shall develop and submit to the Secretary an inventory of costs incurred by the Secretary concerned relating to illegal border activity, including the cost of equipment, training, recurring maintenance, construction of facilities, restoration of natural and cultural resources, recapitalization of facilities, and operations.

(d) RECOMMENDATIONS.—The Secretary shall—

(1) develop joint recommendations with the National Park Service, the United States Fish and Wildlife Service, and the Forest Service for an appropriate cost recovery mechanism relating to items identified in subsection (c); and

(2) not later than March 31, 2007, submit to the appropriate congressional committees (as defined in section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101)), including the Subcommittee on National Parks of the Senate and the Subcommittee on National Parks, Recreation and Public Lands of the House of Representatives, the recommendations developed under paragraph (1).

(e) BORDER PROTECTION STRATEGY.—The Secretary, the Secretary of the Interior, and the Secretary of Agriculture shall jointly develop a border protection strategy that supports the border security needs of the United States in the manner that best protects—

(1) units of the National Park System;

(2) National Forest System land;

(3) land under the jurisdiction of the United States Fish and Wildlife Service; and

(4) other relevant land under the jurisdiction of the Department of the Interior or the Department of Agriculture.

**SEC. 593. UNMANNED AERIAL VEHICLES.**

(a) UNMANNED AERIAL VEHICLES AND ASSOCIATED INFRASTRUCTURE.—The Secretary shall acquire and maintain MQ–9 unmanned aerial vehicles for use on the border, including related equipment such as—

(1) additional sensors;

(2) critical spares;

(3) satellite command and control; and

(4) other necessary equipment for operational support.

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to the Secretary to carry out subsection (a)—

(A) $178,400,000 for fiscal year 2007; and

(B) $276,000,000 for fiscal year 2008.

(2) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to paragraph (1) shall remain available until expended.

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**SA 4991.** Mr. BURNS submitted an amendment intended to be proposed by him to the bill H.R. 4954, to improve maritime and cargo security through enhanced layered defenses, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**TITLE —IP-ENABLED VOICE COMMUNICATIONS AND PUBLIC SAFETY**

**SEC. —01. SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This title may be cited as the ''IP-Enabled Voice Communications and Public Safety Act of 2006''.

(b) TABLE OF CONTENTS.—The table of contents for this title is as follows:

Sec. —01. Short title; table of contents.
Sec. —02. Emergency service.
Sec. —03. Enforcement.
Sec. —04. Migration to IP-enabled emergency network.
Sec. —05. Implementation of ENHANCE–911 Act.
Sec. —06. Definitions.

**SEC. —02. EMERGENCY SERVICE.**

(a) 911 AND E–911 SERVICES.—

(1) IN GENERAL.—The Federal Communications Commission shall review the requirements established in its Report and Order in WC Docket Nos. 04–36 and 05–196 and shall, within 120 days after the date of enactment of this Act, revise its regulations as may be necessary, or promulgate such additional regulations as may be necessary, to establish requirements that are technologically and operationally feasible for providers of IP-enabled voice service to ensure that 911 and E–911 services are available to subscribers to IP-enabled voice services.

(2) CONTENT.—In the regulations prescribed under paragraph (1), the Commission shall include an appropriate transition period for compliance with those requirements that takes into consideration—

(A) available industry technology and operational standards;

(B) network security; and

(C) public safety answering point capabilities.

(3) DELEGATION OF ENFORCEMENT TO STATE COMMISSIONS.—The Commission may delegate authority to enforce the rules and regulations issued under this title to State commissions or other State agencies or programs with jurisdiction over emergency communications.

(4) EFFECTIVE DATE.—The regulations prescribed under paragraph (1) may not take effect earlier than 90 days after the date on which the Commission issues a final rule under that paragraph.

(b) ACCESS TO 911 COMPONENTS.—Within 90 days after the date of enactment of this Act, the Commission shall issue regulations regarding access by IP-enabled voice service providers to 911 components that permit any IP-enabled voice service provider to elect to be treated as a commercial mobile service provider for the purpose of access to any 911 component, except that the regulations issued under this subsection may take into account any technical or network security issues that are specific to IP-enabled voice services.

(c) STATE AUTHORITY OVER FEES.—Nothing in this title, the Communications Act of 1934, or any Commission regulation or order shall prevent the imposition on, or collection from, a provider of IP-enabled voice services of any fee or charge specifically designated by a State, political subdivision thereof, or Indian tribe for the support of 911 or E–911 services if that fee or charge—

(1) does not exceed the amount of any such fee or charge imposed on or collected from a provider of telecommunications services; and

(2) is obligated or expended in support of 911 and E–911 services, or enhancements of such services, or other emergency communications services as specified in the provision of State or local law adopting the fee or charge.

(d) PARITY OF PROTECTION FOR PROVISION OR USE OF IP-ENABLED VOICE SERVICE.—A provider or user of IP-enabled voice services, a PSAP, and the officers, directors, employees, vendors, agents, and authorizing government entity (if any) of such provider, user, or PSAP, shall have the same scope and extent of immunity and other protection from liability under Federal and State law with respect to—

(1) the release of subscriber information related to emergency calls or emergency services,

(2) the use or provision of 911 and E–911 services, and

(3) other matters related to 911 and E–911 services,

as section 4 of the Wireless Communications and Public Safety Act of 1999 (47 U.S.C. 615a) provides to wireless carriers, PSAPs, and users of wireless 9–1–1 service (as defined in paragraphs (4), (3), and (6), respectively, of section 6 of that Act (47 U.S.C. 615b)) with respect to such release, use, and other matters.

(e) LIMITATION ON COMMISSION.—Nothing in this section shall be construed to permit the Commission to issue regulations that require or impose a specific technology or technological standard.

**SEC. —03. ENFORCEMENT.**

The Commission shall enforce this title, and any regulation promulgated under this title, under the Communications Act of 1934 (47 U.S.C. 151 et seq.) as if this title were a part of that Act. For purposes of this section any violation of this title, or any regulation promulgated under this title, is deemed to be a violation of the Communications Act of 1934.

**SEC. —04. MIGRATION TO IP-ENABLED EMERGENCY NETWORK.**

(a) IN GENERAL.—Section 158 of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 942) is amended—

(1) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively;

(2) by inserting after subsection (c) the following:

''(d) MIGRATION PLAN REQUIRED.—

''(1) NATIONAL PLAN REQUIRED.—No more than 18 months after the date of the enactment of the IP-Enabled Voice Communications and Public Safety Act of 2006, the Office shall develop and report to Congress on a national plan for migrating to a national IP-enabled emergency network capable of receiving and responding to all citizen activated emergency communications.

''(2) CONTENTS OF PLAN.—The plan required by paragraph (1) shall—

''(A) outline the potential benefits of such a migration;

''(B) identify barriers that must be overcome and funding mechanisms to address those barriers;

''(C) include a proposed timetable, an outline of costs and potential savings;

''(D) provide specific legislative language, if necessary, for achieving the plan;

''(E) provide recommendations on any legislative changes, including updating definitions, to facilitate a national IP-enabled emergency network; and

''(F) assess, collect, and analyze the experiences of the PSAPs and related public safety authorities who are conducting trial deployments of IP-enabled emergency networks as of the date of enactment of the IP-Enabled Voice Communications and Public Safety Act of 2006.

''(3) CONSULTATION.—In developing the plan required by paragraph (1), the Office shall consult with representatives of the public safety community, technology and telecommunications providers, and others it deems appropriate.''; and

(3) by striking ''services.'' in subsection (b)(1) and inserting ''services, and, upon completion of development of the national plan for migrating to a national IP-enabled emergency network under subsection (d), for migration to an IP-enabled emergency network.''.

(b) REPORT ON PSAPS.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Commission shall—

(A) compile a list of all known public safety answering points, including such contact information regarding public safety answering points as the Commission determines appropriate;

(B) organize such list by county, town, township, parish, village, hamlet, or other general purpose political subdivision of a State; and

(C) make available from such list—

(i) to the public, on the Internet website of the Commission—

(I) the 10 digit telephone number of those public safety answering points appearing on such list; and

(II) a statement explicitly warning the public that such telephone numbers are not intended for emergency purposes and as such may not be answered at all times; and

(ii) to public safety answering points all contact information compiled by the Commission.

(2) CONTINUING DUTY.—The Commission shall continue—

(A) to update the list made available to the public described in paragraph (1)(C); and

(B) to improve for the benefit of the public the accessibility, use, and organization of such list.

(3) PSAPS REQUIRED TO COMPLY.—Each public safety answering point shall provide all requested contact information to the Commission as requested.

(c) REPORT ON SELECTIVE ROUTERS.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Commission shall—

(A) compile a list of selective routers, including the contact information of the owners of such routers;

(B) organize such list by county, town, township, parish, village, hamlet, or other general purpose political subdivision of a State; and

(C) make such list available to providers of telecommunications service and to providers of IP-enabled voice service who are seeking to provide E-911 service to their subscribers.

**SEC. —05. IMPLEMENTATION OF ENHANCE–911 ACT.**

(a) IN GENERAL.—Pursuant to section 3011 of Public Law 109–171 (47 U.S.C. 309 note), the Secretary of Commerce, through the Assistant Secretary for Communications and Information shall make payments of not to exceed $43,500,000 to implement section 158 of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 942) no later than 10 days after the date of enactment of this Act.

(b) BORROWING AUTHORITY.—The Assistant Secretary may borrow from the Treasury beginning on October 1, 2006, such sums as may be necessary, but not to exceed $43,500,000, to implement this section. The Assistant Secretary shall reimburse the Treasury, without interest, as funds are deposited into the Digital Television Transition and Public Safety Fund.

**SEC. —06. DEFINITIONS.**

(a) IN GENERAL.—For purposes of this title:

(1) 911.—The term ''911'' means a service that allows a user, by dialing the three-digit code 911, to call a public safety answering point operated by a State, local government, Indian tribe, or authorized entity.

(2) 911 COMPONENT.—The term ''911 component'' means any equipment, network, databases (including automatic location information databases and master street address guides), interface, selective router, trunkline, or other related facility necessary for the delivery and completion of 911 or E–911 calls and information related to such calls to which the Commission requires access pursuant to its rules and regulations.

(3) E–911 SERVICE.—The term ''E–911 service'' means a 911 service that automatically delivers the 911 call to the appropriate public safety answering point, and provides automatic identification data, including the originating number of an emergency call, the physical location of the caller, and the capability for the public safety answering point to call the user back if the call is disconnected.

(4) IP-ENABLED VOICE SERVICE.—The term ''IP-enabled voice service'' means the provision of real-time 2-way voice communications offered to the public, or such classes of users as to be effectively available to the public, transmitted through customer premises equipment using TCP/IP protocol, or a successor protocol, for a fee (whether part of a bundle of services or separately), or without a fee, with 2-way interconnection capability such that the service can originate traffic to, and terminate traffic from, the public switched telephone network.

(5) PSAP.—The term ''public safety answering point'' or ''PSAP'' means a facility that has been designated to receive 911 or E–911 calls.

(b) COMMON TERMINOLOGY.—Except as otherwise provided in subsection (a), terms used in this title have the meanings provided under section 3 of the Communications Act of 1934.

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**SA 4992.** Mr. DEMINT submitted an amendment intended to be proposed to amendment SA 4970 proposed by Mr. DEMINT to the bill H.R. 4954, to improve maritime and cargo security through enhanced layered defenses, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. ___. PROHIBITION OF ISSUANCE OF TRANSPORTATION SECURITY CARDS TO CONVICTED FELONS.**

Section 70105 of title 46, United States Code, is amended—

(1) in subsection (b)(1), by striking ''decides that the individual poses a security risk under subsection (c)'' and inserting ''determines under subsection (c) that the individual poses a security risk''; and

(2) in subsection (c), by amending paragraph (1) to read as follows:

''(1) Except as provided under paragraph (2), an individual shall be deemed to pose a security risk under this section if the Secretary determines that the individual—

''(A) has been convicted (or has been found not guilty by reason of insanity) within the preceding 10 years of—

''(i) destruction of a vessel or maritime facility under section 2291 of title 18;

''(ii) violence against maritime navigation under section 2280 of title 18;

''(iii) forgery of certificates of documentation, falsified vessel identification, or other vessel documentation violation under section 12507 or 12122 of this title;

''(iv) interference with maritime commerce under section 2282A of title 18;

''(v) improper transportation of a hazardous material under section 46312 of title 49;

''(vi) piracy or privateering under chapter 81 of title 18;

''(vii) firing or tampering with vessels under section 2275 of title 18;

''(viii) carrying a dangerous weapon or explosive aboard a vessel under section 2277 of title 18;

''(ix) failure to heave to, obstruction of boarding, or providing false information under section 2237 of title 18;

''(x) imparting or conveying false information under section 2292 of title 18;

''(xi) entry by false pretense to any seaport under section 1036 of title 18;

''(xii) murder;

''(xiii) assault with intent to murder;

''(xiv) espionage;

''(xv) sedition;

''(xvi) kidnapping or hostage taking;

''(xvii) treason;

''(xviii) rape or aggravated sexual abuse;

''(xix) unlawful possession, use, sale, distribution, or manufacture of an explosive or weapon;

''(xx) extortion;

''(xxi) armed or felony unarmed robbery;

''(xxii) distribution of, or intent to distribute, a controlled substance;

''(xxiii) felony arson;

''(xxiv) a felony involving a threat;

''(xxv) a felony involving illegal possession of a controlled substance punishable by a maximum term of imprisonment of more than 1 year, willful destruction of property, importation or manufacture of a controlled substance, burglary, theft, dishonesty, fraud, misrepresentation, possession or distribution of stolen property, aggravated assault, or bribery; or

''(xxvi) conspiracy or attempt to commit any of the criminal acts listed in this subparagraph;

''(B) may be denied admission to the United States or removed from the United States under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.); or

''(C) otherwise poses a terrorism security risk to the United States.''.

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**SA 4993.** Mr. DEMINT submitted an amendment intended to be proposed by him to the bill H.R. 4954, to improve maritime and cargo security through enhanced layered defenses, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. ___. PROHIBITION OF ISSUANCE OF TRANSPORTATION SECURITY CARDS TO CONVICTED FELONS.**

Section 70105 of title 46, United States Code, is amended—

(1) in subsection (b)(1), by striking ''decides that the individual poses a security risk under subsection (c)'' and inserting ''determines under subsection (c) that the individual poses a security risk''; and

(2) in subsection (c), by amending paragraph (1) to read as follows:

''(1) Except as provided under paragraph (2), an individual shall be deemed to pose a security risk under this section if the Secretary determines that the individual—

''(A) has been convicted (or has been found not guilty by reason of insanity) within the preceding 10 years of—

''(i) destruction of a vessel or maritime facility under section 2291 of title 18;

''(ii) violence against maritime navigation under section 2280 of title 18;

''(iii) forgery of certificates of documentation, falsified vessel identification, or other vessel documentation violation under section 12507 or 12122 of this title;

''(iv) interference with maritime commerce under section 2282A of title 18;

''(v) improper transportation of a hazardous material under section 46312 of title 49;

''(vi) piracy or privateering under chapter 81 of title 18;

''(vii) firing or tampering with vessels under section 2275 of title 18;

''(viii) carrying a dangerous weapon or explosive aboard a vessel under section 2277 of title 18;

''(ix) failure to heave to, obstruction of boarding, or providing false information under section 2237 of title 18;

''(x) imparting or conveying false information under section 2292 of title 18;

''(xi) entry by false pretense to any seaport under section 1036 of title 18;

''(xii) murder;

''(xiii) assault with intent to murder;

''(xiv) espionage;

''(xv) sedition;

''(xvi) kidnapping or hostage taking;

''(xvii) treason;

''(xviii) rape or aggravated sexual abuse;

''(xix) unlawful possession, use, sale, distribution, or manufacture of an explosive or weapon;

''(xx) extortion;

''(xxi) armed or felony unarmed robbery;

''(xxii) distribution of, or intent to distribute, a controlled substance;

''(xxiii) felony arson;

''(xxiv) a felony involving a threat;

''(xxv) a felony involving illegal possession of a controlled substance punishable by a maximum term of imprisonment of more than 1 year, willful destruction of property, importation or manufacture of a controlled substance, burglary, theft, dishonesty, fraud, misrepresentation, possession or distribution of stolen property, aggravated assault, or bribery; or

''(xxvi) conspiracy or attempt to commit any of the criminal acts listed in this subparagraph;

''(B) may be denied admission to the United States or removed from the United States under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.); or

''(C) otherwise poses a terrorism security risk to the United States.''.

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**SA 4994.** Mr. MCCAIN (for himself and Mrs. BOXER) submitted an amendment intended to be proposed by him to the bill H.R. 4954, to improve maritime and cargo security through enhanced layered defenses, and for other purposes; which was ordered to lie on the table; as follows:

On page 41, following the matter after line 25, insert the following:

**SEC. 114. TRANSFER OF PUBLIC SAFETY GRANT PROGRAM TO THE DEPARTMENT OF HOMELAND SECURITY.**

Section 3006 of the Digital Television Transition and Public Safety Act of 2005 (Public Law 109-171; 120 Stat. 24) is amended—

(1) in subsection (a)—

(A) by striking ''The Assistant Secretary, in consultation with the'' and inserting ''The''; and

(B) in paragraph (1), by inserting ''planning of,'' before ''acquistion of''; and

(2) in subsection (b), by striking ''Assistant Secretary'' each place that term appears and inserting ''Secretary of Homeland Security''.

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**SA 4995.** Ms. BOXER submitted an amendment intended to be proposed by her to the bill H.R. 4954, to improve maritime and cargo security through enhanced layered defenses, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. ___. BLAST-RESISTANT CONTAINERS.**

Section 41704 of title 49, United States Code, is amended by adding at the end the following: ''Each aircraft used to provide air transportation for individuals and their baggage or other cargo shall be equipped with not less than 1 hardened, blast-resistant cargo container. The Department of Homeland Security will provide each airline with sufficient blast-resistant cargo containers 90 days after the Department of Homeland Security's pilot program is completed.''.

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**SA 4996.** Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill H.R. 4954, to improve maritime and cargo security through enhanced layered defenses, and for other purposes; which was ordered to lie on the table; as follows:

On page 5, between lines 11 and 12, insert the following:

(8) HAZARDOUS.—The term ''hazardous'' has the meaning given the term ''hazardous materials'' in section 2101(14) of title 46, United States Code.

On page 6, after line 25, add the following:

(16) TANKER.—The term ''tanker'' has the meaning given such term in section 2101(38) of title 46, United States Code.

(17) TANKER SECURITY INITIATIVE; TSI.—The terms ''Tanker Security Initiative'' and ''TSI'' mean the program authorized under section 206 to identify and examine tankers that could pose a risk for terrorism at foreign ports before they arrive in ports of the United States.

On page 21, between lines 15 and 16, insert the following:

(F) hazardous cargo security;

On page 21, line 16, strike ''(F)'' and insert ''(G)''.

On page 21, line 18, strike ''(G)'' and insert ''(H)''.

On page 21, line 20, strike ''(H)'' and insert ''(I)''.

On page 21, line 21, strike ''(I)'' and insert ''(J)''.

On page 21, line 25, strike ''(J)'' and insert ''(K)''.

On page 25, line 24, insert ''and hazardous cargoes'' after ''containers''.

On page 26, line 9, strike ''and''.

On page 26, line 13, strike the period at the end and insert ''; and''.

On page 26, between lines 13 and 14, insert the following:

(9) a radiation detection and imagery strategy for hazardous cargoes.

On page 29, line 22, insert ''or hazardous cargoes'' after ''containers''.

On page 30, line 18, insert ''or hazardous cargoes'' after ''containers''.

On page 31, line 1, insert ''and hazardous cargoes'' after ''containers''.

On page 34, line 9, insert ''and hazardous cargoes'' after ''containers''.

On page 36, line 12, insert ''or the Tanker Security Initiative''.

On page 38, line 21, insert ''or hazardous cargo'' after ''container''.

On page 39, line 24, insert ''or hazardous'' after ''container''.

On page 40, line 9, strike ''**CONTAINER**'' and insert ''**CARGO**''.

On page 40, line 16, insert ''and hazardous cargoes'' after ''containers''.

On page 41, line 15, insert ''and hazardous cargoes'' after ''containers''.

On page 48, between lines 2 and 3, insert the following:

**SEC. 206. TANKER SECURITY INITIATIVE.**

(a) ESTABLISHMENT.—The Secretary, acting through the Commissioner, shall establish and implement a program (to be known as the ''Tanker Security Initiative'' or ''TSI'') to promulgate and enforce standards and carry out activities to ensure that tanker vessels that transport petrochemicals, natural gas, or other hazardous materials are not used by terrorists or as carriers of weapons of mass destruction.

(b) ELEMENTS.—In carrying out the Tanker Security Initiative, the Secretary may—

(1) develop physical standards intended to prevent terrorists from placing a weapon of mass destruction in or on a tanker vessel without detection;

(2) develop detection equipment, and prescribe the use of such equipment, to be employed on a tanker vessel that is bound for a United States port of entry;

(3) develop new security inspection procedures required to be carried out on a tanker vessel at a foreign port of embarkation, on the high seas, or in United States waters prior to the arrival of such tanker at a United States port of entry;

(4) carry out research and development of sensing devices to detect any nuclear device that is placed in or on a tanker vessel; and

(5) provide assistance to a foreign country to assist such country in carrying out any provisions of the Tanker Security Initiative.

(c) ASSESSMENT.—Before the Secretary designates any foreign port under TSI, the Secretary, in coordination with other Federal officials, as appropriate, shall conduct an assessment of the port to evaluate the costs, benefits, and other factors associated with such designation, including—

(1) the level of risk for the potential compromise of tankers by terrorists or terrorist weapons;

(2) the economic impact of tankers traveling from the foreign port to the United States in terms of trade value and volume;

(3) the results of the Coast Guard assessments conducted pursuant to section 70108 of title 46, United States Code;

(4) the capabilities and level of cooperation expected of the government of the intended host country;

(5) the willingness of the government of the intended host country to permit validation of security practices within the country in which the foreign port is located, for the purposes of C-TPAT or similar programs; and

(6) the potential for C–TPAT and GreenLane cargo traveling through the foreign port.

(d) ANNUAL REPORT.—Not later than March 1 of each year in which the Secretary proposes to designate a foreign port under TSI, the Secretary shall submit a report, in classified or unclassified form, detailing the assessment of each foreign port the Secretary is considering designating under TSI, to the appropriate congressional committees.

(e) DESIGNATION OF NEW PORTS.—The Secretary shall not designate a foreign port that processes hazardous cargoes under TSI unless the Secretary has completed the assessment required in subsection (c) for that port

and submitted a report under subsection (d) that includes that port.

(f) NEGOTIATIONS.—The Secretary may request that the Secretary of State, in conjunction with the United States Trade Representative, enter into trade negotiations with the government of each foreign country with a port designated under TSI, as appropriate, to ensure full compliance with the requirements under TSI.

(g) INSPECTIONS.—

(1) REQUIREMENTS AND PROCEDURES.—The Secretary shall—

(A) establish technical capability requirements and standard operating procedures for the use of nonintrusive inspection and radiation detection equipment in conjunction with TSI;

(B) require that the equipment operated at each port designated under TSI be operated in accordance with the requirements and procedures established under subparagraph (A); and

(C) continually monitor the technologies, processes, and techniques used to inspect cargo at ports designated under the Container Security Initiative.

(2) CONSIDERATIONS.—

(A) CONSISTENCY OF STANDARDS AND PROCEDURES.—In establishing the technical capability requirements and standard operating procedures under paragraph (1)(A), the Secretary shall take into account any such relevant standards and procedures utilized by other Federal departments or agencies as well as those developed by international bodies. Such standards and procedures shall not be designed to endorse the product or technology of any specific company or to conflict with the sovereignty of a country in which a foreign seaport designated under the Tanker Security Initiative is located.

(B) APPLICABILITY.—The technical capability requirements and standard operating procedures established pursuant to paragraph (1)(A) shall not apply to activities conducted under the Megaports Initiative of the Department of Energy.

(h) COORDINATION.—The Secretary shall coordinate with the Secretary of Energy to—

(1) provide radiation detection equipment required to support the Tanker Security Initiative through the Department of Energy's Second Line of Defense and Megaports programs; or

(2) work with the private sector to obtain radiation detection equipment that meets the Department's technical specifications for such equipment.

(i) PERSONNEL.—The Secretary shall—

(1) annually assess the personnel needs at each port designated under TSI;

(2) deploy personnel in accordance with the assessment under paragraph (1); and

(3) consider the potential for remote targeting in decreasing the number of personnel.

(j) ANNUAL DISCUSSIONS.—The Secretary, in coordination with the appropriate Federal officials, shall hold annual discussions with foreign governments of countries in which foreign seaports designated under the Tanker Security Initiative are located regarding best practices, technical assistance, training needs, and technological developments that will assist in ensuring the efficient and secure movement of international cargo.

(k) LESSER RISK PORT.—The Secretary, acting through the Commissioner, may treat cargo loaded in a foreign seaport designated under the Tanker Security Initiative as presenting a lesser risk than similar cargo loaded in a foreign seaport that is not designated under the Tanker Security Initiative, for the purpose of clearing such cargo into the United States.

(l) BUDGET ANALYSIS.—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit a budget analysis for implementing the provisions of this section, including additional cost-sharing arrangements with other Federal departments and other participants involved in the joint operation centers, to appropriate congressional committees.

(m) SAVINGS PROVISION.—The authority of the Secretary under this section shall not affect any authority or duplicate any efforts or responsibilities of the Federal Government with respect to the deployment of radiation detection equipment outside of the United States under any program administered by the Department.

On page 62, line 21, insert ''or the Tanker Security Initiative'' after ''Container Security Initiative''.

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**SA 4997.** Mr. MENENDEZ submitted an amendment intended to be proposed by him to the bill H.R. 4954, to improve maritime and cargo security through enhanced layered defenses, and for other purposes; which was ordered to lie on the table; as follows:

On page 18, between lines 22 and 23, insert the following:

(b) RISK MANAGEMENT PLAN.—

(1) IN GENERAL.—Under the direction of the Commandant of the Coast Guard, each Area Maritime Security Committee shall develop a Port Wide Risk Management Plan that includes—

(A) security goals and objectives, supported by a risk assessment and an evaluation of alternatives;

(B) a management selection process; and

(C) active monitoring to measure effectiveness.

(2) RISK ASSESSMENT TOOL.—The Secretary shall make available, and Area Maritime Security Committees shall use, a risk assessment tool that uses standardized risk criteria, such as the Maritime Security Risk Assessment Tool used by the Coast Guard, to develop the Port Wide Risk Management Plan.

On page 19, line 16, strike ''and''.

On page 19, line 18, strike the period at the end and insert ''; and''.

On page 19, between lines 18 and 19, insert the following:

''(3) is consistent with the Port Wide Risk Management Plan developed under section 111(b) of the Port Security Improvement Act of 2006.

On page 19, strike line 24 and insert the following:

for Preparedness, may require.

''(h) REPORTS.—Not later than 180 days after the date of the enactment of the Port Security Improvement Act of 2006, the Secretary, acting through the Commandant of the Coast Guard, shall submit a report to Congress, in a secure format, describing the methodology used to allocate port security grant funds on the basis of risk.''.

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**SA 4998.** Mr. MENENDEZ submitted an amendment intended to be proposed by him to the bill H.R. 4954, to improve maritime and cargo security through enhanced layered defenses, and for other purposes; which was ordered to lie on the table; as follows:

On page 16, between lines 9 and 10, insert the following:

''(3) establish a program to improve the interoperability of communications equipment used by law enforcement and other officials operating in the port with the communications equipment used by local law enforcement officials and first responders;

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**SA 4999.** Mr. MENENDEZ (for himself, Mr. LAUTENBERG, Mr. BIDEN, and Mr. BAYH) submitted an amendment intended to be proposed by him to the bill H.R. 4954, to improve maritime and cargo security through enhanced layered defenses, and for other purposes; as follows:

On page 30, between lines 8 and 9, insert the following:

**SEC. 126. PLAN FOR 100 PERCENT SCANNING OF CARGO CONTAINERS.**

(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall develop an initial plan to scan—

(1) 100 percent of the cargo containers destined for the United States before such containers arrive in the United States; and

(2) cargo containers before such containers leave ports in the United States.

(b) PLAN CONTENTS.—The plan developed under this section shall include—

(1) specific annual benchmarks for—

(A) the percentage of cargo containers destined for the United States that are scanned at a foreign port; and

(B) the percentage of cargo containers originating in the United States and destined for a foreign port that are scanned in a port in the United States before leaving the United States;

(2) annual increases in the benchmarks described in paragraph (1) until 100 percent of the cargo containers destined for the United States are scanned before arriving in the United States;

(3) a description of the consequences to be imposed on foreign ports or United States ports that do not meet the benchmarks described in paragraphs (1) and (2), which may include the loss of access to United States ports and fines;

(4) the use of existing programs, including CSI and C-TPAT, to reach annual benchmarks;

(5) the use of scanning equipment, personnel, and technology to reach the goal of 100 percent scanning of cargo containers.

On page 61, line 6, strike the period at the end and insert ''; and''.

On page 62, between lines 6 and 7, insert the following:

(5) an update of the initial 100 percent scanning plan based on lessons learned from the pilot program.

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**SA 5000.** Ms. SNOWE submitted an amendment intended to be proposed by her to the bill H.R. 4954, to improve maritime and cargo security through enhanced layered defenses, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. ___. STUDY TO IDENTIFY REDUNDANT BACKGROUND RECORDS CHECKS.**

(a) STUDY.—The Comptroller General of the United States shall conduct a study of background records checks carried out by Federal departments and agencies that are similar to the background records check required under section 5103a of title 49, United States Code, to identify redundancies and inefficiencies in connection with such checks.

(b) CONTENTS.—In conducting the study, the Comptroller General of the United States shall review, at a minimum, the background records checks carried out by—

(1) the Secretary of Defense;

(2) the Secretary of Homeland Security; and

(3) the Secretary of Energy.

(c) REPORT.—Not later than 6 months after the date of the enactment of this Act, the Comptroller General of the United States

shall submit a report to Congress on the results of the study, including—

(1) an identification of redundancies and inefficiencies referred to in subsection (a); and

(2) recommendations for eliminating such redundancies and inefficiencies.

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**SA 5001.** Mr. WYDEN (for himself and Mr. SMITH) submitted an amendment intended to be proposed by him to the bill H.R. 4954, to improve maritime and cargo security through enhanced layered defenses, and for other purposes; which was ordered to lie on the table; as follows:

On page 4, line 25, strike ''a device'' and all that follows through page 5, line 4, and insert the following: ''a device, or system, designed, at a minimum, to identify positively a container, to detect and record the unauthorized intrusion of a container, and to secure a container against tampering throughout the supply chain. Such a device, or system, shall have a low false alarm rate as determined by the Secretary.''.

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**SA 5002.** Mr. LIEBERMAN (for himself, Mr. STEVENS, and Mr. INOUYE) submitted an amendment intended to be proposed by him to the bill H.R. 4954, to improve maritime and cargo security through enhanced layered defenses, and for other purposes; which was ordered to lie on the table; as follows:

On page 87, beginning with ''and'' on line 5, strike all through line 9, and insert the following:

''(8) an assessment of the feasibility of reducing the transit time for in-bond shipments, including an assessment of the impact of such a change on domestic and international trade; and

''(9) an assessment of the security threat posed by in-bond cargo, including an assessment of any means for mitigating the threat posed by in-bond cargo.

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**SA 5003.** Mr. BAUCUS (for himself, Ms. STABENOW, Mr. MENENDEZ, Ms. CANTWELL, Mrs. BOXER, Mr. CARPER, Mrs. CLINTON, Mr. DAYTON, Mr. DODD, Mr. DORGAN, Mr. HARKIN, Mr. INOUYE, Mr. JEFFORDS, Mr. JOHNSON, Mr. KERRY, Mr. KOHL, Ms. LANDRIEU, Mr. LEVIN, Mr. LIEBERMAN, Mrs. LINCOLN, Ms. MIKULSKI, Mr. NELSON of Florida, Mr. PRYOR, Mr. REID, Mr. ROCKEFELLER, Mr. SALAZAR, Mr. SCHUMER, Mrs. MURRAY, Mr. BINGAMAN, Mrs. FEINSTEIN, Mr. KENNEDY, Mr. OBAMA, Mr. REED, and Mr. AKAKA) submitted an amendment intended to be proposed by him to the bill H.R. 4096, to amend the Internal Revenue Code of 1986 to extend to 2006 the alternative minimum tax relief available in 2005 and to index such relief for inflation; which was ordered to lie on the table; as follows:

Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE, ETC.**

(a) SHORT TITLE.—This Act may be cited as the ''Tax Relief Extension Act of 2006''.

(b) REFERENCE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title, etc.

TITLE I—EXTENSION AND EXPANSION OF CERTAIN TAX RELIEF PROVISIONS

Sec. 101. Deduction for qualified tuition and related expenses.
Sec. 102. Extension and modification of new markets tax credit.
Sec. 103. Election to deduct State and local general sales taxes.
Sec. 104. Extension and modification of research credit.
Sec. 105. Work opportunity tax credit and welfare-to-work credit.
Sec. 106. Election to include combat pay as earned income for purposes of earned income credit.
Sec. 107. Extension and modification of qualified zone academy bonds.
Sec. 108. Above-the-line deduction for certain expenses of elementary and secondary school teachers.
Sec. 109. Extension and expansion of expensing of brownfields remediation costs.
Sec. 110. Tax incentives for investment in the District of Columbia.
Sec. 111. Indian employment tax credit.
Sec. 112. Accelerated depreciation for business property on Indian reservations.
Sec. 113. Fifteen-year straight-line cost recovery for qualified leasehold improvements and qualified restaurant property.
Sec. 114. Cover over of tax on distilled spirits.
Sec. 115. Parity in application of certain limits to mental health benefits.
Sec. 116. Corporate donations of scientific property used for research and of computer technology and equipment.
Sec. 117. Availability of medical savings accounts.
Sec. 118. Taxable income limit on percentage depletion for oil and natural gas produced from marginal properties.
Sec. 119. American Samoa economic development credit.
Sec. 120. Restructuring of New York Liberty Zone tax credits.
Sec. 121. Extension of bonus depreciation for certain qualified Gulf Opportunity Zone property.
Sec. 122. Authority for undercover operations.
Sec. 123. Disclosures of certain tax return information.

TITLE II—OTHER TAX PROVISIONS

Sec. 201. Deduction allowable with respect to income attributable to domestic production activities in Puerto Rico.
Sec. 202. Credit for prior year minimum tax liability made refundable after period of years.
Sec. 203. Returns required in connection with certain options.
Sec. 204. Partial expensing for advanced mine safety equipment.
Sec. 205. Mine rescue team training tax credit.
Sec. 206. Whistleblower reforms.
Sec. 207. Frivolous tax submissions.
Sec. 208. Addition of meningococcal and human papillomavirus vaccines to list of taxable vaccines.
Sec. 209. Clarification of taxation of certain settlement funds made permanent.
Sec. 210. Modification of active business definition under section 355 made permanent.
Sec. 211. Revision of State veterans limit made permanent.
Sec. 212. Capital gains treatment for certain self-created musical works made permanent.
Sec. 213. Reduction in minimum vessel tonnage which qualifies for tonnage tax made permanent.
Sec. 214. Modification of special arbitrage rule for certain funds made permanent.
Sec. 215. Great Lakes domestic shipping to not disqualify vessel from tonnage tax.
Sec. 216. Use of qualified mortgage bonds to finance residences for veterans without regard to first-time homebuyer requirement.
Sec. 217. Exclusion of gain from sale of a principal residence by certain employees of the intelligence community.
Sec. 218. Treatment of coke and coke gas.
Sec. 219. Sale of property by judicial officers.
Sec. 220. Premiums for mortgage insurance.
Sec. 221. Modification of refunds for kerosene used in aviation.
Sec. 222. Deduction for qualified timber gain.
Sec. 223. Credit to holders of rural renaissance bonds.
Sec. 224. Restoration of deduction for travel expenses of spouse, etc. accompanying taxpayer on business travel.
Sec. 225. Technical corrections.

TITLE III—SURFACE MINING CONTROL AND RECLAMATION ACT AMENDMENTS OF 2006

Sec. 301. Short title.

Subtitle A—Mining Control and Reclamation

Sec. 311. Abandoned Mine Reclamation Fund and purposes.
Sec. 312. Reclamation fee.
Sec. 313. Objectives of Fund.
Sec. 314. Reclamation of rural land.
Sec. 315. Liens.
Sec. 316. Certification.
Sec. 317. Remining incentives.
Sec. 318. Extension of limitation on application of prohibition on issuance of permit.
Sec. 319. Tribal regulation of surface coal mining and reclamation operations.

Subtitle B—Coal Industry Retiree Health Benefit Act

Sec. 321. Certain related persons and successors in interest relieved of liability if premiums prepaid.
Sec. 322. Transfers to funds; premium relief.
Sec. 323. Other provisions.

## TITLE I—EXTENSION AND EXPANSION OF CERTAIN TAX RELIEF PROVISIONS

**SEC. 101. DEDUCTION FOR QUALIFIED TUITION AND RELATED EXPENSES.**

(a) IN GENERAL.—Section 222(e) is amended by striking ''2005''and inserting ''2007''.

(b) CONFORMING AMENDMENTS.—Section 222(b)(2)(B) is amended—

(1) by striking ''a taxable year beginning in 2004 or 2005'' and inserting ''any taxable year beginning after 2003'', and

(2) by striking ''2004 AND 2005'' in the heading and inserting ''AFTER 2003''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005.

**SEC. 102. EXTENSION AND MODIFICATION OF NEW MARKETS TAX CREDIT.**

(a) EXTENSION.—Section 45D(f)(1)(D) is amended by striking ''and 2007'' and inserting '', 2007, and 2008''.

(b) REGULATIONS REGARDING NON-METROPOLITAN COUNTIES.—Section 45D(i) is amended by striking ''and'' at the end of paragraph

(4), by striking the period at the end of paragraph (5) and inserting ''; and'', and by adding at the end the following new paragraph:

''(6) which ensure that non-metropolitan counties receive a proportional allocation of qualified equity investments.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

**SEC. 103. ELECTION TO DEDUCT STATE AND LOCAL GENERAL SALES TAXES.**

(a) IN GENERAL.—Section 164(b)(5)(I) is amended by striking ''2006'' and inserting ''2008''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005.

**SEC. 104. EXTENSION AND MODIFICATION OF RESEARCH CREDIT.**

(a) EXTENSION.—

(1) IN GENERAL.—Section 41(h)(1)(B) is amended by striking ''2005'' and inserting ''2007''.

(2) CONFORMING AMENDMENT.—Section 45C(b)(1)(D) is amended by striking ''2005'' and inserting ''2007''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to amounts paid or incurred after December 31, 2005.

(b) INCREASE IN RATES OF ALTERNATIVE INCREMENTAL CREDIT.—

(1) IN GENERAL.—Subparagraph (A) of section 41(c)(4) (relating to election of alternative incremental credit) is amended—

(A) by striking ''2.65 percent'' and inserting ''3 percent'',

(B) by striking ''3.2 percent'' and inserting ''4 percent'', and

(C) by striking ''3.75 percent'' and inserting ''5 percent''.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to amounts paid or incurred after December 31, 2006.

(c) ALTERNATIVE SIMPLIFIED CREDIT FOR QUALIFIED RESEARCH EXPENSES.—

(1) IN GENERAL.—Subsection (c) of section 41 (relating to base amount) is amended by redesignating paragraphs (5) and (6) as paragraphs (6) and (7), respectively, and by inserting after paragraph (4) the following new paragraph:

''(5) ELECTION OF ALTERNATIVE SIMPLIFIED CREDIT.—

''(A) IN GENERAL.—At the election of the taxpayer, the credit determined under subsection (a)(1) shall be equal to 12 percent of so much of the qualified research expenses for the taxable year as exceeds 50 percent of the average qualified research expenses for the 3 taxable years preceding the taxable year for which the credit is being determined.

''(B) SPECIAL RULE IN CASE OF NO QUALIFIED RESEARCH EXPENSES IN ANY OF 3 PRECEDING TAXABLE YEARS.—

''(i) TAXPAYERS TO WHICH SUBPARAGRAPH APPLIES.—The credit under this paragraph shall be determined under this subparagraph if the taxpayer has no qualified research expenses in any one of the 3 taxable years preceding the taxable year for which the credit is being determined.

''(ii) CREDIT RATE.—The credit determined under this subparagraph shall be equal to 6 percent of the qualified research expenses for the taxable year.

''(C) ELECTION.—An election under this paragraph shall apply to the taxable year for which made and all succeeding taxable years unless revoked with the consent of the Secretary. An election under this paragraph may not be made for any taxable year to which an election under paragraph (4) applies.''.

(2) COORDINATION WITH ELECTION OF ALTERNATIVE INCREMENTAL CREDIT.—

(A) IN GENERAL.—Section 41(c)(4)(B) (relating to election) is amended by adding at the end the following: ''An election under this paragraph may not be made for any taxable year to which an election under paragraph (5) applies.''.

(B) TRANSITION RULE.—In the case of an election under section 41(c)(4) of the Internal Revenue Code of 1986 which applies to the taxable year which includes the date of the enactment of this Act, such election shall be treated as revoked with the consent of the Secretary of the Treasury if the taxpayer makes an election under section 41(c)(5) of such Code (as added by subsection (c)) for such year.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to amounts paid or incurred after December 31, 2006.

**SEC. 105. WORK OPPORTUNITY TAX CREDIT AND WELFARE-TO-WORK CREDIT.**

(a) IN GENERAL.—Sections 51(c)(4)(B) and 51A(f) are each amended by striking ''2005'' and inserting ''2007''.

(b) ELIGIBILITY OF EX-FELONS DETERMINED WITHOUT REGARD TO FAMILY INCOME.—Paragraph (4) of section 51(d) is amended by adding ''and'' at the end of subparagraph (A), by striking '', and'' at the end of subparagraph (B) and inserting a period, and by striking all that follows subparagraph (B).

(c) INCREASE IN MAXIMUM AGE FOR ELIGIBILITY OF FOOD STAMP RECIPIENTS.—Clause (i) of section 51(d)(8)(A) is amended by striking ''25'' and inserting ''40''.

(d) EXTENSION OF PAPERWORK FILING DEADLINE.—Section 51(d)(12)(A)(ii)(II) is amended by striking ''21st day'' and inserting ''28th day''.

(e) CONSOLIDATION OF WORK OPPORTUNITY CREDIT WITH WELFARE-TO-WORK CREDIT.—

(1) IN GENERAL.—Paragraph (1) of section 51(d) is amended by striking ''or'' at the end of subparagraph (G), by striking the period at the end of subparagraph (H) and inserting '', or'', and by adding at the end the following new subparagraph:

''(I) a long-term family assistance recipient.''.

(2) LONG-TERM FAMILY ASSISTANCE RECIPIENT.—Subsection (d) of section 51 is amended by redesignating paragraphs (10) through (12) as paragraphs (11) through (13), respectively, and by inserting after paragraph (9) the following new paragraph:

''(10) LONG-TERM FAMILY ASSISTANCE RECIPIENT.—The term 'long-term family assistance recipient' means any individual who is certified by the designated local agency—

''(A) as being a member of a family receiving assistance under a IV–A program (as defined in paragraph (2)(B)) for at least the 18-month period ending on the hiring date,

''(B)(i) as being a member of a family receiving such assistance for 18 months beginning after August 5, 1997, and

''(ii) as having a hiring date which is not more than 2 years after the end of the earliest such 18-month period, or

''(C)(i) as being a member of a family which ceased to be eligible for such assistance by reason of any limitation imposed by Federal or State law on the maximum period such assistance is payable to a family, and

''(ii) as having a hiring date which is not more than 2 years after the date of such cessation.''.

(3) INCREASED CREDIT FOR EMPLOYMENT OF LONG-TERM FAMILY ASSISTANCE RECIPIENTS.—Section 51 is amended by inserting after subsection (d) the following new subsection:

''(e) CREDIT FOR SECOND-YEAR WAGES FOR EMPLOYMENT OF LONG-TERM FAMILY ASSISTANCE RECIPIENTS.—

''(1) IN GENERAL.—With respect to the employment of a long-term family assistance recipient—

''(A) the amount of the work opportunity credit determined under this section for the taxable year shall include 50 percent of the qualified second-year wages for such year, and

''(B) in lieu of applying subsection (b)(3), the amount of the qualified first-year wages, and the amount of qualified second-year wages, which may be taken into account with respect to such a recipient shall not exceed $10,000 per year.

''(2) QUALIFIED SECOND-YEAR WAGES.—For purposes of this subsection, the term 'qualified second-year wages' means qualified wages—

''(A) which are paid to a long-term family assistance recipient, and

''(B) which are attributable to service rendered during the 1-year period beginning on the day after the last day of the 1-year period with respect to such recipient determined under subsection (b)(2).

''(3) SPECIAL RULES FOR AGRICULTURAL AND RAILWAY LABOR.—If such recipient is an employee to whom subparagraph (A) or (B) of subsection (h)(1) applies, rules similar to the rules of such subparagraphs shall apply except that—

''(A) such subparagraph (A) shall be applied by substituting '$10,000' for '$6,000', and

''(B) such subparagraph (B) shall be applied by substituting '$833.33' for '$500'.''.

(4) REPEAL OF SEPARATE WELFARE-TO-WORK CREDIT.—

(A) IN GENERAL.—Section 51A is hereby repealed.

(B) CLERICAL AMENDMENT.—The table of sections for subpart F of part IV of subchapter A of chapter 1 is amended by striking the item relating to section 51A.

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to individuals who begin work for the employer after December 31, 2005.

(2) CONSOLIDATION.—The amendments made by subsections (b), (c), (d), and (e) shall apply to individuals who begin work for the employer after December 31, 2006.

**SEC. 106. ELECTION TO INCLUDE COMBAT PAY AS EARNED INCOME FOR PURPOSES OF EARNED INCOME CREDIT.**

(a) IN GENERAL.—Section 32(c)(2)(B)(vi)(II) is amended by striking ''2007'' and inserting ''2008''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2006.

**SEC. 107. EXTENSION AND MODIFICATION OF QUALIFIED ZONE ACADEMY BONDS.**

(a) IN GENERAL.—Paragraph (1) of section 1397E(e) is amended by striking ''and 2005'' and inserting ''2005, 2006, and 2007''.

(b) SPECIAL RULES RELATING TO EXPENDITURES, ARBITRAGE, AND REPORTING.—

(1) IN GENERAL.—Section 1397E is amended—

(A) in subsection (d)(1), by striking ''and'' at the end of subparagraph (C)(iii), by striking the period at the end of subparagraph (D) and inserting ''; and'', and by adding at the end the following new subparagraph:

''(E) the issue meets the requirements of subsections (f), (g), and (h).'', and

(B) by redesignating subsections (f), (g), (h), and (i) as subsection (i), (j), (k), and (l), respectively, and by inserting after subsection (e) the following new subsections:

''(f) SPECIAL RULES RELATING TO EXPENDITURES.—

''(1) IN GENERAL.—An issue shall be treated as meeting the requirements of this subsection if, as of the date of issuance, the issuer reasonably expects—

''(A) at least 95 percent of the proceeds from the sale of the issue are to be spent for 1 or more qualified purposes with respect to

qualified zone academies within the 5-year period beginning on the date of issuance of the qualified zone academy bond,

''(B) a binding commitment with a third party to spend at least 10 percent of the proceeds from the sale of the issue will be incurred within the 6-month period beginning on the date of issuance of the qualified zone academy bond, and

''(C) such purposes will be completed with due diligence and the proceeds from the sale of the issue will be spent with due diligence.

''(2) EXTENSION OF PERIOD.—Upon submission of a request prior to the expiration of the period described in paragraph (1)(A), the Secretary may extend such period if the issuer establishes that the failure to satisfy the 5-year requirement is due to reasonable cause and the related purposes will continue to proceed with due diligence.

''(3) FAILURE TO SPEND REQUIRED AMOUNT OF BOND PROCEEDS WITHIN 5 YEARS.—To the extent that less than 95 percent of the proceeds of such issue are expended by the close of the 5-year period beginning on the date of issuance (or if an extension has been obtained under paragraph (2), by the close of the extended period), the issuer shall redeem all of the nonqualified bonds within 90 days after the end of such period. For purposes of this paragraph, the amount of the nonqualified bonds required to be redeemed shall be determined in the same manner as under section 142.

''(g) SPECIAL RULES RELATING TO ARBITRAGE.—An issue shall be treated as meeting the requirements of this subsection if the issuer satisfies the arbitrage requirements of section 148 with respect to proceeds of the issue.

''(h) REPORTING.—Issuers of qualified academy zone bonds shall submit reports similar to the reports required under section 149(e).''.

(2) CONFORMING AMENDMENTS.—Sections 54(l)(3)(B) and 1400N(l)(7)(B)(ii) are each amended by striking ''section 1397E(i)'' and inserting ''section 1397E(l)''.

(c) EFFECTIVE DATES.—

(1) EXTENSION.—The amendment made by subsection (a) shall apply to obligations issued after December 31, 2005.

(2) SPECIAL RULES.—The amendments made by subsection (b) shall apply to obligations issued after the date of the enactment of this Act pursuant to allocations of the national zone academy bond limitation for calendar years after 2005.

**SEC. 108. ABOVE-THE-LINE DEDUCTION FOR CERTAIN EXPENSES OF ELEMENTARY AND SECONDARY SCHOOL TEACHERS.**

(a) IN GENERAL.—Subparagraph (D) of section 62(a)(2) is amended by striking ''or 2005'' and inserting ''2005, 2006, or 2007''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2005.

**SEC. 109. EXTENSION AND EXPANSION OF EXPENSING OF BROWNFIELDS REMEDIATION COSTS.**

(a) EXTENSION.—Subsection (h) of section 198 is amended by striking ''2005'' and inserting ''2007''.

(b) EXPANSION.—Section 198(d)(1) (defining hazardous substance) is amended by striking ''and'' at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting '', and'', and by adding at the end the following new subparagraph:

''(C) any petroleum product (as defined in section 4612(a)(3)).''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to expenditures paid or incurred after December 31, 2005.

**SEC. 110. TAX INCENTIVES FOR INVESTMENT IN THE DISTRICT OF COLUMBIA.**

(a) DESIGNATION OF ZONE.—

(1) IN GENERAL.—Subsection (f) of section 1400 is amended by striking ''2005'' both places it appears and inserting ''2007''.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to periods beginning after December 31, 2005.

(b) TAX-EXEMPT ECONOMIC DEVELOPMENT BONDS.—

(1) IN GENERAL.—Subsection (b) of section 1400A is amended by striking ''2005'' and inserting ''2007''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to bonds issued after December 31, 2005.

(c) ZERO PERCENT CAPITAL GAINS RATE.—

(1) IN GENERAL.—Subsection (b) of section 1400B is amended by striking ''2006'' each place it appears and inserting ''2008''.

(2) CONFORMING AMENDMENTS.—

(A) Section 1400B(e)(2) is amended—

(i) by striking ''2010'' and inserting ''2012'', and

(ii) by striking ''2010'' in the heading thereof and inserting ''2012''.

(B) Section 1400B(g)(2) is amended by striking ''2010'' and inserting ''2012''.

(C) Section 1400F(d) is amended by striking ''2010'' and inserting ''2012''.

(3) EFFECTIVE DATES.—

(A) EXTENSION.—The amendments made by paragraph (1) shall apply to acquisitions after December 31, 2005.

(B) CONFORMING AMENDMENTS.—The amendments made by paragraph (2) shall take effect on the date of the enactment of this Act.

(d) FIRST-TIME HOMEBUYER CREDIT.—

(1) IN GENERAL.—Subsection (i) of section 1400C is amended by striking ''2006'' and inserting ''2008''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to property purchased after December 31, 2005.

**SEC. 111. INDIAN EMPLOYMENT TAX CREDIT.**

(a) IN GENERAL.—Section 45A(f) is amended by striking ''2005'' and inserting ''2007''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2005.

**SEC. 112. ACCELERATED DEPRECIATION FOR BUSINESS PROPERTY ON INDIAN RESERVATIONS.**

(a) IN GENERAL.—Section 168(j)(8) is amended by striking ''2005'' and inserting ''2007''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property placed in service after December 31, 2005.

**SEC. 113. FIFTEEN-YEAR STRAIGHT-LINE COST RECOVERY FOR QUALIFIED LEASEHOLD IMPROVEMENTS AND QUALIFIED RESTAURANT PROPERTY.**

(a) IN GENERAL.—Clauses (iv) and (v) of section 168(e)(3)(E) are each amended by striking ''2006'' and inserting ''2008''.

(b) TREATMENT OF RESTAURANT PROPERTY TO INCLUDE NEW CONSTRUCTION.—Paragraph (7) of section 168(e) (relating to classification of property) is amended to read as follows:

''(7) QUALIFIED RESTAURANT PROPERTY.—The term 'qualified restaurant property' means any section 1250 property which is a building or an improvement to a building if more than 50 percent of the building's square footage is devoted to preparation of, and seating for on-premises consumption of, prepared meals.''.

(c) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendments made by subsection (a) shall apply to property placed in service after December 31, 2005.

(2) SUBSECTION (b).—The amendment made by subsection (b) shall apply to property placed in service after the date of the enactment of this Act.

**SEC. 114. COVER OVER OF TAX ON DISTILLED SPIRITS.**

(a) IN GENERAL.—Section 7652(f)(1) is amended by striking ''2006'' and inserting ''2008''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to articles brought into the United States after December 31, 2005.

**SEC. 115. PARITY IN APPLICATION OF CERTAIN LIMITS TO MENTAL HEALTH BENEFITS.**

(a) AMENDMENT TO THE INTERNAL REVENUE CODE OF 1986.—Section 9812(f)(3) is amended by striking ''2006'' and inserting ''2007''.

(b) AMENDMENT TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—Section 712(f) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1185a(f)) is amended by striking ''2006'' and inserting ''2007''.

(c) AMENDMENT TO THE PUBLIC HEALTH SERVICE ACT.—Section 2705(f) of the Public Health Service Act (42 U.S.C. 300gg–5(f)) is amended by striking ''2006''and inserting ''2007''.

**SEC. 116. CORPORATE DONATIONS OF SCIENTIFIC PROPERTY USED FOR RESEARCH AND OF COMPUTER TECHNOLOGY AND EQUIPMENT.**

(a) EXTENSION OF COMPUTER TECHNOLOGY AND EQUIPMENT DONATION.—

(1) IN GENERAL.—Section 170(e)(6)(G) is amended by striking ''2005'' and inserting ''2007''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to contributions made in taxable years beginning after December 31, 2005.

(b) EXPANSION OF CHARITABLE CONTRIBUTION ALLOWED FOR SCIENTIFIC PROPERTY USED FOR RESEARCH AND FOR COMPUTER TECHNOLOGY AND EQUIPMENT USED FOR EDUCATIONAL PURPOSES.—

(1) SCIENTIFIC PROPERTY USED FOR RESEARCH.—

(A) IN GENERAL.—Clause (ii) of section 170(e)(4)(B) (defining qualified research contributions) is amended by inserting ''or assembled'' after ''constructed''.

(B) CONFORMING AMENDMENT.—Clause (iii) of section 170(e)(4)(B) is amended by inserting ''or assembly'' after ''construction''.

(2) COMPUTER TECHNOLOGY AND EQUIPMENT FOR EDUCATIONAL PURPOSES.—

(A) IN GENERAL.—Clause (ii) of section 170(e)(6)(B) is amended by inserting ''or assembled'' after ''constructed'' and ''or assembling'' after ''construction''.

(B) CONFORMING AMENDMENT.—Subparagraph (D) of section 170(e)(6) is amended by inserting ''or assembled'' after ''constructed'' and ''or assembly'' after ''construction''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 2005.

**SEC. 117. AVAILABILITY OF MEDICAL SAVINGS ACCOUNTS.**

(a) IN GENERAL.—Paragraphs (2) and (3)(B) of section 220(i) are each amended by striking ''2005'' each place it appears in the text and headings and inserting ''2007''.

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 220(j) is amended—

(A) in the text by striking ''or 2004'' each place it appears and inserting ''2004, 2005, or 2006'', and

(B) in the heading by striking ''OR 2004'' and inserting ''2004, 2005, OR 2006'' .

(2) Subparagraph (A) of section 220(j)(4) is amended by striking ''and 2004'' and inserting ''2004, 2005, and 2006''.

(c) TIME FOR FILING REPORTS, ETC.—

(1) The report required by section 220(j)(4) of the Internal Revenue Code of 1986 to be made on August 1, 2005, shall be treated as

timely if made before the close of the 90-day period beginning on the date of the enactment of this Act.

(2) The determination and publication required by section 220(j)(5) of such Code with respect to calendar year 2005 shall be treated as timely if made before the close of the 120-day period beginning on the date of the enactment of this Act. If the determination under the preceding sentence is that 2005 is a cut-off year under section 220(i) of such Code, the cut-off date under such section 220(i) shall be the last day of such 120-day period.

**SEC. 118. TAXABLE INCOME LIMIT ON PERCENTAGE DEPLETION FOR OIL AND NATURAL GAS PRODUCED FROM MARGINAL PROPERTIES.**

(a) IN GENERAL.—Section 613A(c)(6)(H) is amended by striking ''2006'' and inserting ''2008''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 2005.

**SEC. 119. AMERICAN SAMOA ECONOMIC DEVELOPMENT CREDIT.**

(a) IN GENERAL.—For purposes of section 30A of the Internal Revenue Code of 1986, a domestic corporation shall be treated as a qualified domestic corporation to which such section applies if such corporation—

(1) is an existing credit claimant with respect to American Samoa, and

(2) elected the application of section 936 of the Internal Revenue Code of 1986 for its last taxable year beginning before January 1, 2006.

(b) SPECIAL RULES FOR APPLICATION OF SECTION.—The following rules shall apply in applying section 30A of the Internal Revenue Code of 1986 for purposes of this section:

(1) AMOUNT OF CREDIT.—Notwithstanding section 30A(a)(1) of such Code, the amount of the credit determined under section 30A(a)(1) of such Code for any taxable year shall be the amount determined under section 30A(d) of such Code, except that section 30A(d) shall be applied without regard to paragraph (3) thereof.

(2) SEPARATE APPLICATION.—In applying section 30A(a)(3) of such Code in the case of a corporation treated as a qualified domestic corporation by reason of this section, section 30A of such Code (and so much of section 936 of such Code as relates to such section 30A) shall be applied separately with respect to American Samoa.

(3) FOREIGN TAX CREDIT ALLOWED.—Notwithstanding section 30A(e) of such Code, the provisions of section 936(c) of such Code shall not apply with respect to the credit allowed by reason of this section.

(c) DEFINITIONS.—For purposes of this section, any term which is used in this section which is also used in section 30A or 936 of such Code shall have the same meaning given such term by such section 30A or 936.

(d) APPLICATION OF SECTION.—Notwithstanding section 30A(h) or section 936(j) of such Code, this section (and so much of section 30A and section 936 of such Code as relates to this section) shall apply to the first two taxable years of a corporation to which subsection (a) applies which begin after December 31, 2005, and before January 1, 2008.

**SEC. 120. RESTRUCTURING OF NEW YORK LIBERTY ZONE TAX CREDITS.**

(a) IN GENERAL.—Part I of subchapter Y of chapter 1 is amended by redesignating section 1400L as 1400K and by adding at the end the following new section:

**''SEC. 1400L. NEW YORK LIBERTY ZONE TAX CREDITS.**

''(a) IN GENERAL.—In the case of a New York Liberty Zone governmental unit, there shall be allowed as a credit against any taxes imposed for any payroll period by section 3402 for which such governmental unit is liable under section 3403 an amount equal to so much of the portion of the qualifying project expenditure amount allocated under subsection (b)(3) to such governmental unit for the calendar year as is allocated by such governmental unit to such period under subsection (b)(4).

''(b) QUALIFYING PROJECT EXPENDITURE AMOUNT.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualifying project expenditure amount' means, with respect to any calendar year, the sum of—

''(A) the total expenditures paid or incurred during such calendar year by all New York Liberty Zone governmental units and the Port Authority of New York and New Jersey for any portion of qualifying projects located wholly within the City of New York, New York, and

''(B) any such expenditures—

''(i) paid or incurred in any preceding calendar year which begins after the date of enactment of this section, and

''(ii) not previously allocated under paragraph (3).

''(2) QUALIFYING PROJECT.—The term 'qualifying project' means any transportation infrastructure project, including highways, mass transit systems, railroads, airports, ports, and waterways, in or connecting with the New York Liberty Zone (as defined in section 1400K(h)), which is designated as a qualifying project under this section jointly by the Governor of the State of New York and the Mayor of the City of New York, New York.

''(3) GENERAL ALLOCATION.—

''(A) IN GENERAL.—The Governor of the State of New York and the Mayor of the City of New York, New York, shall jointly allocate to each New York Liberty Zone governmental unit the portion of the qualifying project expenditure amount which may be taken into account by such governmental unit under subsection (a) for any calendar year in the credit period.

''(B) AGGREGATE LIMIT.—The aggregate amount which may be allocated under subparagraph (A) for all calendar years in the credit period shall not exceed $1,750,000,000.

''(C) ANNUAL LIMIT.—

''(i) IN GENERAL.—The aggregate amount which may be allocated under subparagraph (A) for any calendar year in the credit period shall not exceed the sum of—

''(I) the applicable limit, plus

''(II) the aggregate amount authorized to be allocated under this paragraph for all preceding calendar years in the credit period which was not so allocated.

''(ii) APPLICABLE LIMIT.—For purposes of clause (i), the applicable limit for any calendar year is—

''(I) in the case of calendar years 2007 through 2016, $100,000,000,

''(II) in the case of calendar year 2017 or 2018, $200,000,000,

''(III) in the case of calendar year 2019, $150,000,000,

''(IV) in the case of calendar year 2020 or 2021, $100,000,000, and

''(V) in the case of any calendar year after 2021, zero.

''(D) UNALLOCATED AMOUNTS AT END OF CREDIT PERIOD.—If, as of the close of the credit period, the amount under subparagraph (B) exceeds the aggregate amount allocated under subparagraph (A) for all calendar years in the credit period, the Governor of the State of New York and the Mayor of the City of New York, New York, may jointly allocate to New York Liberty Zone governmental units for any calendar year in the 5-year period following the credit period an amount equal to—

''(i) the lesser of—

''(I) such excess, or

''(II) the qualifying project expenditure amount for such calendar year, reduced by

''(ii) the aggregate amount allocated under this subparagraph for all preceding calendar years.

''(4) ALLOCATION TO PAYROLL PERIODS.—Each New York Liberty Zone governmental unit which has been allocated a portion of the qualifying project expenditure amount under paragraph (3) for a calendar year may allocate such portion to payroll periods beginning in such calendar year as such governmental unit determines appropriate.

''(c) CARRYOVER OF UNUSED ALLOCATIONS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), if the amount allocated under subsection (b)(3) to a New York Liberty Zone governmental unit for any calendar year exceeds the aggregate taxes imposed by section 3402 for which such governmental unit is liable under section 3403 for periods beginning in such year, such excess shall be carried to the succeeding calendar year and added to the allocation of such governmental unit for such succeeding calendar year. No amount may be carried under the preceding sentence to a calendar year after 2026.

''(2) REALLOCATION.—If a New York Liberty Zone governmental unit does not use an amount allocated to it under subsection (b)(3) within the time prescribed by the Governor of the State of New York and the Mayor of the City of New York, New York, then such amount shall after such time be treated for purposes of subsection (b)(3) in the same manner as if it had never been allocated.

''(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) CREDIT PERIOD.—The term 'credit period' means the 15-year period beginning on January 1, 2007.

''(2) NEW YORK LIBERTY ZONE GOVERNMENTAL UNIT.—The term 'New York Liberty Zone governmental unit' means—

''(A) the State of New York,

''(B) the City of New York, New York, and

''(C) any agency or instrumentality of such State or City.

''(3) TREATMENT OF FUNDS.—Any expenditure for a qualifying project taken into account for purposes of the credit under this section shall be considered State and local funds for the purpose of any Federal program.

''(4) TREATMENT OF CREDIT AMOUNTS FOR PURPOSES OF WITHHOLDING TAXES.—For purposes of this title, a New York Liberty Zone governmental unit shall be treated as having paid to the Secretary, on the day on which wages are paid to employees, an amount equal to the amount of the credit allowed to such entity under subsection (a) with respect to such wages, but only if such governmental unit deducts and withholds wages for such payroll period under section 3401 (relating to wage withholding).

''(e) REPORTING.—The Governor of the State of New York and the Mayor of the City of New York, New York, shall jointly submit to the Secretary an annual report—

''(1) which certifies—

''(A) the qualifying project expenditure amount for the calendar year, and

''(B) the amount allocated to each New York Liberty Zone governmental unit under subsection (b)(3) for the calendar year, and

''(2) includes such other information as the Secretary may require to carry out this section.

''(f) GUIDANCE.—The Secretary may prescribe such guidance as may be necessary or appropriate to ensure compliance with the purposes of this section.

''(g) TERMINATION.—No credit shall be allowed under subsection (a) for any calender year after 2026.''.

(b) TERMINATION OF CERTAIN NEW YORK LIBERTY ZONE BENEFITS.—

(1) SPECIAL ALLOWANCE AND EXPENSING.—Section 1400K(b)(2)(A)(v), as redesignated by subsection (a), is amended by striking ''the termination date'' and inserting ''the date of the enactment of the Tax Relief Extension Act of 2006 or the termination date if pursuant to a binding contract in effect on such enactment date''.

(2) LEASEHOLD.—Section 1400K(c)(2)(B), as so redesignated, is amended by striking ''before January 1, 2007'' and inserting ''on or before the date of the enactment of the Tax Relief Extension Act of 2006 or before January 1, 2007, if pursuant to a binding contract in effect on such enactment date''.

(c) CONFORMING AMENDMENTS.—

(1) Section 38(c)(3)(B) is amended by striking ''section 1400L(a)'' and inserting ''section 1400K(a)''.

(2) Section 168(k)(2)(D)(ii) is amended by striking ''section 1400L(c)(2)'' and inserting ''1400K(c)(2)''.

(3) The table of sections for part I of subchapter Y of chapter 1 is amended by striking ''1400L'' and inserting ''1400K''.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to periods beginning after December 31, 2006.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall take effect as if included in section 301 of the Job Creation and Worker Assistance Act of 2002.

**SEC. 121. EXTENSION OF BONUS DEPRECIATION FOR CERTAIN QUALIFIED GULF OPPORTUNITY ZONE PROPERTY.**

(a) IN GENERAL.—Subsection (d) of section 1400N is amended by adding at the end the following new paragraph:

''(6) EXTENSION FOR CERTAIN PROPERTY.—

''(A) IN GENERAL.—In the case of any specified Gulf Opportunity Zone extension property, paragraph (2)(A) shall be applied without regard to clause (v) thereof.

''(B) SPECIFIED GULF OPPORTUNITY ZONE EXTENSION PROPERTY.—For purposes of this paragraph, the term 'specified Gulf Opportunity Zone extension property' means property—

''(i) substantially all of the use of which is in one or more specified portions of the GO Zone, and

''(ii) which is—

''(I) nonresidential real property or residential rental property which is placed in service by the taxpayer on or before December 31, 2009, or

''(II) in the case of a taxpayer who places a building described in subclause (I) in service on or before December 31, 2009, property described in section 168(k)(2)(A)(i) if substantially all of the use of such property is in such building and such property is placed in service by the taxpayer not later than 90 days after such building is placed in service.

''(C) SPECIFIED PORTIONS OF THE GO ZONE.—For purposes of this paragraph, the term 'specified portions of the GO Zone' means those portions of the GO Zone which are in any county or parish which is identified by the Secretary as being a county or parish in which hurricanes occurring during 2005 damaged (in the aggregate) more than 40 percent of the housing units in such county or parish which were occupied (determined according to the 2000 Census).''.

(b) EXTENSION NOT APPLICABLE TO INCREASED SECTION 179 EXPENSING.—Paragraph (2) of section 1400N(e) is amended by inserting ''without regard to subsection (d)(6)'' after ''subsection (d)(2)''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in section 101 of the Gulf Opportunity Zone Act of 2005.

**SEC. 122. AUTHORITY FOR UNDERCOVER OPERATIONS.**

Paragraph (6) of section 7608(c) (relating to application of section) is amended by striking ''2007'' both places it appears and inserting ''2008''.

**SEC. 123. DISCLOSURES OF CERTAIN TAX RETURN INFORMATION.**

(a) DISCLOSURES TO FACILITATE COMBINED EMPLOYMENT TAX REPORTING.—

(1) IN GENERAL.—Subparagraph (B) of section 6103(d)(5) (relating to termination) is amended by striking ''2006'' and inserting ''2007''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to disclosures after December 31, 2006.

(b) DISCLOSURES RELATING TO TERRORIST ACTIVITIES.—

(1) IN GENERAL.—Clause (iv) of section 6103(i)(3)(C) and subparagraph (E) of section 6103(i)(7) are each amended by striking ''2006'' and inserting ''2007''.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to disclosures after December 31, 2006.

(c) DISCLOSURES RELATING TO STUDENT LOANS.—

(1) IN GENERAL.—Subparagraph (D) of section 6103(l)(13) (relating to termination) is amended by striking ''2006'' and inserting ''2007''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to requests made after December 31, 2006.

## TITLE II—OTHER TAX PROVISIONS

**SEC. 201. DEDUCTION ALLOWABLE WITH RESPECT TO INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION ACTIVITIES IN PUERTO RICO.**

(a) IN GENERAL.—Subsection (d) of section 199 (relating to definitions and special rules) is amended by redesignating paragraph (8) as paragraph (9) and by inserting after paragraph (7) the following new paragraph:

''(8) TREATMENT OF ACTIVITIES IN PUERTO RICO.—

''(A) IN GENERAL.—In the case of any taxpayer with gross receipts for any taxable year from sources within the Commonwealth of Puerto Rico, if all of such receipts are taxable under section 1 or 11 for such taxable year, then for purposes of determining the domestic production gross receipts of such taxpayer for such taxable year under subsection (c)(4), the term 'United States' shall include the Commonwealth of Puerto Rico.

''(B) SPECIAL RULE FOR APPLYING WAGE LIMITATION.—In the case of any taxpayer described in subparagraph (A), for purposes of applying the limitation under subsection (b) for any taxable year, the determination of W–2 wages of such taxpayer shall be made without regard to any exclusion under section 3401(a)(8) for remuneration paid for services performed in Puerto Rico.

''(C) TERMINATION.—This paragraph shall apply only with respect to the first 2 taxable years of the taxpayer beginning after December 31, 2005, and before January 1, 2008.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to taxable years beginning after December 31, 2005.

**SEC. 202. CREDIT FOR PRIOR YEAR MINIMUM TAX LIABILITY MADE REFUNDABLE AFTER PERIOD OF YEARS.**

(a) IN GENERAL.—Section 53 (relating to credit for prior year minimum tax liability) is amended by adding at the end the following new subsection:

''(e) SPECIAL RULE FOR INDIVIDUALS WITH LONG-TERM UNUSED CREDITS.—

''(1) IN GENERAL.—If an individual has a long-term unused minimum tax credit for any taxable year beginning before January 1, 2013, the amount determined under subsection (c) for such taxable year shall not be less than the AMT refundable credit amount for such taxable year.

''(2) AMT REFUNDABLE CREDIT AMOUNT.—For purposes of paragraph (1)—

''(A) IN GENERAL.—The term 'AMT refundable credit amount' means, with respect to any taxable year, the amount equal to the greater of—

''(i) the lesser of—

''(I) $5,000, or

''(II) the amount of long-term unused minimum tax credit for such taxable year, or

''(ii) 20 percent of the amount of such credit.

''(B) PHASEOUT OF AMT REFUNDABLE CREDIT AMOUNT.—

''(i) IN GENERAL.—In the case of an individual whose adjusted gross income for any taxable year exceeds the threshold amount (within the meaning of section 151(d)(3)(C)), the AMT refundable credit amount determined under subparagraph (A) for such taxable year shall be reduced by the applicable percentage (within the meaning of section 151(d)(3)(B)).

''(ii) ADJUSTED GROSS INCOME.—For purposes of clause (i), adjusted gross income shall be determined without regard to sections 911, 931, and 933.

''(3) LONG-TERM UNUSED MINIMUM TAX CREDIT.—

''(A) IN GENERAL.—For purposes of this subsection, the term 'long-term unused minimum tax credit' means, with respect to any taxable year, the portion of the minimum tax credit determined under subsection (b) attributable to the adjusted net minimum tax for taxable years before the 3rd taxable year immediately preceding such taxable year.

''(B) FIRST-IN, FIRST-OUT ORDERING RULE.—For purposes of subparagraph (A), credits shall be treated as allowed under subsection (a) on a first-in, first-out basis.

''(4) CREDIT REFUNDABLE.—For purposes of this title (other than this section), the credit allowed by reason of this subsection shall be treated as if it were allowed under subpart C.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 6211(b)(4)(A) is amended by striking ''and 34'' and inserting ''34, and 53(e)''.

(2) Paragraph (2) of section 1324(b) of title 31, United States Code, is amended by inserting ''or 53(e)'' after ''section 35''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

**SEC. 203. RETURNS REQUIRED IN CONNECTION WITH CERTAIN OPTIONS.**

(a) IN GENERAL.—So much of section 6039(a) as follows paragraph (2) is amended to read as follows:

''shall, for such calendar year, make a return at such time and in such manner, and setting forth such information, as the Secretary may by regulations prescribe.''.

(b) STATEMENTS TO PERSONS WITH RESPECT TO WHOM INFORMATION IS FURNISHED.—Section 6039 is amended by redesignating subsections (b) and (c) as subsection (c) and (d), respectively, and by inserting after subsection (a) the following new subsection:

''(b) STATEMENTS TO BE FURNISHED TO PERSONS WITH RESPECT TO WHOM INFORMATION IS REPORTED.—Every corporation making a return under subsection (a) shall furnish to each person whose name is set forth in such return a written statement setting forth such information as the Secretary may by regulations prescribe. The written statement required under the preceding sentence shall be furnished to such person on or before January 31 of the year following the calendar year for which the return under subsection (a) was made.''.

(c) CONFORMING AMENDMENTS.—

(1) Section 6724(d)(1)(B) is amended by striking ''or'' at the end of clause (xvii), by striking ''and'' at the end of clause (xviii) and inserting ''or'', and by adding at the end the following new clause:

''(xix) section 6039(a) (relating to returns required with respect to certain options), and''.

(2) Section 6724(d)(2)(B) is amended by striking ''section 6039(a)'' and inserting ''section 6039(b)''.

(3) The heading of section 6039 and the item relating to such section in the table of sections of subpart A of part III of subchapter A of chapter 61 of such Code are each amended by striking ''Information'' and inserting ''Returns''.

(4) The heading of subsection (a) of section 6039 is amended by striking ''FURNISHING OF INFORMATION'' and inserting ''REQUIREMENT OF REPORTING''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to calendar years beginning after the date of the enactment of this Act.

**SEC. 204. PARTIAL EXPENSING FOR ADVANCED MINE SAFETY EQUIPMENT.**

(a) IN GENERAL.—Part VI of subchapter B of chapter 1 is amended by inserting after section 179D the following new section:

**''SEC. 179E. ELECTION TO EXPENSE ADVANCED MINE SAFETY EQUIPMENT.**

''(a) TREATMENT AS EXPENSES.—A taxpayer may elect to treat 50 percent of the cost of any qualified advanced mine safety equipment property as an expense which is not chargeable to capital account. Any cost so treated shall be allowed as a deduction for the taxable year in which the qualified advanced mine safety equipment property is placed in service.

''(b) ELECTION.—

''(1) IN GENERAL.—An election under this section for any taxable year shall be made on the taxpayer's return of the tax imposed by this chapter for the taxable year. Such election shall specify the advanced mine safety equipment property to which the election applies and shall be made in such manner as the Secretary may by regulations prescribe.

''(2) ELECTION IRREVOCABLE.—Any election made under this section may not be revoked except with the consent of the Secretary.

''(c) QUALIFIED ADVANCED MINE SAFETY EQUIPMENT PROPERTY.—For purposes of this section, the term 'qualified advanced mine safety equipment property' means any advanced mine safety equipment property for use in any underground mine located in the United States—

''(1) the original use of which commences with the taxpayer, and

''(2) which is placed in service by the taxpayer after the date of the enactment of this section.

''(d) ADVANCED MINE SAFETY EQUIPMENT PROPERTY.—For purposes of this section, the term 'advanced mine safety equipment property' means any of the following:

''(1) Emergency communication technology or device which is used to allow a miner to maintain constant communication with an individual who is not in the mine.

''(2) Electronic identification and location device which allows an individual who is not in the mine to track at all times the movements and location of miners working in or at the mine.

''(3) Emergency oxygen-generating, self-rescue device which provides oxygen for at least 90 minutes.

''(4) Pre-positioned supplies of oxygen which (in combination with self-rescue devices) can be used to provide each miner on a shift, in the event of an accident or other event which traps the miner in the mine or otherwise necessitates the use of such a self-rescue device, the ability to survive for at least 48 hours.

''(5) Comprehensive atmospheric monitoring system which monitors the levels of carbon monoxide, methane, and oxygen that are present in all areas of the mine and which can detect smoke in the case of a fire in a mine.

''(e) COORDINATION WITH SECTION 179.—No expenditures shall be taken into account under subsection (a) with respect to the portion of the cost of any property specified in an election under section 179.

''(f) REPORTING.—No deduction shall be allowed under subsection (a) to any taxpayer for any taxable year unless such taxpayer files with the Secretary a report containing such information with respect to the operation of the mines of the taxpayer as the Secretary shall require.

''(g) TERMINATION.—This section shall not apply to property placed in service after December 31, 2008.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 263(a)(1) is amended by striking ''or'' at the end of subparagraph (J), by striking the period at the end of subparagraph (K) and inserting '', or'', and by inserting after subparagraph (K) the following new subparagraph:

''(L) expenditures for which a deduction is allowed under section 179E.''.

(2) Section 312(k)(3)(B) is amended by striking ''or 179D'' each place it appears in the heading and text thereof and inserting ''179D, or 179E''.

(3) Paragraphs (2)(C) and (3)(C) of section 1245(a) are each amended by inserting ''179E,'' after ''179D,''.

(4) The table of sections for part VI of subchapter B of chapter 1 is amended by inserting after the item relating to section 179D the following new item:

''Sec. 179E. Election to expense advanced mine safety equipment.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to costs paid or incurred after the date of the enactment of this Act.

**SEC. 205. MINE RESCUE TEAM TRAINING TAX CREDIT.**

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits) is amended by adding at the end the following new section:

**''SEC. 45N. MINE RESCUE TEAM TRAINING CREDIT.**

''(a) AMOUNT OF CREDIT.—For purposes of section 38, the mine rescue team training credit determined under this section with respect to each qualified mine rescue team employee of an eligible employer for any taxable year is an amount equal to the lesser of—

''(1) 20 percent of the amount paid or incurred by the taxpayer during the taxable year with respect to the training program costs of such qualified mine rescue team employee (including wages of such employee while attending such program), or

''(2) $10,000.

''(b) QUALIFIED MINE RESCUE TEAM EMPLOYEE.—For purposes of this section, the term 'qualified mine rescue team employee' means with respect to any taxable year any full-time employee of the taxpayer who is—

''(1) a miner eligible for more than 6 months of such taxable year to serve as a mine rescue team member as a result of completing, at a minimum, an initial 20-hour course of instruction as prescribed by the Mine Safety and Health Administration's Office of Educational Policy and Development, or

''(2) a miner eligible for more than 6 months of such taxable year to serve as a mine rescue team member by virtue of receiving at least 40 hours of refresher training in such instruction.

''(c) ELIGIBLE EMPLOYER.—For purposes of this section, the term 'eligible employer' means any taxpayer which employs individuals as miners in underground mines in the United States.

''(d) WAGES.—For purposes of this section, the term 'wages' has the meaning given to such term by subsection (b) of section 3306 (determined without regard to any dollar limitation contained in such section).

''(e) TERMINATION.—This section shall not apply to taxable years beginning after December 31, 2008.''.

(b) CREDIT MADE PART OF GENERAL BUSINESS CREDIT.—Section 38(b) is amended by striking ''and'' at the end of paragraph (29), by striking the period at the end of paragraph (30) and inserting '', plus'', and by adding at the end the following new paragraph:

''(31) the mine rescue team training credit determined under section 45N(a).''.

(c) NO DOUBLE BENEFIT.—Section 280C is amended by adding at the end the following new subsection:

''(e) MINE RESCUE TEAM TRAINING CREDIT.—No deduction shall be allowed for that portion of the expenses otherwise allowable as a deduction for the taxable year which is equal to the amount of the credit determined for the taxable year under section 45N(a).''.

(d) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

''Sec. 45N. Mine rescue team training credit.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005.

**SEC. 206. WHISTLEBLOWER REFORMS.**

(a) AWARDS TO WHISTLEBLOWERS.—

(1) IN GENERAL.—Section 7623 (relating to expenses of detection of underpayments and fraud, etc.) is amended—

(A) by striking ''The Secretary'' and inserting ''(a) IN GENERAL.—The Secretary'',

(B) by striking ''and'' at the end of paragraph (1) and inserting ''or'',

(C) by striking ''(other than interest)'', and

(D) by adding at the end the following new subsection:

''(b) AWARDS TO WHISTLEBLOWERS.—

''(1) IN GENERAL.—If the Secretary proceeds with any administrative or judicial action described in subsection (a) based on information brought to the Secretary's attention by an individual, such individual shall, subject to paragraph (2), receive as an award at least 15 percent but not more than 30 percent of the collected proceeds (including penalties, interest, additions to tax, and additional amounts) resulting from the action (including any related actions) or from any settlement in response to such action. The determination of the amount of such award by the Whistleblower Office shall depend upon the extent to which the individual substantially contributed to such action.

''(2) AWARD IN CASE OF LESS SUBSTANTIAL CONTRIBUTION.—

''(A) IN GENERAL.—In the event the action described in paragraph (1) is one which the Whistleblower Office determines to be based principally on disclosures of specific allegations (other than information provided by the individual described in paragraph (1)) resulting from a judicial or administrative hearing, from a governmental report, hearing, audit, or investigation, or from the news media, the Whistleblower Office may award such sums as it considers appropriate, but in no case more than 10 percent of the collected proceeds (including penalties, interest, additions to tax, and additional amounts) resulting from the action (including any related

actions) or from any settlement in response to such action, taking into account the significance of the individual's information and the role of such individual and any legal representative of such individual in contributing to such action.

''(B) NONAPPLICATION OF PARAGRAPH WHERE INDIVIDUAL IS ORIGINAL SOURCE OF INFORMATION.—Subparagraph (A) shall not apply if the information resulting in the initiation of the action described in paragraph (1) was originally provided by the individual described in paragraph (1).

''(3) REDUCTION IN OR DENIAL OF AWARD.—If the Whistleblower Office determines that the claim for an award under paragraph (1) or (2) is brought by an individual who planned and initiated the actions that led to the underpayment of tax or actions described in subsection (a)(2), then the Whistleblower Office may appropriately reduce such award. If such individual is convicted of criminal conduct arising from the role described in the preceding sentence, the Whistleblower Office shall deny any award.

''(4) APPEAL OF AWARD DETERMINATION.—Any determination regarding an award under paragraph (1), (2), or (3) may, within 30 days of such determination, be appealed to the Tax Court (and the Tax Court shall have jurisdiction with respect to such matter).

''(5) APPLICATION OF THIS SUBSECTION.—This subsection shall apply with respect to any action—

''(A) against any taxpayer, but in the case of any individual, only if such individual's gross income exceeds $200,000 for any taxable year subject to such action, and

''(B) if the tax, penalties, interest, additions to tax, and additional amounts in dispute exceed $2,000,000.

''(6) ADDITIONAL RULES.—

''(A) NO CONTRACT NECESSARY.—No contract with the Internal Revenue Service is necessary for any individual to receive an award under this subsection.

''(B) REPRESENTATION.—Any individual described in paragraph (1) or (2) may be represented by counsel.

''(C) SUBMISSION OF INFORMATION.—No award may be made under this subsection based on information submitted to the Secretary unless such information is submitted under penalty of perjury.''.

(2) ASSIGNMENT TO SPECIAL TRIAL JUDGES.—

(A) IN GENERAL.—Section 7443A(b) (relating to proceedings which may be assigned to special trial judges) is amended by striking ''and'' at the end of paragraph (4), by redesignating paragraph (5) as paragraph (6), and by inserting after paragraph (4) the following new paragraph:

''(5) any proceeding under section 7623(b)(4), and''.

(B) CONFORMING AMENDMENT.—Section 7443A(c) is amended by striking ''or (4)'' and inserting ''(4), or (5)''.

(3) DEDUCTION ALLOWED WHETHER OR NOT TAXPAYER ITEMIZES.—Subsection (a) of section 62 (relating to general rule defining adjusted gross income) is amended by inserting after paragraph (20) the following new paragraph:

''(21) ATTORNEYS FEES RELATING TO AWARDS TO WHISTLEBLOWERS.—Any deduction allowable under this chapter for attorney fees and court costs paid by, or on behalf of, the taxpayer in connection with any award under section 7623(b) (relating to awards to whistleblowers). The preceding sentence shall not apply to any deduction in excess of the amount includible in the taxpayer's gross income for the taxable year on account of such award.''.

(b) WHISTLEBLOWER OFFICE.—

(1) IN GENERAL.—Not later than the date which is 12 months after the date of the enactment of this Act, the Secretary of the Treasury shall issue guidance for the operation of a whistleblower program to be administered in the Internal Revenue Service by an office to be known as the ''Whistleblower Office'' which—

(A) shall at all times operate at the direction of the Commissioner of Internal Revenue and coordinate and consult with other divisions in the Internal Revenue Service as directed by the Commissioner of Internal Revenue,

(B) shall analyze information received from any individual described in section 7623(b) of the Internal Revenue Code of 1986 and either investigate the matter itself or assign it to the appropriate Internal Revenue Service office, and

(C) in its sole discretion, may ask for additional assistance from such individual or any legal representative of such individual.

(2) REQUEST FOR ASSISTANCE.—The guidance issued under paragraph (1) shall specify that any assistance requested under paragraph (1)(C) shall be under the direction and control of the Whistleblower Office or the office assigned to investigate the matter under paragraph (1)(A). No individual or legal representative whose assistance is so requested may by reason of such request represent himself or herself as an employee of the Federal Government.

(c) REPORT BY SECRETARY.—The Secretary of the Treasury shall each year conduct a study and report to Congress on the use of section 7623 of the Internal Revenue Code of 1986, including—

(1) an analysis of the use of such section during the preceding year and the results of such use, and

(2) any legislative or administrative recommendations regarding the provisions of such section and its application.

(d) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to information provided on or after the date of the enactment of this Act.

**SEC. 207. FRIVOLOUS TAX SUBMISSIONS.**

(a) CIVIL PENALTIES.—Section 6702 is amended to read as follows:

**''SEC. 6702. FRIVOLOUS TAX SUBMISSIONS.**

''(a) CIVIL PENALTY FOR FRIVOLOUS TAX RETURNS.—A person shall pay a penalty of $5,000 if—

''(1) such person files what purports to be a return of a tax imposed by this title but which—

''(A) does not contain information on which the substantial correctness of the self-assessment may be judged, or

''(B) contains information that on its face indicates that the self-assessment is substantially incorrect, and

''(2) the conduct referred to in paragraph (1)—

''(A) is based on a position which the Secretary has identified as frivolous under subsection (c), or

''(B) reflects a desire to delay or impede the administration of Federal tax laws.

''(b) CIVIL PENALTY FOR SPECIFIED FRIVOLOUS SUBMISSIONS.—

''(1) IMPOSITION OF PENALTY.—Except as provided in paragraph (3), any person who submits a specified frivolous submission shall pay a penalty of $5,000.

''(2) SPECIFIED FRIVOLOUS SUBMISSION.—For purposes of this section—

''(A) SPECIFIED FRIVOLOUS SUBMISSION.—The term 'specified frivolous submission' means a specified submission if any portion of such submission—

''(i) is based on a position which the Secretary has identified as frivolous under subsection (c), or

''(ii) reflects a desire to delay or impede the administration of Federal tax laws.

''(B) SPECIFIED SUBMISSION.—The term 'specified submission' means—

''(i) a request for a hearing under—

''(I) section 6320 (relating to notice and opportunity for hearing upon filing of notice of lien), or

''(II) section 6330 (relating to notice and opportunity for hearing before levy), and

''(ii) an application under—

''(I) section 6159 (relating to agreements for payment of tax liability in installments),

''(II) section 7122 (relating to compromises), or

''(III) section 7811 (relating to taxpayer assistance orders).

''(3) OPPORTUNITY TO WITHDRAW SUBMISSION.—If the Secretary provides a person with notice that a submission is a specified frivolous submission and such person withdraws such submission within 30 days after such notice, the penalty imposed under paragraph (1) shall not apply with respect to such submission.

''(c) LISTING OF FRIVOLOUS POSITIONS.—The Secretary shall prescribe (and periodically revise) a list of positions which the Secretary has identified as being frivolous for purposes of this subsection. The Secretary shall not include in such list any position that the Secretary determines meets the requirement of section 6662(d)(2)(B)(ii)(II).

''(d) REDUCTION OF PENALTY.—The Secretary may reduce the amount of any penalty imposed under this section if the Secretary determines that such reduction would promote compliance with and administration of the Federal tax laws.

''(e) PENALTIES IN ADDITION TO OTHER PENALTIES.—The penalties imposed by this section shall be in addition to any other penalty provided by law.''.

(b) TREATMENT OF FRIVOLOUS REQUESTS FOR HEARINGS BEFORE LEVY.—

(1) FRIVOLOUS REQUESTS DISREGARDED.—Section 6330 (relating to notice and opportunity for hearing before levy) is amended by adding at the end the following new subsection:

''(g) FRIVOLOUS REQUESTS FOR HEARING, ETC.—Notwithstanding any other provision of this section, if the Secretary determines that any portion of a request for a hearing under this section or section 6320 meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A), then the Secretary may treat such portion as if it were never submitted and such portion shall not be subject to any further administrative or judicial review.''.

(2) PRECLUSION FROM RAISING FRIVOLOUS ISSUES AT HEARING.—Section 6330(c)(4) is amended—

(A) by striking ''(A)'' and inserting ''(A)(i)'';

(B) by striking ''(B)'' and inserting ''(ii)'';

(C) by striking the period at the end of the first sentence and inserting ''; or''; and

(D) by inserting after subparagraph (A)(ii) (as so redesignated) the following:

''(B) the issue meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A).''.

(3) STATEMENT OF GROUNDS.—Section 6330(b)(1) is amended by striking ''under subsection (a)(3)(B)'' and inserting ''in writing under subsection (a)(3)(B) and states the grounds for the requested hearing''.

(c) TREATMENT OF FRIVOLOUS REQUESTS FOR HEARINGS UPON FILING OF NOTICE OF LIEN.—Section 6320 is amended—

(1) in subsection (b)(1), by striking ''under subsection (a)(3)(B)'' and inserting ''in writing under subsection (a)(3)(B) and states the grounds for the requested hearing'', and

(2) in subsection (c), by striking ''and (e)'' and inserting ''(e), and (g)''.

(d) TREATMENT OF FRIVOLOUS APPLICATIONS FOR OFFERS-IN-COMPROMISE AND INSTALLMENT AGREEMENTS.—Section 7122 is amended by adding at the end the following new subsection:

''(f) FRIVOLOUS SUBMISSIONS, ETC.—Notwithstanding any other provision of this section, if the Secretary determines that any portion of an application for an offer-in-compromise or installment agreement submitted under this section or section 6159 meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A), then the Secretary may treat such portion as if it were never submitted and such portion shall not be subject to any further administrative or judicial review.''.

(e) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 68 is amended by striking the item relating to section 6702 and inserting the following new item:

''Sec. 6702. Frivolous tax submissions.''.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to submissions made and issues raised after the date on which the Secretary first prescribes a list under section 6702(c) of the Internal Revenue Code of 1986, as amended by subsection (a).

**SEC. 208. ADDITION OF MENINGOCOCCAL AND HUMAN PAPILLOMAVIRUS VACCINES TO LIST OF TAXABLE VACCINES.**

(a) MENINGOCOCCAL VACCINE.—Section 4132(a)(1) (defining taxable vaccine) is amended by adding at the end the following new subparagraph:

''(O) Any meningococcal vaccine.''.

(b) HUMAN PAPILLOMAVIRUS VACCINE.—Section 4132(a)(1), as amended by subsection (a), is amended by adding at the end the following new subparagraph:

''(P) Any vaccine against the human papillomavirus.''.

(c) EFFECTIVE DATE.—

(1) SALES, ETC.—The amendments made by this section shall apply to sales and uses on or after the first day of the first month which begins more than 4 weeks after the date of the enactment of this Act.

(2) DELIVERIES.—For purposes of paragraph (1) and section 4131 of the Internal Revenue Code of 1986, in the case of sales on or before the effective date described in such paragraph for which delivery is made after such date, the delivery date shall be considered the sale date.

**SEC. 209. CLARIFICATION OF TAXATION OF CERTAIN SETTLEMENT FUNDS MADE PERMANENT.**

(a) IN GENERAL.—Subsection (g) of section 468B, as amended by section 201 of the Tax Increase Prevention and Reconciliation Act of 2005, is amended by striking paragraph (3).

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in section 201 of the Tax Increase Prevention and Reconciliation Act of 2005.

**SEC. 210. MODIFICATION OF ACTIVE BUSINESS DEFINITION UNDER SECTION 355 MADE PERMANENT.**

(a) IN GENERAL.—Subparagraphs (A) and (D) of section 355(b)(3), as amended by section 202 of the Tax Increase Prevention and Reconciliation Act of 2005, are each amended by striking ''and on or before December 31, 2010''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in section 202 of the Tax Increase Prevention and Reconciliation Act of 2005.

**SEC. 211. REVISION OF STATE VETERANS LIMIT MADE PERMANENT.**

(a) IN GENERAL.—Subparagraph (B) of section 143(l)(3), as amended by section 203 of the Tax Increase Prevention and Reconciliation Act of 2005, is amended by striking clause (iv).

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in section 203 of the Tax Increase Prevention and Reconciliation Act of 2005.

**SEC. 212. CAPITAL GAINS TREATMENT FOR CERTAIN SELF-CREATED MUSICAL WORKS MADE PERMANENT.**

(a) IN GENERAL.—Paragraph (3) of section 1221(b), as amended by section 204 of the Tax Increase Prevention and Reconciliation Act of 2005, is amended by striking ''before January 1, 2011,''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in section 204 of the Tax Increase Prevention and Reconciliation Act of 2005.

**SEC. 213. REDUCTION IN MINIMUM VESSEL TONNAGE WHICH QUALIFIES FOR TONNAGE TAX MADE PERMANENT.**

(a) IN GENERAL.—Paragraph (4) of section 1355(a), as amended by section 205 of the Tax Increase Prevention and Reconciliation Act of 2005, is amended by striking ''10,000 (6,000, in the case of taxable years beginning after December 31, 2005, and ending before January 1, 2011)'' and inserting ''6,000''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in section 205 of the Tax Increase Prevention and Reconciliation Act of 2005.

**SEC. 214. MODIFICATION OF SPECIAL ARBITRAGE RULE FOR CERTAIN FUNDS MADE PERMANENT.**

(a) IN GENERAL.—Section 206 of the Tax Increase Prevention and Reconciliation Act of 2005 is amended by striking ''and before August 31, 2009''.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in section 206 of the Tax Increase Prevention and Reconciliation Act of 2005.

**SEC. 215. GREAT LAKES DOMESTIC SHIPPING TO NOT DISQUALIFY VESSEL FROM TONNAGE TAX.**

(a) IN GENERAL.—Section 1355 (relating to definitions and special rules) is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

''(g) GREAT LAKES DOMESTIC SHIPPING TO NOT DISQUALIFY VESSEL.—

''(1) IN GENERAL.—If the electing corporation elects (at such time and in such manner as the Secretary may require) to apply this subsection for any taxable year to any qualifying vessel which is used in qualified zone domestic trade during the taxable year—

''(A) solely for purposes of subsection (a)(4), such use shall be treated as use in United States foreign trade (and not as use in United States domestic trade), and

''(B) subsection (f) shall not apply with respect to such vessel for such taxable year.

''(2) EFFECT OF TEMPORARILY OPERATING VESSEL IN UNITED STATES DOMESTIC TRADE.—In the case of a qualifying vessel to which this subsection applies—

''(A) IN GENERAL.—An electing corporation shall be treated as using such vessel in qualified zone domestic trade during any period of temporary use in the United States domestic trade (other than qualified zone domestic trade) if the electing corporation gives timely notice to the Secretary stating—

''(i) that it temporarily operates or has operated in the United States domestic trade (other than qualified zone domestic trade) a qualifying vessel which had been used in the United States foreign trade or qualified zone domestic trade, and

''(ii) its intention to resume operation of the vessel in the United States foreign trade or qualified zone domestic trade.

''(B) NOTICE.—Notice shall be deemed timely if given not later than the due date (including extensions) for the corporation's tax return for the taxable year in which the temporary cessation begins.

''(C) PERIOD DISREGARD IN EFFECT.—The period of temporary use under subparagraph (A) continues until the earlier of the date of which—

''(i) the electing corporation abandons its intention to resume operations of the vessel in the United States foreign trade or qualified zone domestic trade, or

''(ii) the electing corporation resumes operation of the vessel in the United States foreign trade or qualified zone domestic trade.

''(D) NO DISREGARD IF DOMESTIC TRADE USE EXCEEDS 30 DAYS.—Subparagraph (A) shall not apply to any qualifying vessel which is operated in the United States domestic trade (other than qualified zone domestic trade) for more than 30 days during the taxable year.

''(3) ALLOCATION OF INCOME AND DEDUCTIONS TO QUALIFYING SHIPPING ACTIVITIES.—In the case of a qualifying vessel to which this subsection applies, the Secretary shall prescribe rules for the proper allocation of income, expenses, losses, and deductions between the qualified shipping activities and the other activities of such vessel.

''(4) QUALIFIED ZONE DOMESTIC TRADE.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'qualified zone domestic trade' means the transportation of goods or passengers between places in the qualified zone if such transportation is in the United States domestic trade.

''(B) QUALIFIED ZONE.—The term 'qualified zone' means the Great Lakes Waterway and the St. Lawrence Seaway.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

**SEC. 216. USE OF QUALIFIED MORTGAGE BONDS TO FINANCE RESIDENCES FOR VETERANS WITHOUT REGARD TO FIRST-TIME HOMEBUYER REQUIREMENT.**

(a) IN GENERAL.—Section 143(d)(2) (relating to exceptions to 3-year requirement) is amended by striking ''and'' at the end of subparagraph (B), by adding ''and'' at the end of subparagraph (C), and by inserting after subparagraph (C) the following new subparagraph:

''(D) in the case of bonds issued after the date of the enactment of this subparagraph and before January 1, 2008, financing of any residence for a veteran (as defined in section 101 of title 38, United States Code), if such veteran has not previously qualified for and received such financing by reason of this subparagraph,''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after the date of the enactment of this Act.

**SEC. 217. EXCLUSION OF GAIN FROM SALE OF A PRINCIPAL RESIDENCE BY CERTAIN EMPLOYEES OF THE INTELLIGENCE COMMUNITY.**

(a) IN GENERAL.—Subparagraph (A) of section 121(d)(9) (relating to exclusion of gain from sale of principal residence) is amended by striking ''duty'' and all that follows and inserting ''duty—

''(i) as a member of the uniformed services,

''(ii) as a member of the Foreign Service of the United States, or

''(iii) as an employee of the intelligence community.''.

(b) EMPLOYEE OF INTELLIGENCE COMMUNITY DEFINED.—Subparagraph (C) of section 121(d)(9) is amended by redesignating clause (iv) as clause (v) and by inserting after clause (iii) the following new clause:

''(iv) EMPLOYEE OF INTELLIGENCE COMMUNITY.—The term 'employee of the intelligence community' means an employee (as defined by section 2105 of title 5, United States Code) of—

''(I) the Office of the Director of National Intelligence,

''(II) the Central Intelligence Agency,

''(III) the National Security Agency,

''(IV) the Defense Intelligence Agency,

''(V) the National Geospatial-Intelligence Agency,

''(VI) the National Reconnaissance Office,

''(VII) any other office within the Department of Defense for the collection of specialized national intelligence through reconnaissance programs,

''(VIII) any of the intelligence elements of the Army, the Navy, the Air Force, the Marine Corps, the Federal Bureau of Investigation, the Department of Treasury, the Department of Energy, and the Coast Guard,

''(IX) the Bureau of Intelligence and Research of the Department of State, or

''(X) any of the elements of the Department of Homeland Security concerned with the analyses of foreign intelligence information.''.

(c) SPECIAL RULE.—Subparagraph (C) of section 121(d)(9), as amended by subsection (b), is amended by adding at the end the following new clause:

''(vi) SPECIAL RULE RELATING TO INTELLIGENCE COMMUNITY.—An employee of the intelligence community shall not be treated as serving on qualified extended duty unless such duty is at a duty station located outside the United States.''.

(d) CONFORMING AMENDMENT.—The heading for section 121(d)(9) is amended to read as follows: ''UNIFORMED SERVICES, FOREIGN SERVICE, AND INTELLIGENCE COMMUNITY''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to sales or exchanges after the date of the enactment of this Act and before January 1, 2011.

**SEC. 218. TREATMENT OF COKE AND COKE GAS.**

(a) NONAPPLICATION OF PHASEOUT.—Section 45K(g)(2) is amended by adding at the end the following new subparagraph:

''(D) NONAPPLICATION OF PHASEOUT.—Subsection (b)(1) shall not apply.''.

(b) CLARIFICATION OF QUALIFYING FACILITY.—Section 45K(g)(1) is amended by inserting ''(other than from petroleum based products)'' after ''coke or coke gas''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in section 1321 of the Energy Policy Act of 2005.

**SEC. 219. SALE OF PROPERTY BY JUDICIAL OFFICERS.**

(a) IN GENERAL.—Section 1043(b) (relating to the sale of property to comply with conflict-of-interest requirements) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A), by inserting '', or a judicial officer,'' after ''an officer or employee of the executive branch''; and

(B) in subparagraph (B), by inserting ''judicial canon,'' after ''any statute, regulation, rule,'';

(2) in paragraph (2)—

(A) in subparagraph (A), by inserting ''judicial canon,'' after ''any Federal conflict of interest statute, regulation, rule,''; and

(B) in subparagraph (B), by inserting after ''the Director of the Office of Government Ethics,'' the following: ''in the case of executive branch officers or employees, or by the Judicial Conference of the United States (or its designee), in the case of judicial officers,''; and

(3) in paragraph (5)(B), by inserting ''judicial canon,'' after ''any statute, regulation, rule,''.

(b) JUDICIAL OFFICER DEFINED.—Section 1043(b) is amended by adding at the end the following new paragraph:

''(6) JUDICIAL OFFICER.—The term 'judicial officer' means the Chief Justice of the United States, the Associate Justices of the Supreme Court, and the judges of the United States courts of appeals, United States district courts, including the district courts in Guam, the Northern Mariana Islands, and the Virgin Islands, Court of Appeals for the Federal Circuit, Court of International Trade, Tax Court, Court of Federal Claims, Court of Appeals for Veterans Claims, United States Court of Appeals for the Armed Forces, and any court created by Act of Congress, the judges of which are entitled to hold office during good behavior.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales after the date of enactment of this Act.

**SEC. 220. PREMIUMS FOR MORTGAGE INSURANCE.**

(a) IN GENERAL.—Section 163(h)(3) (relating to qualified residence interest) is amended by adding at the end the following new subparagraph:

''(E) MORTGAGE INSURANCE PREMIUMS TREATED AS INTEREST.—

''(i) IN GENERAL.—Premiums paid or accrued for qualified mortgage insurance by a taxpayer during the taxable year in connection with acquisition indebtedness with respect to a qualified residence of the taxpayer shall be treated for purposes of this section as interest which is qualified residence interest.

''(ii) PHASEOUT.—The amount otherwise treated as interest under clause (i) shall be reduced (but not below zero) by 10 percent of such amount for each $1,000 ($500 in the case of a married individual filing a separate return) (or fraction thereof) that the taxpayer's adjusted gross income for the taxable year exceeds $100,000 ($50,000 in the case of a married individual filing a separate return).

''(iii) LIMITATION.—Clause (i) shall not apply with respect to any mortgage insurance contracts issued before January 1, 2007.

''(iv) TERMINATION.—Clause (i) shall not apply to amounts—

''(I) paid or accrued after December 31, 2007, or

''(II) properly allocable to any period after such date.''.

(b) DEFINITION AND SPECIAL RULES.—Section 163(h)(4) (relating to other definitions and special rules) is amended by adding at the end the following new subparagraphs:

''(E) QUALIFIED MORTGAGE INSURANCE.—The term 'qualified mortgage insurance' means—

''(i) mortgage insurance provided by the Veterans Administration, the Federal Housing Administration, or the Rural Housing Administration, and

''(ii) private mortgage insurance (as defined by section 2 of the Homeowners Protection Act of 1998 (12 U.S.C. 4901), as in effect on the date of the enactment of this subparagraph).

''(F) SPECIAL RULES FOR PREPAID QUALIFIED MORTGAGE INSURANCE.—Any amount paid by the taxpayer for qualified mortgage insurance that is properly allocable to any mortgage the payment of which extends to periods that are after the close of the taxable year in which such amount is paid shall be chargeable to capital account and shall be treated as paid in such periods to which so allocated. No deduction shall be allowed for the unamortized balance of such account if such mortgage is satisfied before the end of its term. The preceding sentences shall not apply to amounts paid for qualified mortgage insurance provided by the Veterans Administration or the Rural Housing Administration.''.

(c) INFORMATION RETURNS RELATING TO MORTGAGE INSURANCE.—Section 6050H (relating to returns relating to mortgage interest received in trade or business from individuals) is amended by adding at the end the following new subsection:

''(h) RETURNS RELATING TO MORTGAGE INSURANCE PREMIUMS.—

''(1) IN GENERAL.—The Secretary may prescribe, by regulations, that any person who, in the course of a trade or business, receives from any individual premiums for mortgage insurance aggregating $600 or more for any calendar year, shall make a return with respect to each such individual. Such return shall be in such form, shall be made at such time, and shall contain such information as the Secretary may prescribe.

''(2) STATEMENT TO BE FURNISHED TO INDIVIDUALS WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—Every person required to make a return under paragraph (1) shall furnish to each individual with respect to whom a return is made a written statement showing such information as the Secretary may prescribe. Such written statement shall be furnished on or before January 31 of the year following the calendar year for which the return under paragraph (1) was required to be made.

''(3) SPECIAL RULES.—For purposes of this subsection—

''(A) rules similar to the rules of subsection (c) shall apply, and

''(B) the term 'mortgage insurance' means—

''(i) mortgage insurance provided by the Veterans Administration, the Federal Housing Administration, or the Rural Housing Administration, and

''(ii) private mortgage insurance (as defined by section 2 of the Homeowners Protection Act of 1998 (12 U.S.C. 4901), as in effect on the date of the enactment of this subsection).''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or accrued after December 31, 2006.

**SEC. 221. MODIFICATION OF REFUNDS FOR KEROSENE USED IN AVIATION.**

(a) IN GENERAL.—Paragraph (4) of section 6427(l) (relating to nontaxable uses of diesel fuel and kerosene) is amended to read as follows:

''(4) REFUNDS FOR KEROSENE USED IN AVIATION.—

''(A) KEROSENE USED IN COMMERCIAL AVIATION.—In the case of kerosene used in commercial aviation (as defined in section 4083(b)) (other than supplies for vessels or aircraft within the meaning of section 4221(d)(3)), paragraph (1) shall not apply to so much of the tax imposed by section 4041 or 4081, as the case may be, as is attributable to—

''(i) the Leaking Underground Storage Tank Trust Fund financing rate imposed by such section, and

''(ii) so much of the rate of tax specified in section 4041(c) or 4081(a)(2)(A)(iii), as the case may be, as does not exceed 4.3 cents per gallon.

''(B) KEROSENE USED IN NONCOMMERCIAL AVIATION.—In the case of kerosene used in aviation that is not commercial aviation (as so defined) (other than any use which is exempt from the tax imposed by section 4041(c) other than by reason of a prior imposition of tax), paragraph (1) shall not apply to—

''(i) any tax imposed by section 4041(c), and

''(ii) so much of the tax imposed by section 4081 as is attributable to—

''(I) the Leaking Underground Storage Tank Trust Fund financing rate imposed by such section, and

''(II) so much of the rate of tax specified in section 4081(a)(2)(A)(iii) as does not exceed the rate specified in section 4081(a)(2)(C)(ii).

''(C) PAYMENTS TO ULTIMATE, REGISTERED VENDOR.—

''(i) IN GENERAL.—With respect to any kerosene used in aviation (other than kerosene described in clause (ii) or kerosene to which paragraph (5) applies), if the ultimate purchaser of such kerosene waives (at such time and in such form and manner as the Secretary shall prescribe) the right to payment under paragraph (1) and assigns such right to the ultimate vendor, then the Secretary shall pay the amount which would be paid under paragraph (1) to such ultimate vendor, but only if such ultimate vendor—

''(I) is registered under section 4101, and

''(II) meets the requirements of subparagraph (A), (B), or (D) of section 6416(a)(1).

''(ii) PAYMENTS FOR KEROSENE USED IN NONCOMMERCIAL AVIATION.—The amount which would be paid under paragraph (1) with respect to any kerosene to which subparagraph (B) applies shall be paid only to the ultimate vendor of such kerosene. A payment shall be made to such vendor if such vendor—

''(I) is registered under section 4101, and

''(II) meets the requirements of subparagraph (A), (B), or (D) of section 6416(a)(1).''.

(b) CONFORMING AMENDMENTS.—

(1) Section 6427(l) is amended by striking paragraph (5) and by redesignating paragraph (6) as paragraph (5).

(2) Section 4082(d)(2)(B) is amended by striking ''section 6427(l)(6)(B)'' and inserting ''section 6427(l)(5)(B)''.

(3) Section 6427(i)(4)(A) is amended—

(A) by striking ''paragraph (4)(B), (5), or (6)'' each place it appears and inserting ''paragraph (4)(C) or (5)'', and

(B) by striking ''(l)(5), and (l)(6)'' and inserting ''(l)(4)(C)(ii), and (l)(5)''.

(4) Section 6427(l)(1) is amended by striking ''paragraph (4)(B)'' and inserting ''paragraph (4)(C)(i)''.

(5) Section 9502(d) is amended—

(A) in paragraph (2), by striking ''and (l)(5)'', and

(B) in paragraph (3), by striking ''or (5)''.

(6) Section 9503(c)(7) is amended—

(A) by amending subparagraphs (A) and (B) to read as follows:

''(A) 4.3 cents per gallon of kerosene subject to section 6427(l)(4)(A) with respect to which a payment has been made by the Secretary under section 6427(l), and

''(B) 21.8 cents per gallon of kerosene subject to section 6427(l)(4)(B) with respect to which a payment has been made by the Secretary under section 6427(l).'', and

(B) in the matter following subparagraph (B), by striking ''or (5)''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to kerosene sold after September 30, 2005.

(2) SPECIAL RULE FOR PENDING CLAIMS.—In the case of kerosene sold for use in aviation (other than kerosene to which section 6427(l)(4)(C)(ii) of the Internal Revenue Code of 1986 (as added by subsection (a)) applies or kerosene to which section 6427(l)(5) of such Code (as redesignated by subsection (b)) applies) after September 30, 2005, and before the date of the enactment of this Act, the ultimate purchaser shall be treated as having waived the right to payment under section 6427(l)(1) of such Code and as having assigned such right to the ultimate vendor if such ultimate vendor has met the requirements of subparagraph (A), (B), or (D) of section 6416(a)(1) of such Code.

(d) SPECIAL RULE FOR KEROSENE USED IN AVIATION ON A FARM FOR FARMING PURPOSES.—

(1) REFUNDS FOR PURCHASES AFTER DECEMBER 31, 2004, AND BEFORE OCTOBER 1, 2005.—The Secretary of the Treasury shall pay to the ultimate purchaser of any kerosene which is used in aviation on a farm for farming purposes and which was purchased after December 31, 2004, and before October 1, 2005, an amount equal to the aggregate amount of tax imposed on such fuel under section 4041 or 4081 of the Internal Revenue Code of 1986, as the case may be, reduced by any payment to the ultimate vendor under section 6427(l)(5)(C) of such Code (as in effect on the day before the date of the enactment of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: a Legacy for Users).

(2) USE ON A FARM FOR FARMING PURPOSES.—For purposes of paragraph (1), kerosene shall be treated as used on a farm for farming purposes if such kerosene is used for farming purposes (within the meaning of section 6420(c)(3) of the Internal Revenue Code of 1986) in carrying on a trade or business on a farm situated in the United States. For purposes of the preceding sentence, rules similar to the rules of section 6420(c)(4) of such Code shall apply.

(3) TIME FOR FILING CLAIMS.—No claim shall be allowed under paragraph (1) unless the ultimate purchaser files such claim before the date that is 3 months after the date of the enactment of this Act.

(4) NO DOUBLE BENEFIT.—No amount shall be paid under paragraph (1) or section 6427(l) of the Internal Revenue Code of 1986 with respect to any kerosene described in paragraph (1) to the extent that such amount is in excess of the tax imposed on such kerosene under section 4041 or 4081 of such Code, as the case may be.

(5) APPLICABLE LAWS.—For purposes of this subsection, rules similar to the rules of section 6427(j) of the Internal Revenue Code of 1986 shall apply.

**SEC. 222. DEDUCTION FOR QUALIFIED TIMBER GAIN.**

(a) IN GENERAL.—Part I of subchapter P of chapter 1 is amended by adding at the end the following new section:

**''SEC. 1203. DEDUCTION FOR QUALIFIED TIMBER GAIN.**

''(a) IN GENERAL.—In the case of a taxpayer which elects the application of this section for a taxable year, there shall be allowed a deduction against gross income equal to 60 percent of the lesser of—

''(1) the taxpayer's qualified timber gain for such year, or

''(2) the taxpayer's net capital gain for such year.

''(b) QUALIFIED TIMBER GAIN.—For purposes of this section, the term 'qualified timber gain' means, with respect to any taxpayer for any taxable year, the excess (if any) of—

''(1) the sum of the taxpayer's gains described in subsections (a) and (b) of section 631 for such year, over

''(2) the sum of the taxpayer's losses described in such subsections for such year.

''(c) SPECIAL RULES FOR PASS-THRU ENTITIES.—In the case of any qualified timber gain of a pass-thru entity (as defined in section 1(h)(10))—

''(1) the election under this section shall be made separately by each taxpayer subject to tax on such gain, and

''(2) the Secretary may prescribe such regulations as are appropriate to apply this section to such gain.

''(d) TERMINATION.—No disposition of timber after December 31, 2007, shall be taken into account under subsection (b).''.

(b) COORDINATION WITH MAXIMUM CAPITAL GAINS RATES.—

(1) TAXPAYERS OTHER THAN CORPORATIONS.—Paragraph (2) of section 1(h) is amended to read as follows:

''(2) REDUCTION OF NET CAPITAL GAIN.—For purposes of this subsection, the net capital gain for any taxable year shall be reduced (but not below zero) by the sum of—

''(A) the amount which the taxpayer takes into account as investment income under section 163(d)(4)(B)(iii), and

''(B) in the case of a taxable year with respect to which an election is in effect under section 1203, the lesser of—

''(i) the amount described in paragraph (1) of section 1203(a), or

''(ii) the amount described in paragraph (2) of such section.''.

(2) CORPORATIONS.—Section 1201 is amended by redesignating subsection (b) as subsection (c) and inserting after subsection (a) the following new subsection:

''(b) QUALIFIED TIMBER GAIN NOT TAKEN INTO ACCOUNT.—For purposes of this section, in the case of a corporation with respect to which an election is in effect under section 1203, the net capital gain for any taxable year shall be reduced (but not below zero) by the corporation's qualified timber gain (as defined in section 1203(b)).''.

(c) DEDUCTION ALLOWED WHETHER OR NOT INDIVIDUAL ITEMIZES OTHER DEDUCTIONS.—Subsection (a) of section 62, as amended by this Act, is amended by inserting before the last sentence the following new paragraph:

''(22) QUALIFIED TIMBER GAINS.—The deduction allowed by section 1203.''.

(d) DEDUCTION ALLOWED IN COMPUTING ADJUSTED CURRENT EARNINGS.—Subparagraph (C) of section 56(g)(4) is amended by adding at the end the following new clause:

''(vii) DEDUCTION FOR QUALIFIED TIMBER GAIN.—Clause (i) shall not apply to any deduction allowed under section 1203.''.

(e) DEDUCTION ALLOWED IN COMPUTING TAXABLE INCOME OF ELECTING SMALL BUSINESS TRUSTS.—Subparagraph (C) of section 641(c)(2) is amended by inserting after clause (iii) the following new clause:

''(iv) The deduction allowed under section 1203.''.

(f) CONFORMING AMENDMENTS.—

(1) Subparagraph (B) of section 172(d)(2) is amended to read as follows:

''(B) the exclusion under section 1202 and the deduction under section 1203 shall not be allowed.''.

(2) Paragraph (4) of section 642(c) is amended by striking the first sentence and inserting the following: ''To the extent that the amount otherwise allowable as a deduction under this subsection consists of gain described in section 1202(a) or qualified timber gain (as defined in section 1203(b)), proper adjustment shall be made for any exclusion allowable to the estate or trust under section 1202 and for any deduction allowable to the estate or trust under section 1203.''.

(3) Paragraph (3) of section 643(a) is amended by striking the last sentence and inserting the following: ''The exclusion under section 1202 and the deduction under section 1203 shall not be taken into account.''.

(4) Subparagraph (C) of section 643(a)(6) is amended to read as follows:

''(C) Paragraph (3) shall not apply to a foreign trust. In the case of such a trust—

''(i) there shall be included gains from the sale or exchange of capital assets, reduced by losses from such sales or exchanges to the extent such losses do not exceed gains from such sales or exchanges, and

''(ii) the deduction under section 1203 shall not be taken into account.''.

(5) Paragraph (4) of section 691(c) is amended by inserting ''1203,'' after ''1202,''.

(6) Paragraph (2) of section 871(a) is amended by striking ''section 1202'' and inserting ''sections 1202 and 1203''.

(7) The table of sections for part I of subchapter P of chapter 1 is amended by adding at the end the following new item:

''Sec. 1203. Deduction for qualified timber gain.''.

(g) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

(2) TAXABLE YEARS WHICH INCLUDE DATE OF ENACTMENT.—In the case of any taxable year which includes the date of the enactment of this Act, for purposes of the Internal Revenue Code of 1986, the taxpayer's qualified timber gain shall not exceed the excess that would be described in section 1203(b) of such Code, as added by this section, if only dispositions of timber after such date were taken into account.

**SEC. 223. CREDIT TO HOLDERS OF RURAL RENAISSANCE BONDS.**

(a) IN GENERAL.—Subpart H of part IV of subchapter A of chapter 1 (relating to credits against tax) is amended by adding at the end the following new section:

**"SEC. 54A. CREDIT TO HOLDERS OF RURAL RENAISSANCE BONDS.**

''(a) ALLOWANCE OF CREDIT.—In the case of a taxpayer who holds a rural renaissance bond on a credit allowance date of such bond, which occurs during the taxable year, there shall be allowed as a credit against the tax imposed by this chapter for such taxable year an amount equal to the sum of the credits determined under subsection (b) with respect to credit allowance dates during such year on which the taxpayer holds such bond.

''(b) AMOUNT OF CREDIT.—

''(1) IN GENERAL.—The amount of the credit determined under this subsection with respect to any credit allowance date for a rural renaissance bond is 25 percent of the annual credit determined with respect to such bond.

''(2) ANNUAL CREDIT.—The annual credit determined with respect to any rural renaissance bond is the product of—

''(A) the credit rate determined by the Secretary under paragraph (3) for the day on which such bond was sold, multiplied by

''(B) the outstanding face amount of the bond.

''(3) DETERMINATION.—For purposes of paragraph (2), with respect to any rural renaissance bond, the Secretary shall determine daily or caused to be determined daily a credit rate which shall apply to the first day on which there is a binding, written contract for the sale or exchange of the bond. The credit rate for any day is the credit rate which the Secretary or the Secretary's designee estimates will permit the issuance of rural renaissance bonds with a specified maturity or redemption date without discount and without interest cost to the qualified issuer.

''(4) CREDIT ALLOWANCE DATE.—For purposes of this section, the term 'credit allowance date' means—

''(A) March 15,

''(B) June 15,

''(C) September 15, and

''(D) December 15.

Such term also includes the last day on which the bond is outstanding.

''(5) SPECIAL RULE FOR ISSUANCE AND REDEMPTION.—In the case of a bond which is issued during the 3-month period ending on a credit allowance date, the amount of the credit determined under this subsection with respect to such credit allowance date shall be a ratable portion of the credit otherwise determined based on the portion of the 3-month period during which the bond is outstanding. A similar rule shall apply when the bond is redeemed or matures.

''(c) LIMITATION BASED ON AMOUNT OF TAX.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess of—

''(1) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

''(2) the sum of the credits allowable under this part (other than subpart C and this section).

''(d) RURAL RENAISSANCE BOND.—For purposes of this section—

''(1) IN GENERAL.—The term 'rural renaissance bond' means any bond issued as part of an issue if—

''(A) the bond is issued by a qualified issuer,

''(B) 95 percent or more of the proceeds from the sale of such issue are to be used for capital expenditures incurred for 1 or more qualified projects,

''(C) the qualified issuer designates such bond for purposes of this section and the bond is in registered form, and

''(D) the issue meets the requirements of subsections (e) and (h).

''(2) QUALIFIED PROJECT; SPECIAL USE RULES.—

''(A) IN GENERAL.—The term 'qualified project' means 1 or more projects described in subparagraph (B) located in a rural area.

''(B) PROJECTS DESCRIBED.—A project described in this subparagraph is—

''(i) a water or waste treatment project,

''(ii) an affordable housing project,

''(iii) a community facility project, including hospitals, fire and police stations, and nursing and assisted-living facilities,

''(iv) a value-added agriculture or renewable energy facility project for agricultural producers or farmer-owned entities, including any project to promote the production, processing, or retail sale of ethanol (including fuel at least 85 percent of the volume of which consists of ethanol), biodiesel, animal waste, biomass, raw commodities, or wind as a fuel,

''(v) a distance learning or telemedicine project,

''(vi) a rural utility infrastructure project, including any electric or telephone system,

''(vii) a project to expand broadband technology,

''(viii) a rural teleworks project, and

''(ix) any project described in any preceding clause carried out by the Delta Regional Authority.

''(C) SPECIAL RULES.—For purposes of this paragraph—

''(i) any project described in subparagraph (B)(iv) for a farmer-owned entity may be considered a qualified project if such entity is located in a rural area, or in the case of a farmer-owned entity the headquarters of which are located in a nonrural area, if the project is located in a rural area, and

''(ii) any project for a farmer-owned entity which is a facility described in subparagraph (B)(iv) for agricultural producers may be considered a qualified project regardless of whether the facility is located in a rural or nonrural area.

''(3) SPECIAL USE RULES.—

''(A) REFINANCING RULES.—For purposes of paragraph (1)(B), a qualified project may be refinanced with proceeds of a rural renaissance bond only if the indebtedness being refinanced (including any obligation directly or indirectly refinanced by such indebtedness) was originally incurred after the date of the enactment of this section.

''(B) REIMBURSEMENT.—For purposes of paragraph (1)(B), a rural renaissance bond may be issued to reimburse a borrower for amounts paid after the date of the enactment of this section with respect to a qualified project, but only if—

''(i) prior to the payment of the original expenditure, the borrower declared its intent to reimburse such expenditure with the proceeds of a rural renaissance bond,

''(ii) not later than 60 days after payment of the original expenditure, the qualified issuer adopts an official intent to reimburse the original expenditure with such proceeds, and

''(iii) the reimbursement is made not later than 18 months after the date the original expenditure is paid.

''(C) TREATMENT OF CHANGES IN USE.—For purposes of paragraph (1)(B), the proceeds of an issue shall not be treated as used for a qualified project to the extent that a borrower takes any action within its control which causes such proceeds not to be used for a qualified project. The Secretary shall prescribe regulations specifying remedial actions that may be taken (including conditions to taking such remedial actions) to prevent an action described in the preceding sentence from causing a bond to fail to be a rural renaissance bond.

''(e) MATURITY LIMITATIONS.—

''(1) DURATION OF TERM.—A bond shall not be treated as a rural renaissance bond if the maturity of such bond exceeds the maximum term determined by the Secretary under paragraph (2) with respect to such bond.

''(2) MAXIMUM TERM.—During each calendar month, the Secretary shall determine the maximum term permitted under this paragraph for bonds issued during the following calendar month. Such maximum term shall be the term which the Secretary estimates will result in the present value of the obligation to repay the principal on the bond being equal to 50 percent of the face amount of such bond. Such present value shall be determined without regard to the requirements of paragraph (3) and using as a discount rate the average annual interest rate of tax-exempt obligations having a term of 10 years or more which are issued during the month. If the term as so determined is not a multiple of a whole year, such term shall be rounded to the next highest whole year.

''(3) RATABLE PRINCIPAL AMORTIZATION REQUIRED.—A bond shall not be treated as a rural renaissance bond unless it is part of an issue which provides for an equal amount of principal to be paid by the qualified issuer during each calendar year that the issue is outstanding.

''(f) LIMITATION ON AMOUNT OF BONDS DESIGNATED.—

''(1) NATIONAL LIMITATION.—There is a rural renaissance bond limitation of $200,000,000.

''(2) ALLOCATION BY SECRETARY.—The Secretary shall allocate the amount described in paragraph (1) among qualified projects in such manner as the Secretary determines appropriate.

''(g) CREDIT INCLUDED IN GROSS INCOME.—Gross income includes the amount of the credit allowed to the taxpayer under this section (determined without regard to subsection (c)) and the amount so included shall be treated as interest income.

''(h) SPECIAL RULES RELATING TO EXPENDITURES.—

''(1) IN GENERAL.—An issue shall be treated as meeting the requirements of this subsection if, as of the date of issuance, the qualified issuer reasonably expects—

''(A) at least 95 percent of the proceeds from the sale of the issue are to be spent for 1 or more qualified projects within the 5-year period beginning on the date of issuance of the rural renaissance bond,

''(B) a binding commitment with a third party to spend at least 10 percent of the proceeds from the sale of the issue will be incurred within the 6-month period beginning on the date of issuance of the rural renaissance bond or, in the case of a rural renaissance bond, the proceeds of which are to be loaned to 2 or more borrowers, such binding commitment will be incurred within the 6-month period beginning on the date of the loan of such proceeds to a borrower, and

''(C) such projects will be completed with due diligence and the proceeds from the sale of the issue will be spent with due diligence.

''(2) EXTENSION OF PERIOD.—Upon submission of a request prior to the expiration of the period described in paragraph (1)(A), the Secretary may extend such period if the qualified issuer establishes that the failure to satisfy the 5-year requirement is due to reasonable cause and the related projects will continue to proceed with due diligence.

''(3) FAILURE TO SPEND REQUIRED AMOUNT OF BOND PROCEEDS WITHIN 5 YEARS.—To the extent that less than 95 percent of the proceeds of such issue are expended by the close of the 5-year period beginning on the date of

issuance (or if an extension has been obtained under paragraph (2), by the close of the extended period), the qualified issuer shall redeem all of the nonqualified bonds within 90 days after the end of such period. For purposes of this paragraph, the amount of the nonqualified bonds required to be redeemed shall be determined in the same manner as under section 142.

''(i) SPECIAL RULES RELATING TO ARBITRAGE.—A bond which is part of an issue shall not be treated as a rural renaissance bond unless, with respect to the issue of which the bond is a part, the qualified issuer satisfies the arbitrage requirements of section 148 with respect to proceeds of the issue.

''(j) QUALIFIED ISSUER.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualified issuer' means any not-for-profit cooperative lender which has as of the date of the enactment of this section received a guarantee under section 306 of the Rural Electrification Act and which meets the requirement of paragraph (2).

''(2) USER FEE REQUIREMENT.—The requirement of this paragraph is met if the issuer of any rural renaissance bond makes grants for qualified projects as defined under subsection (d)(2) on a semi-annual basis every year that such bond is outstanding in an annual amount equal to one-half of the rate on United States Treasury Bills of the same maturity multiplied by the outstanding principal balance of rural renaissance bonds issued by such issuer.

''(k) SPECIAL RULES RELATING TO POOL BONDS.—No portion of a pooled financing bond may be allocable to a loan unless the borrower has entered into a written loan commitment for such portion prior to the issue date of such issue.

''(l) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) BOND.—The term 'bond' includes any obligation.

''(2) POOLED FINANCING BOND.—The term 'pooled financing bond' shall have the meaning given such term by section 149(f)(4)(A).

''(3) RURAL AREA.—The term 'rural area' means any area other than—

''(A) a city or town which has a population of greater than 50,000 inhabitants, or

''(B) the urbanized area contiguous and adjacent to such a city or town.

''(4) PARTNERSHIP; S CORPORATION; AND OTHER PASS-THRU ENTITIES.—

''(A) IN GENERAL.—Under regulations prescribed by the Secretary, in the case of a partnership, trust, S corporation, or other pass-thru entity, rules similar to the rules of section 41(g) shall apply with respect to the credit allowable under subsection (a).

''(B) NO BASIS ADJUSTMENT.—In the case of a bond held by a partnership or an S corporation, rules similar to the rules under section 1397E(l) shall apply.

''(5) BONDS HELD BY REGULATED INVESTMENT COMPANIES.—If any rural renaissance bond is held by a regulated investment company, the credit determined under subsection (a) shall be allowed to shareholders of such company under procedures prescribed by the Secretary.

''(6) REPORTING.—Issuers of rural renaissance bonds shall submit reports similar to the reports required under section 149(e).''.

(b) REPORTING.—Subsection (d) of section 6049 (relating to returns regarding payments of interest) is amended by adding at the end the following new paragraph:

''(9) REPORTING OF CREDIT ON RURAL RENAISSANCE BONDS.—

''(A) IN GENERAL.—For purposes of subsection (a), the term 'interest' includes amounts includible in gross income under section 54A(f) and such amounts shall be treated as paid on the credit allowance date (as defined in section 54A(b)(4)).

''(B) REPORTING TO CORPORATIONS, ETC.—Except as otherwise provided in regulations, in the case of any interest described in subparagraph (A), subsection (b)(4) shall be applied without regard to subparagraphs (A), (H), (I), (J), (K), and (L)(i) of such subsection.

''(C) REGULATORY AUTHORITY.—The Secretary may prescribe such regulations as are necessary or appropriate to carry out the purposes of this paragraph, including regulations which require more frequent or more detailed reporting.''.

(c) CONFORMING AMENDMENTS.—

(1) The table of sections for subpart H of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

''Sec. 54A. Credit to holders of rural renaissance bonds.''.

(2) Section 54(c)(2) is amended by inserting '', section 54A,'' after ''subpart C''.

(3) Section 1400N(l)(3)(B) is amended by inserting '', section 54A,'' after ''subpart C''.

(d) ISSUANCE OF REGULATIONS.—The Secretary of Treasury shall issue regulations required under section 54A of the Internal Revenue Code of 1986 (as added by this section) not later than 120 days after the date of the enactment of this Act.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after the date of the enactment of this Act and before January 1, 2010.

**SEC. 224. RESTORATION OF DEDUCTION FOR TRAVEL EXPENSES OF SPOUSE, ETC. ACCOMPANYING TAXPAYER ON BUSINESS TRAVEL.**

(a) IN GENERAL.—Subsection (m) of section 274 (relating to additional limitations on travel expenses) is amended by adding at the end the following new paragraph:

''(4) TERMINATION.—Paragraph (3) shall not apply to any expense paid or incurred after the date of the enactment of this paragraph and before January 1, 2008.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to amounts paid or incurred after the date of the enactment of this Act.

**SEC. 225. TECHNICAL CORRECTIONS.**

(a) TECHNICAL CORRECTION RELATING TO LOOK-THROUGH TREATMENT OF PAYMENTS BETWEEN RELATED CONTROLLED FOREIGN CORPORATIONS UNDER THE FOREIGN PERSONAL HOLDING COMPANY RULES.—

(1) IN GENERAL.—

(A) The first sentence of section 954(c)(6)(A), as amended by section 103(b) of the Tax Increase Prevention and Reconciliation Act of 2005, is amended by striking ''which is not subpart F income'' and inserting ''which is neither subpart F income nor income treated as effectively connected with the conduct of a trade or business in the United States''.

(B) Section 954(c)(6)(A), as so amended, is amended by striking the last sentence and inserting the following: ''The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out this paragraph, including such regulations as may be necessary or appropriate to prevent the abuse of the purposes of this paragraph.''

(2) EFFECTIVE DATE.—The amendments made by this subsection shall take effect as if included in section 103(b) of the Tax Increase Prevention and Reconciliation Act of 2005.

(b) TECHNICAL CORRECTION REGARDING AUTHORITY TO EXERCISE REASONABLE CAUSE AND GOOD FAITH EXCEPTION.—

(1) IN GENERAL.—Section 903(d)(2)(B)(iii) of the American Jobs Creation Act of 2004, as amended by section 303(a) of the Gulf Opportunity Zone Act of 2005, is amended by inserting ''or the Secretary's delegate'' after ''the Secretary of the Treasury''.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall take effect as if included in the provisions of the American Jobs Creation Act of 2004 to which it relates.

## TITLE III—SURFACE MINING CONTROL AND RECLAMATION ACT AMENDMENTS OF 2006

**SEC. 301. SHORT TITLE.**

This title may be cited as the ''Surface Mining Control and Reclamation Act Amendments of 2006''.

### Subtitle A—Mining Control and Reclamation

**SEC. 311. ABANDONED MINE RECLAMATION FUND AND PURPOSES.**

(a) IN GENERAL.—Section 401 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1231) is amended—

(1) in subsection (c)—

(A) by striking paragraphs (2) and (6); and

(B) by redesignating paragraphs (3), (4), and (5) and paragraphs (7) through (13) as paragraphs (2) through (11), respectively;

(2) by striking subsection (d) and inserting the following:

''(d) AVAILABILITY OF MONEYS; NO FISCAL YEAR LIMITATION.—

''(1) IN GENERAL.—Moneys from the fund for expenditures under subparagraphs (A) through (D) of section 402(g)(3) shall be available only when appropriated for those subparagraphs.

''(2) NO FISCAL YEAR LIMITATION.—Appropriations described in paragraph (1) shall be made without fiscal year limitation.

''(3) OTHER PURPOSES.—Moneys from the fund shall be available for all other purposes of this title without prior appropriation as provided in subsection (f).'';

(3) in subsection (e)—

(A) in the second sentence, by striking ''the needs of such fund'' and inserting ''achieving the purposes of the transfers under section 402(h)''; and

(B) in the third sentence, by inserting before the period the following: ''for the purpose of the transfers under section 402(h)''; and

(4) by adding at the end the following:

''(f) GENERAL LIMITATION ON OBLIGATION AUTHORITY.—

''(1) IN GENERAL.—From amounts deposited into the fund under subsection (b), the Secretary shall distribute during each fiscal year beginning after September 30, 2007, an amount determined under paragraph (2).

''(2) AMOUNTS.—

''(A) FOR FISCAL YEARS 2008 THROUGH 2022.—For each of fiscal years 2008 through 2022, the amount distributed by the Secretary under this subsection shall be equal to—

''(i) the amounts deposited into the fund under paragraphs (1), (2), and (4) of subsection (b) for the preceding fiscal year that were allocated under paragraphs (1) and (5) of section 402(g); plus

''(ii) the amount needed for the adjustment under section 402(g)(8) for the current fiscal year.

''(B) FISCAL YEARS 2023 AND THEREAFTER.—For fiscal year 2023 and each fiscal year thereafter, to the extent that funds are available, the Secretary shall distribute an amount equal to the amount distributed under subparagraph (A) during fiscal year 2022.

''(3) DISTRIBUTION.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), for each fiscal year, of the amount to be distributed to States and Indian tribes pursuant to paragraph (2), the Secretary shall distribute—

''(i) the amounts allocated under paragraph (1) of section 402(g), the amounts allocated under paragraph (5) of section 402(g), and any amount reallocated under section

411(h)(3) in accordance with section 411(h)(2), for grants to States and Indian tribes under section 402(g)(5); and

''(ii) the amounts allocated under section 402(g)(8).

''(B) EXCLUSION.—Beginning on October 1, 2007, certified States shall be ineligible to receive amounts under section 402(g)(1).

''(4) AVAILABILITY.—Amounts in the fund available to the Secretary for obligation under this subsection shall be available until expended.

''(5) ADDITION.—

''(A) IN GENERAL.—Subject to subparagraph (B), the amount distributed under this subsection for each fiscal year shall be in addition to the amount appropriated from the fund during the fiscal year.

''(B) EXCEPTIONS.—Notwithstanding paragraph (3), the amount distributed under this subsection for the first 4 fiscal years beginning on and after October 1, 2007, shall be equal to the following percentage of the amount otherwise required to be distributed:

''(i) 50 percent in fiscal year 2008.

''(ii) 50 percent in fiscal year 2009.

''(iii) 75 percent in fiscal year 2010.

''(iv) 75 percent in fiscal year 2011.''.

(b) CONFORMING AMENDMENT.—Section 712(b) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1302(b)) is amended by striking ''section 401(c)(11)'' and inserting ''section 401(c)(9)''.

**SEC. 312. RECLAMATION FEE.**

(a) AMOUNTS.—

(1) FISCAL YEARS 2008–2012.—Effective October 1, 2007, section 402(a) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232(a)) is amended—

(A) by striking ''35'' and inserting ''31.5'';

(B) by striking ''15'' and inserting ''13.5''; and

(C) by striking ''10 cents'' and inserting ''9 cents''.

(2) FISCAL YEARS 2013–2021.—Effective October 1, 2012, section 402(a) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232(a)) (as amended by paragraph (1)) is amended—

(A) by striking ''31.5'' and inserting ''28'';

(B) by striking ''13.5'' and inserting ''12''; and

(C) by striking ''9 cents'' and inserting ''8 cents''.

(b) DURATION.—Effective September 30, 2007, section 402(b) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232(b)) (as amended by section 7007 of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery, 2006 (Public Law 109–234; 120 Stat. 484)) is amended by striking ''September 30, 2007'' and all that follows through the end of the sentence and inserting ''September 30, 2021.''.

(c) ALLOCATION OF FUNDS.—Section 402(g) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232(g)) is amended—

(1) in paragraph (1)(D)—

(A) by inserting ''(except for grants awarded during fiscal years 2008, 2009, and 2010 to the extent not expended within 5 years)'' after ''this paragraph''; and

(B) by striking ''in any area under paragraph (2), (3), (4), or (5)'' and inserting ''under paragraph (5)'';

(2) by striking paragraph (2) and inserting:

''(2) In making the grants referred to in paragraph (1)(C) and the grants referred to in paragraph (5), the Secretary shall ensure strict compliance by the States and Indian tribes with the priorities described in section 403(a) until a certification is made under section 411(a).'';

(3) in paragraph (3)—

(A) in the matter preceding subparagraph (A), by striking ''paragraphs (2) and'' and inserting ''paragraph'';

(B) in subparagraph (A), by striking ''401(c)(11)'' and inserting ''401(c)(9)''; and

(C) by adding at the end the following:

''(E) For the purpose of paragraph (8).'';

(4) in paragraph (5)—

(A) by inserting ''(A)'' after ''(5)'';

(B) in the first sentence, by striking ''40'' and inserting ''60'';

(C) in the last sentence, by striking ''Funds allocated or expended by the Secretary under paragraphs (2), (3), or (4)'' and inserting ''Funds made available under paragraph (3) or (4)''; and

(D) by adding at the end the following:

''(B) Any amount that is reallocated and available under section 411(h)(3) shall be in addition to amounts that are allocated under subparagraph (A).''; and

(5) by striking paragraphs (6) through (8) and inserting the following:

''(6)(A) Any State with an approved abandoned mine reclamation program pursuant to section 405 may receive and retain, without regard to the 3-year limitation referred to in paragraph (1)(D), up to 30 percent of the total of the grants made annually to the State under paragraphs (1) and (5) if those amounts are deposited into an acid mine drainage abatement and treatment fund established under State law, from which amounts (together with all interest earned on the amounts) are expended by the State for the abatement of the causes and the treatment of the effects of acid mine drainage in a comprehensive manner within qualified hydrologic units affected by coal mining practices.

''(B) In this paragraph, the term 'qualified hydrologic unit' means a hydrologic unit—

''(i) in which the water quality has been significantly affected by acid mine drainage from coal mining practices in a manner that adversely impacts biological resources; and

''(ii) that contains land and water that are—

''(I) eligible pursuant to section 404 and include any of the priorities described in section 403(a); and

''(II) the subject of expenditures by the State from the forfeiture of bonds required under section 509 or from other States sources to abate and treat acid mine drainage.

''(7) In complying with the priorities described in section 403(a), any State or Indian tribe may use amounts available in grants made annually to the State or tribe under paragraphs (1) and (5) for the reclamation of eligible land and water described in section 403(a)(3) before the completion of reclamation projects under paragraphs (1) and (2) of section 403(a) only if the expenditure of funds for the reclamation is done in conjunction with the expenditure before, on, or after the date of enactment of the Surface Mining Control and Reclamation Act Amendments of 2006 of funds for reclamation projects under paragraphs (1) and (2) of section 403(a).

''(8)(A) In making funds available under this title, the Secretary shall ensure that the grant awards total not less than $3,000,000 annually to each State and each Indian tribe having an approved abandoned mine reclamation program pursuant to section 405 and eligible land and water pursuant to section 404, so long as an allocation of funds to the State or tribe is necessary to achieve the priorities stated in paragraphs (1) and (2) of section 403(a).

''(B) Notwithstanding any other provision of law, this paragraph applies to the States of Tennessee and Missouri.''.

(d) TRANSFERS OF INTEREST EARNED BY ABANDONED MINE RECLAMATION FUND.—Section 402 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232) is amended by striking subsection (h) and inserting the following:

''(h) TRANSFERS OF INTEREST EARNED BY FUND.—

''(1) IN GENERAL.—

''(A) TRANSFERS TO COMBINED BENEFIT FUND.—As soon as practicable after the beginning of fiscal year 2007 and each fiscal year thereafter, and before making any allocation with respect to the fiscal year under subsection (g), the Secretary shall use an amount not to exceed the amount of interest that the Secretary estimates will be earned and paid to the fund during the fiscal year to make the transfer described in paragraph (2)(A).

''(B) TRANSFERS TO 1992 AND 1993 PLANS.—As soon as practicable after the beginning of fiscal year 2008 and each fiscal year thereafter, and before making any allocation with respect to the fiscal year under subsection (g), the Secretary shall use an amount not to exceed the amount of interest that the Secretary estimates will be earned and paid to the fund during the fiscal year (reduced by the amount used under subparagraph (A)) to make the transfers described in paragraphs (2)(B) and (2)(C).

''(2) TRANSFERS DESCRIBED.—The transfers referred to in paragraph (1) are the following:

''(A) UNITED MINE WORKERS OF AMERICA COMBINED BENEFIT FUND.—A transfer to the United Mine Workers of America Combined Benefit Fund equal to the amount that the trustees of the Combined Benefit Fund estimate will be expended from the fund for the fiscal year in which the transfer is made, reduced by—

''(i) the amount the trustees of the Combined Benefit Fund estimate the Combined Benefit Fund will receive during the fiscal year in—

''(I) required premiums; and

''(II) payments paid by Federal agencies in connection with benefits provided by the Combined Benefit Fund; and

''(ii) the amount the trustees of the Combined Benefit Fund estimate will be expended during the fiscal year to provide health benefits to beneficiaries who are unassigned beneficiaries solely as a result of the application of section 9706(h)(1) of the Internal Revenue Code of 1986, but only to the extent that such amount does not exceed the amounts described in subsection (i)(1)(A) that the Secretary estimates will be available to pay such estimated expenditures.

''(B) UNITED MINE WORKERS OF AMERICA 1992 BENEFIT PLAN.—A transfer to the United Mine Workers of America 1992 Benefit Plan, in an amount equal to the difference between—

''(i) the amount that the trustees of the 1992 UMWA Benefit Plan estimate will be expended from the 1992 UMWA Benefit Plan during the next calendar year to provide the benefits required by the 1992 UMWA Benefit Plan on the date of enactment of this subparagraph; minus

''(ii) the amount that the trustees of the 1992 UMWA Benefit Plan estimate the 1992 UMWA Benefit Plan will receive during the next calendar year in—

''(I) required monthly per beneficiary premiums, including the amount of any security provided to the 1992 UMWA Benefit Plan that is available for use in the provision of benefits; and

''(II) payments paid by Federal agencies in connection with benefits provided by the 1992 UMWA benefit plan.

''(C) MULTIEMPLOYER HEALTH BENEFIT PLAN.—A transfer to the Multiemployer Health Benefit Plan established after July 20, 1992, by the parties that are the settlors of the 1992 UMWA Benefit Plan referred to in

subparagraph (B) (referred to in this subparagraph and subparagraph (D) as 'the Plan'), in an amount equal to the excess (if any) of—

''(i) the amount that the trustees of the Plan estimate will be expended from the Plan during the next calendar year, to provide benefits no greater than those provided by the Plan as of December 31, 2006; over

''(ii) the amount that the trustees estimated the Plan will receive during the next calendar year in payments paid by Federal agencies in connection with benefits provided by the Plan.

Such excess shall be calculated by taking into account only those beneficiaries actually enrolled in the Plan as of December 31, 2006, who are eligible to receive benefits under the Plan on the first day of the calendar year for which the transfer is made.

''(D) INDIVIDUALS CONSIDERED ENROLLED.—For purposes of subparagraph (C), any individual who was eligible to receive benefits from the Plan as of the date of enactment of this subsection, even though benefits were being provided to the individual pursuant to a settlement agreement approved by order of a bankruptcy court entered on or before September 30, 2004, will be considered to be actually enrolled in the Plan and shall receive benefits from the Plan beginning on December 31, 2006.

''(3) ADJUSTMENT.—If, for any fiscal year, the amount of a transfer under subparagraph (A), (B), or (C) of paragraph (2) is more or less than the amount required to be transferred under that subparagraph, the Secretary shall appropriately adjust the amount transferred under that subparagraph for the next fiscal year.

''(4) ADDITIONAL AMOUNTS.—

''(A) PREVIOUSLY CREDITED INTEREST.—Notwithstanding any other provision of law, any interest credited to the fund that has not previously been transferred to the Combined Benefit Fund referred to in paragraph (2)(A) under this section—

''(i) shall be held in reserve by the Secretary until such time as necessary to make the payments under subparagraphs (A) and (B) of subsection (i)(1), as described in clause (ii); and

''(ii) in the event that the amounts described in subsection (i)(1) are insufficient to make the maximum payments described in subparagraphs (A) and (B) of subsection (i)(1), shall be used by the Secretary to supplement the payments so that the maximum amount permitted under those paragraphs is paid.

''(B) PREVIOUSLY ALLOCATED AMOUNTS.—All amounts allocated under subsection (g)(2) before the date of enactment of this subparagraph for the program described in section 406, but not appropriated before that date, shall be available to the Secretary to make the transfers described in paragraph (2).

''(C) ADEQUACY OF PREVIOUSLY CREDITED INTEREST.—The Secretary shall—

''(i) consult with the trustees of the plans described in paragraph (2) at reasonable intervals; and

''(ii) notify Congress if a determination is made that the amounts held in reserve under subparagraph (A) are insufficient to meet future requirements under subparagraph (A)(ii).

''(D) ADDITIONAL RESERVE AMOUNTS.—In addition to amounts held in reserve under subparagraph (A), there is authorized to be appropriated such sums as may be necessary for transfer to the fund to carry out the purposes of subparagraph (A)(ii).

''(E) INAPPLICABILITY OF CAP.—The limitation described in subsection (i)(3)(A) shall not apply to payments made from the reserve fund under this paragraph.

''(5) LIMITATIONS.—

''(A) AVAILABILITY OF FUNDS FOR NEXT FISCAL YEAR.—The Secretary may make transfers under subparagraphs (B) and (C) of paragraph (2) for a calendar year only if the Secretary determines, using actuarial projections provided by the trustees of the Combined Benefit Fund referred to in paragraph (2)(A), that amounts will be available under paragraph (1), after the transfer, for the next fiscal year for making the transfer under paragraph (2)(A).

''(B) RATE OF CONTRIBUTIONS OF OBLIGORS.—

''(i) IN GENERAL.—

''(I) RATE.—A transfer under paragraph (2)(C) shall not be made for a calendar year unless the persons that are obligated to contribute to the plan referred to in paragraph (2)(C) on the date of the transfer are obligated to make the contributions at rates that are no less than those in effect on the date which is 30 days before the date of enactment of this subsection.

''(II) APPLICATION.—The contributions described in subclause (I) shall be applied first to the provision of benefits to those plan beneficiaries who are not described in paragraph (2)(C)(ii).

''(ii) INITIAL CONTRIBUTIONS.—

''(I) IN GENERAL.—From the date of enactment of the Surface Mining Control and Reclamation Act Amendments of 2006 through December 31, 2010, the persons that, on the date of enactment of that Act, are obligated to contribute to the plan referred to in paragraph (2)(C) shall be obligated, collectively, to make contributions equal to the amount described in paragraph (2)(C), less the amount actually transferred due to the operation of subparagraph (C).

''(II) FIRST CALENDAR YEAR.—Calendar year 2006 is the first calendar year for which contributions are required under this clause.

''(III) AMOUNT OF CONTRIBUTION FOR 2006.—Except as provided in subclause (IV), the amount described in paragraph (2)(C) for calendar year 2006 shall be calculated as if paragraph (2)(C) had been in effect during 2005.

''(IV) LIMITATION.—The contributions required under this clause for calendar year 2006 shall not exceed the amount necessary for solvency of the plan described in paragraph (2)(C), measured as of December 31, 2006 and taking into account all assets held by the plan as of that date.

''(iii) DIVISION.—The collective annual contribution obligation required under clause (ii) shall be divided among the persons subject to the obligation, and applied uniformly, based on the hours worked for which contributions referred to in clause (i) would be owed.

''(C) PHASE-IN OF TRANSFERS.—For each of calendar years 2008 through 2010, the transfers required under subparagraphs (B) and (C) of paragraph (2) shall equal the following amounts:

''(i) For calendar year 2008, the Secretary shall make transfers equal to 25 percent of the amounts that would otherwise be required under subparagraphs (B) and (C) of paragraph (2).

''(ii) For calendar year 2009, the Secretary shall make transfers equal to 50 percent of the amounts that would otherwise be required under subparagraphs (B) and (C) of paragraph (2).

''(iii) For calendar year 2010, the Secretary shall make transfers equal to 75 percent of the amounts that would otherwise be required under subparagraphs (B) and (C) of paragraph (2).

''(i) FUNDING.—

''(1) IN GENERAL.—Subject to paragraph (3), out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the plans described in subsection (h)(2) such sums as are necessary to pay the following amounts:

''(A) To the Combined Fund (as defined in section 9701(a)(5) of the Internal Revenue Code of 1986 and referred to in this paragraph as the 'Combined Fund'), the amount that the trustees of the Combined Fund estimate will be expended from premium accounts maintained by the Combined Fund for the fiscal year to provide benefits for beneficiaries who are unassigned beneficiaries solely as a result of the application of section 9706(h)(1) of the Internal Revenue Code of 1986, subject to the following limitations:

''(i) For fiscal year 2008, the amount paid under this subparagraph shall equal—

''(I) the amount described in subparagraph (A); minus

''(II) the amounts required under section 9706(h)(3)(A) of the Internal Revenue Code of 1986.

''(ii) For fiscal year 2009, the amount paid under this subparagraph shall equal—

''(I) the amount described in subparagraph (A); minus

''(II) the amounts required under section 9706(h)(3)(B) of the Internal Revenue Code of 1986.

''(iii) For fiscal year 2010, the amount paid under this subparagraph shall equal—

''(I) the amount described in subparagraph (A); minus

''(II) the amounts required under section 9706(h)(3)(C) of the Internal Revenue Code of 1986.

''(B) On certification by the trustees of any plan described in subsection (h)(2) that the amount available for transfer by the Secretary pursuant to this section (determined after application of any limitation under subsection (h)(5)) is less than the amount required to be transferred, to the plan the amount necessary to meet the requirement of subsection (h)(2).

''(C) To the Combined Fund, $9,000,000 on October 1, 2007, $9,000,000 on October 1, 2008, and $9,000,000 on October 1, 2009 (which amounts shall not be exceeded) to provide a refund of any premium (as described in section 9704(a) of the Internal Revenue Code of 1986) paid on or before September 7, 2000, to the Combined Fund, plus interest on the premium calculated at the rate of 7.5 percent per year, on a proportional basis and to be paid not later than 60 days after the date on which each payment is received by the Combined Fund, to those signatory operators (to the extent that the Combined Fund has not previously returned the premium amounts to the operators), or any related persons to the operators (as defined in section 9701(c) of the Internal Revenue Code of 1986), or their heirs, successors, or assigns who have been denied the refunds as the result of final judgments or settlements if—

''(i) prior to the date of enactment of this paragraph, the signatory operator (or any related person to the operator)—

''(I) had all of its beneficiary assignments made under section 9706 of the Internal Revenue Code of 1986 voided by the Commissioner of the Social Security Administration; and

''(II) was subject to a final judgment or final settlement of litigation adverse to a claim by the operator that the assignment of beneficiaries under section 9706 of the Internal Revenue Code of 1986 was unconstitutional as applied to the operator; and

''(ii) on or before September 7, 2000, the signatory operator (or any related person to the operator) had paid to the Combined Fund any premium amount that had not been refunded.

''(2) PAYMENTS TO STATES AND INDIAN TRIBES.—Subject to paragraph (3), out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall

transfer to the Secretary of the Interior for distribution to States and Indian tribes such sums as are necessary to pay amounts described in paragraphs (1)(A) and (2)(A) of section 411(h).

''(3) LIMITATIONS.—

''(A) CAP.—The total amount transferred under this subsection for any fiscal year shall not exceed $490,000,000.

''(B) INSUFFICIENT AMOUNTS.—In a case in which the amount required to be transferred without regard to this paragraph exceeds the maximum annual limitation in subparagraph (A), the Secretary shall adjust the transfers of funds so that—

''(i) each transfer for the fiscal year is a percentage of the amount described;

''(ii) the amount is determined without regard to subsection (h)(5)(A); and

''(iii) the percentage transferred is the same for all transfers made under this subsection for the fiscal year.

''(4) AVAILABILITY OF FUNDS.—Funds shall be transferred under paragraph (1) and (2) beginning in fiscal year 2008 and each fiscal year thereafter, and shall remain available until expended.''.

**SEC. 313. OBJECTIVES OF FUND.**

Section 403 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1233) is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by striking ''(1) the protection'' and inserting the following:

''(1)(A) the protection;'';

(ii) in subparagraph (A) (as designated by clause (i)), by striking ''general welfare,''; and

(iii) by adding at the end the following:

''(B) the restoration of land and water resources and the environment that—

''(i) have been degraded by the adverse effects of coal mining practices; and

''(ii) are adjacent to a site that has been or will be remediated under subparagraph (A);'';

(B) in paragraph (2)—

(i) by striking ''(2) the protection'' and inserting the following:

''(2)(A) the protection'';

(ii) in subparagraph (A) (as designated by clause (i), by striking ''health, safety, and general welfare'' and inserting ''health and safety''; and

(iii) by adding at the end the following:

''(B) the restoration of land and water resources and the environment that—

''(i) have been degraded by the adverse effects of coal mining practices; and

''(ii) are adjacent to a site that has been or will be remediated under subparagraph (A); and'';

(C) in paragraph (3), by striking the semicolon at the end and inserting a period; and

(D) by striking paragraphs (4) and (5);

(2) in subsection (b)—

(A) by striking the subsection heading and inserting ''WATER SUPPLY RESTORATION.—''; and

(B) in paragraph (1), by striking ''up to 30 percent of the''; and

(3) in the second sentence of subsection (c), by inserting '', subject to the approval of the Secretary,'' after ''amendments''.

**SEC. 314. RECLAMATION OF RURAL LAND.**

(a) ADMINISTRATION.—Section 406(h) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1236(h)) is amended by striking ''Soil Conservation Service'' and inserting ''Natural Resources Conservation Service''.

(b) AUTHORIZATION OF APPROPRIATIONS FOR CARRYING OUT RURAL LAND RECLAMATION.—Section 406 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1236) is amended by adding at the end the following:

''(i) There are authorized to be appropriated to the Secretary of Agriculture, from amounts in the Treasury other than amounts in the fund, such sums as may be necessary to carry out this section.''.

**SEC. 315. LIENS.**

Section 408(a) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1238) is amended in the last sentence by striking ''who owned the surface prior to May 2, 1977, and''.

**SEC. 316. CERTIFICATION.**

Section 411 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1240a) is amended—

(1) in subsection (a)—

(A) by inserting ''(1)'' before the first sentence; and

(B) by adding at the end the following:

''(2)(A) The Secretary may, on the initiative of the Secretary, make the certification referred to in paragraph (1) on behalf of any State or Indian tribe referred to in paragraph (1) if on the basis of the inventory referred to in section 403(c) all reclamation projects relating to the priorities described in section 403(a) for eligible land and water pursuant to section 404 in the State or tribe have been completed.

''(B) The Secretary shall only make the certification after notice in the Federal Register and opportunity for public comment.''; and

(2) by adding at the end the following:

''(h) PAYMENTS TO STATES AND INDIAN TRIBES.—

''(1) IN GENERAL.—

''(A) PAYMENTS.—

''(i) IN GENERAL.—Notwithstanding section 401(f)(3)(B), from funds referred to in section 402(i)(2), the Secretary shall make payments to States or Indian tribes for the amount due for the aggregate unappropriated amount allocated to the State or Indian tribe under subparagraph (A) or (B) of section 402(g)(1).

''(ii) CONVERSION AS EQUIVALENT PAYMENTS.—Amounts allocated under subparagraphs (A) or (B) of section 402(g)(1) shall be reallocated to the allocation established in section 402(g)(5) in amounts equivalent to payments made to States or Indian tribes under this paragraph.

''(B) AMOUNT DUE.—In this paragraph, the term 'amount due' means the unappropriated amount allocated to a State or Indian tribe before October 1, 2007, under subparagraph (A) or (B) of section 402(g)(1).

''(C) SCHEDULE.—Payments under subparagraph (A) shall be made in 7 equal annual installments, beginning with fiscal year 2008.

''(D) USE OF FUNDS.—

''(i) CERTIFIED STATES AND INDIAN TRIBES.—A State or Indian tribe that makes a certification under subsection (a) in which the Secretary concurs shall use any amounts provided under this paragraph for the purposes established by the State legislature or tribal council of the Indian tribe, with priority given for addressing the impacts of mineral development.

''(ii) UNCERTIFIED STATES AND INDIAN TRIBES.—A State or Indian tribe that has not made a certification under subsection (a) in which the Secretary has concurred shall use any amounts provided under this paragraph for the purposes described in section 403.

''(2) SUBSEQUENT STATE AND INDIAN TRIBE SHARE FOR CERTIFIED STATES AND INDIAN TRIBES.—

''(A) IN GENERAL.—Notwithstanding section 401(f)(3)(B), from funds referred to in section 402(i)(2), the Secretary shall pay to each certified State or Indian tribe an amount equal to the sum of the aggregate unappropriated amount allocated on or after October 1, 2007, to the certified State or Indian tribe under subparagraph (A) or (B) of section 402(g)(1).

''(B) CERTIFIED STATE OR INDIAN TRIBE DEFINED.—In this paragraph the term 'certified State or Indian tribe' means a State or Indian tribe for which a certification is made under subsection (a) in which the Secretary concurs.

''(3) MANNER OF PAYMENT.—

''(A) IN GENERAL.—Subject to subparagraph (B), payments to States or Indian tribes under this subsection shall be made without regard to any limitation in section 401(d) and concurrently with payments to States under that section.

''(B) INITIAL PAYMENTS.—The first 3 payments made to any State or Indian tribe shall be reduced to 25 percent, 50 percent, and 75 percent, respectively, of the amounts otherwise required under paragraph (2)(A).

''(C) INSTALLMENTS.—Amounts withheld from the first 3 annual installments as provided under subparagraph (B) shall be paid in 2 equal annual installments beginning with fiscal year 2018.

''(4) REALLOCATION.—

''(A) IN GENERAL.—The amount allocated to any State or Indian tribe under subparagraph (A) or (B) of section 402(g)(1) that is paid to the State or Indian tribe as a result of a payment under paragraph (1) or (2) shall be reallocated and available for grants under section 402(g)(5).

''(B) ALLOCATION.—The grants shall be allocated based on the amount of coal historically produced before August 3, 1977, in the same manner as under section 402(g)(5).''.

**SEC. 317. REMINING INCENTIVES.**

Title IV of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1231 et seq.) is amended by adding at the following:

**''SEC. 415. REMINING INCENTIVES.**

''(a) IN GENERAL.—Notwithstanding any other provision of this Act, the Secretary may, after opportunity for public comment, promulgate regulations that describe conditions under which amounts in the fund may be used to provide incentives to promote remining of eligible land under section 404 in a manner that leverages the use of amounts from the fund to achieve more reclamation with respect to the eligible land than would be achieved without the incentives.

''(b) REQUIREMENTS.—Any regulations promulgated under subsection (a) shall specify that the incentives shall apply only if the Secretary determines, with the concurrence of the State regulatory authority referred to in title V, that, without the incentives, the eligible land would not be likely to be remined and reclaimed.

''(c) INCENTIVES.—

''(1) IN GENERAL.—Incentives that may be considered for inclusion in the regulations promulgated under subsection (a) include, but are not limited to—

''(A) a rebate or waiver of the reclamation fees required under section 402(a); and

''(B) the use of amounts in the fund to provide financial assurance for remining operations in lieu of all or a portion of the performance bonds required under section 509.

''(2) LIMITATIONS.—

''(A) USE.—A rebate or waiver under paragraph (1)(A) shall be used only for operations that—

''(i) remove or reprocess abandoned coal mine waste; or

''(ii) conduct remining activities that meet the priorities specified in paragraph (1) or (2) of section 403(a).

''(B) AMOUNT.—The amount of a rebate or waiver provided as an incentive under paragraph (1)(A) to remine or reclaim eligible land shall not exceed the estimated cost of reclaiming the eligible land under this section.''.

**SEC. 318. EXTENSION OF LIMITATION ON APPLICATION OF PROHIBITION ON ISSUANCE OF PERMIT.**

Section 510(e) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1260(e)) is amended by striking the last sentence.

**SEC. 319. TRIBAL REGULATION OF SURFACE COAL MINING AND RECLAMATION OPERATIONS.**

(a) IN GENERAL.—Section 710 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1300) is amended by adding at the end the following:

''(j) TRIBAL REGULATORY AUTHORITY.—

''(1) TRIBAL REGULATORY PROGRAMS.—

''(A) IN GENERAL.—Notwithstanding any other provision of law, an Indian tribe may apply for, and obtain the approval of, a tribal program under section 503 regulating in whole or in part surface coal mining and reclamation operations on reservation land under the jurisdiction of the Indian tribe using the procedures of section 504(e).

''(B) REFERENCES TO STATE.—For purposes of this subsection and the implementation and administration of a tribal program under title V, any reference to a 'State' in this Act shall be considered to be a reference to a 'tribe'.

''(2) CONFLICTS OF INTEREST.—

''(A) IN GENERAL.—The fact that an individual is a member of an Indian tribe does not in itself constitute a violation of section 201(f).

''(B) EMPLOYEES OF TRIBAL REGULATORY AUTHORITY.—Any employee of a tribal regulatory authority shall not be eligible for a per capita distribution of any proceeds from coal mining operations conducted on Indian reservation lands under this Act.

''(3) SOVEREIGN IMMUNITY.—To receive primary regulatory authority under section 504(e), an Indian tribe shall waive sovereign immunity for purposes of section 520 and paragraph (4).

''(4) JUDICIAL REVIEW.—

''(A) CIVIL ACTIONS.—

''(i) IN GENERAL.—After exhausting all tribal remedies with respect to a civil action arising under a tribal program approved under section 504(e), an interested party may file a petition for judicial review of the civil action in the United States circuit court for the circuit in which the surface coal mining operation named in the petition is located.

''(ii) SCOPE OF REVIEW.—

''(I) QUESTIONS OF LAW.—The United States circuit court shall review de novo any questions of law under clause (i).

''(II) FINDINGS OF FACT.—The United States circuit court shall review findings of fact under clause (i) using a clearly erroneous standard.

''(B) CRIMINAL ACTIONS.—Any criminal action brought under section 518 with respect to surface coal mining or reclamation operations on Indian reservation lands shall be brought in—

''(i) the United States District Court for the District of Columbia; or

''(ii) the United States district court in which the criminal activity is alleged to have occurred.

''(5) GRANTS.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), grants for developing, administering, and enforcing tribal programs approved in accordance with section 504(e) shall be provided to an Indian tribe in accordance with section 705.

''(B) EXCEPTION.—Notwithstanding subparagraph (A), the Federal share of the costs of developing, administering, and enforcing an approved tribal program shall be 100 percent.

''(6) REPORT.—Not later than 18 months after the date on which a tribal program is approved under subsection (e) of section 504, the Secretary shall submit to the appropriate committees of Congress a report, developed in cooperation with the applicable Indian tribe, on the tribal program that includes a recommendation of the Secretary on whether primary regulatory authority under that subsection should be expanded to include additional Indian lands.''.

(b) CONFORMING AMENDMENT.—Section 710(i) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1300(i)) is amended in the first sentence by striking '', except'' and all that follows through ''section 503''.

## Subtitle B—Coal Industry Retiree Health Benefit Act

**SEC. 321. CERTAIN RELATED PERSONS AND SUCCESSORS IN INTEREST RELIEVED OF LIABILITY IF PREMIUMS PREPAID.**

(a) COMBINED BENEFIT FUND.—

(1) IN GENERAL.—Section 9704 (relating to liability of assigned operators) is amended by adding at the end the following new subsection:

''(j) PREPAYMENT OF PREMIUM LIABILITY.—

''(1) IN GENERAL.—If—

''(A) a payment meeting the requirements of paragraph (3) is made to the Combined Fund by or on behalf of—

''(i) any assigned operator to which this subsection applies, or

''(ii) any related person to any assigned operator described in clause (i), and

''(B) the common parent of the controlled group of corporations described in paragraph (2)(B) is jointly and severally liable for any premium under this section which (but for this subsection) would be required to be paid by the assigned operator or related person,

then such common parent (and no other person) shall be liable for such premium.

''(2) ASSIGNED OPERATORS TO WHICH SUBSECTION APPLIES.—

''(A) IN GENERAL.—This subsection shall apply to any assigned operator if—

''(i) the assigned operator (or a related person to the assigned operator)—

''(I) made contributions to the 1950 UMWA Benefit Plan and the 1974 UMWA Benefit Plan for employment during the period covered by the 1988 agreement; and

''(II) is not a 1988 agreement operator,

''(ii) the assigned operator (and all related persons to the assigned operator) are not actively engaged in the production of coal as of July 1, 2005, and

''(iii) the assigned operator was, as of July 20, 1992, a member of a controlled group of corporations described in subparagraph (B).

''(B) CONTROLLED GROUP OF CORPORATIONS.—A controlled group of corporations is described in this subparagraph if the common parent of such group is a corporation the shares of which are publicly traded on a United States exchange.

''(C) COORDINATION WITH REPEAL OF ASSIGNMENTS.—A person shall not fail to be treated as an assigned operator to which this subsection applies solely because the person ceases to be an assigned operator by reason of section 9706(h)(1) if the person otherwise meets the requirements of this subsection and is liable for the payment of premiums under section 9706(h)(3).

''(D) CONTROLLED GROUP.—For purposes of this subsection, the term 'controlled group of corporations' has the meaning given such term by section 52(a).

''(3) REQUIREMENTS.—A payment meets the requirements of this paragraph if—

''(A) the amount of the payment is not less than the present value of the total premium liability under this chapter with respect to the Combined Fund of the assigned operators or related persons described in paragraph (1) or their assignees, as determined by the operator's or related person's enrolled actuary (as defined in section 7701(a)(35)) using actuarial methods and assumptions each of which is reasonable and which are reasonable in the aggregate, as determined by such enrolled actuary;

''(B) such enrolled actuary files with the Secretary of Labor a signed actuarial report containing—

''(i) the date of the actuarial valuation applicable to the report; and

''(ii) a statement by the enrolled actuary signing the report that, to the best of the actuary's knowledge, the report is complete and accurate and that in the actuary's opinion the actuarial assumptions used are in the aggregate reasonably related to the experience of the operator and to reasonable expectations; and

''(C) 90 calendar days have elapsed after the report required by subparagraph (B) is filed with the Secretary of Labor, and the Secretary of Labor has not notified the assigned operator in writing that the requirements of this paragraph have not been satisfied.

''(4) USE OF PREPAYMENT.—The Combined Fund shall—

''(A) establish and maintain an account for each assigned operator or related person by, or on whose behalf, a payment described in paragraph (3) was made,

''(B) credit such account with such payment (and any earnings thereon), and

''(C) use all amounts in such account exclusively to pay premiums that would (but for this subsection) be required to be paid by the assigned operator.

Upon termination of the obligations for the premium liability of any assigned operator or related person for which such account is maintained, all funds remaining in such account (and earnings thereon) shall be refunded to such person as may be designated by the common parent described in paragraph (1)(B).''.

(b) INDIVIDUAL EMPLOYER PLANS.—Section 9711(c) (relating to joint and several liability) is amended to read as follows:

''(c) JOINT AND SEVERAL LIABILITY OF RELATED PERSONS.—

''(1) IN GENERAL.—Except as provided in paragraph (2), each related person of a last signatory operator to which subsection (a) or (b) applies shall be jointly and severally liable with the last signatory operator for the provision of health care coverage described in subsection (a) or (b).

''(2) LIABILITY LIMITED IF SECURITY PROVIDED.—If—

''(A) security meeting the requirements of paragraph (3) is provided by or on behalf of—

''(i) any last signatory operator which is an assigned operator described in section 9704(j)(2), or

''(ii) any related person to any last signatory operator described in clause (i), and

''(B) the common parent of the controlled group of corporations described in section 9704(j)(2)(B) is jointly and severally liable for the provision of health care under this section which, but for this paragraph, would be required to be provided by the last signatory operator or related person,

then, as of the date the security is provided, such common parent (and no other person) shall be liable for the provision of health care under this section which the last signatory operator or related person would otherwise be required to provide. Security may be provided under this paragraph without regard to whether a payment was made under section 9704(j).

''(3) SECURITY.—Security meets the requirements of this paragraph if—

''(A) the security—

''(i) is in the form of a bond, letter of credit, or cash escrow,

''(ii) is provided to the trustees of the 1992 UMWA Benefit Plan solely for the purpose of paying premiums for beneficiaries who would be described in section 9712(b)(2)(B) if the requirements of this section were not met by the last signatory operator, and

''(iii) is in an amount equal to 1 year of liability of the last signatory operator under this section, determined by using the average cost of such operator's liability during the prior 3 calendar years;

''(B) the security is in addition to any other security required under any other provision of this title; and

''(C) the security remains in place for 5 years.

''(4) REFUNDS OF SECURITY.—The remaining amount of any security provided under this subsection (and earnings thereon) shall be refunded to the last signatory operator as of the earlier of—

''(A) the termination of the obligations of the last signatory operator under this section, or

''(B) the end of the 5-year period described in paragraph (4)(C).''.

(c) 1992 UMWA BENEFIT PLAN.—Section 9712(d)(4) (relating to joint and several liability) is amended by adding at the end the following new sentence: ''The provisions of section 9711(c)(2) shall apply to any last signatory operator described in such section (without regard to whether security is provided under such section, a payment is made under section 9704(j), or both) and if security meeting the requirements of section 9711(c)(3) is provided, the common parent described in section 9711(c)(2)(B) shall be exclusively responsible for any liability for premiums under this section which, but for this sentence, would be required to be paid by the last signatory operator or any related person.''.

(d) SUCCESSOR IN INTEREST.—Section 9701(c) (relating to terms relating to operators) is amended by adding at the end the following new paragraph:

''(8) SUCCESSOR IN INTEREST.—

''(A) SAFE HARBOR.—The term 'successor in interest' shall not include any person who—

''(i) is an unrelated person to an eligible seller described in subparagraph (C); and

''(ii) purchases for fair market value assets, or all of the stock, of a related person to such seller, in a bona fide, arm's-length sale.

''(B) UNRELATED PERSON.—The term 'unrelated person' means a purchaser who does not bear a relationship to the eligible seller described in section 267(b).

''(C) ELIGIBLE SELLER.—For purposes of this paragraph, the term 'eligible seller' means an assigned operator described in section 9704(j)(2) or a related person to such assigned operator.''.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act, except that the amendment made by subsection (d) shall apply to transactions after the date of the enactment of this Act.

**SEC. 322. TRANSFERS TO FUNDS; PREMIUM RELIEF.**

(a) COMBINED FUND.—

(1) FEDERAL TRANSFERS.—Section 9705(b) (relating to transfers from Abandoned Mine Reclamation Fund) is amended—

(A) in paragraph (1), by striking ''section 402(h)'' and inserting ''subsections (h) and (i) of section 402'';

(B) by striking paragraph (2) and inserting the following new paragraph:

''(2) USE OF FUNDS.—Any amount transferred under paragraph (1) for any fiscal year shall be used to pay benefits and administrative costs of beneficiaries of the Combined Fund or for such other purposes as are specifically provided in the Acts described in paragraph (1).''; and

(C) by striking ''FROM ABANDONED MINE RECLAMATION FUND''.

(2) MODIFICATIONS OF PREMIUMS TO REFLECT FEDERAL TRANSFERS.—

(A) ELIMINATION OF UNASSIGNED BENEFICIARIES PREMIUM.—Section 9704(d) (establishing unassigned beneficiaries premium) is amended to read as follows:

''(d) UNASSIGNED BENEFICIARIES PREMIUM.—

''(1) PLAN YEARS ENDING ON OR BEFORE SEPTEMBER 30, 2006.—For plan years ending on or before September 30, 2006, the unassigned beneficiaries premium for any assigned operator shall be equal to the applicable percentage of the product of the per beneficiary premium for the plan year multiplied by the number of eligible beneficiaries who are not assigned under section 9706 to any person for such plan year.

''(2) PLAN YEARS BEGINNING ON OR AFTER OCTOBER 1, 2006.—

''(A) IN GENERAL.—For plan years beginning on or after October 1, 2006, subject to subparagraph (B), there shall be no unassigned beneficiaries premium, and benefit costs with respect to eligible beneficiaries who are not assigned under section 9706 to any person for any such plan year shall be paid from amounts transferred under section 9705(b).

''(B) INADEQUATE TRANSFERS.—If, for any plan year beginning on or after October 1, 2006, the amounts transferred under section 9705(b) are less than the amounts required to be transferred to the Combined Fund under subsection (h)(2)(A) or (i) of section 402 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232)), then the unassigned beneficiaries premium for any assigned operator shall be equal to the operator's applicable percentage of the amount required to be so transferred which was not so transferred.''.

(B) PREMIUM ACCOUNTS.—

(i) CREDITING OF ACCOUNTS.—Section 9704(e)(1) (relating to premium accounts; adjustments) is amended by inserting ''and amounts transferred under section 9705(b)'' after ''premiums received''.

(ii) SURPLUSES ATTRIBUTABLE TO PUBLIC FUNDING.—Section 9704(e)(3)(A) is amended by adding at the end the following new sentence: ''Amounts credited to an account from amounts transferred under section 9705(b) shall not be taken into account in determining whether there is a surplus in the account for purposes of this paragraph.''

(C) APPLICABLE PERCENTAGE.—Section 9704(f)(2) (relating to annual adjustments) is amended by adding at the end the following new subparagraph:

''(C) In the case of plan years beginning on or after October 1, 2007, the total number of assigned eligible beneficiaries shall be reduced by the eligible beneficiaries whose assignments have been revoked under section 9706(h).''.

(3) ASSIGNMENTS AND REASSIGNMENT.—Section 9706 (relating to assignment of eligible beneficiaries) is amended by adding at the end the following:

''(h) ASSIGNMENTS AS OF OCTOBER 1, 2007.—

''(1) IN GENERAL.—Subject to the premium obligation set forth in paragraph (3), the Commissioner of Social Security shall—

''(A) revoke all assignments to persons other than 1988 agreement operators for purposes of assessing premiums for plan years beginning on and after October 1, 2007; and

''(B) make no further assignments to persons other than 1988 agreement operators, except that no individual who becomes an unassigned beneficiary by reason of subparagraph (A) may be assigned to a 1988 agreement operator.

''(2) REASSIGNMENT UPON PURCHASE.—This subsection shall not be construed to prohibit the reassignment under subsection (b)(2) of an eligible beneficiary.

''(3) LIABILITY OF PERSONS DURING THREE FISCAL YEARS BEGINNING ON AND AFTER OCTOBER 1, 2007.—In the case of each of the fiscal years beginning on October 1, 2007, 2008, and 2009, each person other than a 1988 agreement operator shall pay to the Combined Fund the following percentage of the amount of annual premiums that such person would otherwise be required to pay under section 9704(a), determined on the basis of assignments in effect without regard to the revocation of assignments under paragraph (1)(A):

''(A) For the fiscal year beginning on October 1, 2007, 55 percent.

''(B) For the fiscal year beginning on October 1, 2008, 40 percent.

''(C) For the fiscal year beginning on October 1, 2009, 15 percent.''.

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply to plan years of the Combined Fund beginning after September 30, 2006.

(b) 1992 UMWA BENEFIT AND OTHER PLANS.—

(1) TRANSFERS TO PLANS.—Section 9712(a) (relating to the establishment and coverage of the 1992 UMWA Benefit Plan) is amended by adding at the end the following:

''(3) TRANSFERS UNDER OTHER FEDERAL STATUTES.—

''(A) IN GENERAL.—The 1992 UMWA Benefit Plan shall include any amount transferred to the plan under subsections (h) and (i) of section 402 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232).

''(B) USE OF FUNDS.—Any amount transferred under subparagraph (A) for any fiscal year shall be used to provide the health benefits described in subsection (c) with respect to any beneficiary for whom no monthly per beneficiary premium is paid pursuant to paragraph (1)(A) or (3) of subsection (d).

''(4) SPECIAL RULE FOR 1993 PLAN.—

''(A) IN GENERAL.—The plan described in section 402(h)(2)(C) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232(h)(2)(C)) shall include any amount transferred to the plan under subsections (h) and (i) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232).

''(B) USE OF FUNDS.—Any amount transferred under subparagraph (A) for any fiscal year shall be used to provide the health benefits described in section 402(h)(2)(C)(i) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232(h)(2)(C)(i)) to individuals described in section 402(h)(2)(C) of such Act (30 U.S.C. 1232(h)(2)(C)).''.

(2) PREMIUM ADJUSTMENTS.—

(A) IN GENERAL.—Section 9712(d)(1) (relating to guarantee of benefits) is amended to read as follows:

''(1) IN GENERAL.—All 1988 last signatory operators shall be responsible for financing the benefits described in subsection (c) by meeting the following requirements in accordance with the contribution requirements established in the 1992 UMWA Benefit Plan:

''(A) The payment of a monthly per beneficiary premium by each 1988 last signatory operator for each eligible beneficiary of such operator who is described in subsection (b)(2) and who is receiving benefits under the 1992 UMWA benefit plan.

''(B) The provision of a security (in the form of a bond, letter of credit, or cash escrow) in an amount equal to a portion of the projected future cost to the 1992 UMWA Benefit Plan of providing health benefits for eligible and potentially eligible beneficiaries attributable to the 1988 last signatory operator.

''(C) If the amounts transferred under subsection (a)(3) are less than the amounts required to be transferred to the 1992 UMWA Benefit Plan under subsections (h) and (i) of section 402 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232), the payment of an additional backstop premium by each 1988 last signatory operator which is equal to such operator's share of the amounts required to be so transferred but which were not so transferred, determined on the basis of the number of eligible and potentially eligible beneficiaries attributable to the operator.''.

(B) CONFORMING AMENDMENTS.—Section 9712(d) is amended—

(i) in paragraph (2)(B), by striking ''prefunding'' and inserting ''backstop'', and

(ii) in paragraph (3), by striking ''paragraph (1)(B)'' and inserting ''paragraph (1)(A)''.

(C) EFFECTIVE DATE.—The amendments made by this paragraph shall apply to fiscal years beginning on or after October 1, 2010.

**SEC. 323. OTHER PROVISIONS.**

(a) BOARD OF TRUSTEES.—Section 9702(b) (relating to board of trustees of the Combined Fund) is amended to read as follows:

''(b) BOARD OF TRUSTEES.—

''(1) IN GENERAL.—For purposes of subsection (a), the board of trustees for the Combined Fund shall be appointed as follows:

''(A) 2 individuals who represent employers in the coal mining industry shall be designated by the BCOA;

''(B) 2 individuals designated by the United Mine Workers of America; and

''(C) 3 individuals selected by the individuals appointed under subparagraphs (A) and (B).

''(2) SUCCESSOR TRUSTEES.—Any successor trustee shall be appointed in the same manner as the trustee being succeeded. The plan establishing the Combined Fund shall provide for the removal of trustees.

''(3) SPECIAL RULE.—If the BCOA ceases to exist, any trustee or successor under paragraph (1)(A) shall be designated by the 3 employers who were members of the BCOA on the enactment date and who have been assigned the greatest number of eligible beneficiaries under section 9706.''.

(b) ENFORCEMENT OF OBLIGATIONS.—

(1) FAILURE TO PAY PREMIUMS.—Section 9707(a) is amended to read as follows:

''(a) FAILURES TO PAY.—

''(1) PREMIUMS FOR ELIGIBLE BENEFICIARIES.—There is hereby imposed a penalty on the failure of any assigned operator to pay any premium required to be paid under section 9704 with respect to any eligible beneficiary.

''(2) CONTRIBUTIONS REQUIRED UNDER THE MINING LAWS.—There is hereby imposed a penalty on the failure of any person to make a contribution required under section 402(h)(5)(B)(ii) of the Surface Mining Control and Reclamation Act of 1977 to a plan referred to in section 402(h)(2)(C) of such Act. For purposes of applying this section, each such required monthly contribution for the hours worked of any individual shall be treated as if it were a premium required to be paid under section 9704 with respect to an eligible beneficiary.''.

(2) CIVIL ENFORCEMENT.—Section 9721 is amended to read as follows:

**''SEC. 9721. CIVIL ENFORCEMENT.**

''The provisions of section 4301 of the Employee Retirement Income Security Act of 1974 shall apply, in the same manner as any claim arising out of an obligation to pay withdrawal liability under subtitle E of title IV of such Act, to any claim—

''(1) arising out of an obligation to pay any amount required to be paid by this chapter; or

''(2) arising out of an obligation to pay any amount required by section 402(h)(5)(B)(ii) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232(h)(5)(B)(ii)).''.

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**SA 5004.** Mr. BAUCUS submitted an amendment intended to be proposed by him to the bill H.R. 4096, to amend the Internal Revenue Code of 1986 to extend to 2006 the alternative minimum tax relief available in 2005 and to index such relief for inflation; which was ordered to lie on the table; as follows:

Amend the title so as to read: ''To amend the Internal Revenue Code of 1986 to extend for 2 years certain expiring provisions, and for other purposes.''.

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**SA 5005.** Mr. REID submitted an amendment intended to be proposed by him to the bill H.R. 4954, to improve maritime and cargo security through enhanced layered defenses, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. ____. DECLASSIFICATION OF CERTAIN TEXT OF REPORT ON INTELLIGENCE CONCERNING IRAQ WEAPONS OF MASS DESTRUCTION PROGRAMS.**

Any classified text (other than text revealing intelligence sources and methods) contained on pages 96, 97, and 98 of the report of the Select Committee on Intelligence of the Senate entitled ''Report of the Select Committee on Intelligence on Post-War Findings About Iraq's WMD Programs and Links to Terrorism and How They Compare with Pre-War Assessments'', and issued on September 8, 2006, is hereby declassified and, effective as of the date of the enactment of this Act, may be released to the public.

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**SA 5006.** Mr. STEVENS (for Mr. MCCAIN (for himself and Mr. KYL)) proposed an amendment to the bill S. 2464, to revise a provision relating to a repayment obligation of the Fort McDowell Yavapai Nation under the Fort McDowell Indian Community Water Rights Settlement Act of 1990, and for other purposes; as follows:

On page 3, strike lines 7 through 9 and insert the following:

achieve the full and final implementation of the Fort McDowell Water

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## NOTICE OF HEARING

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 take place on Thursday, September 21, 2006, at 10 a.m. in room SD–628 of the Dirksen Senate Office Building in Washington, DC.

The purpose of this hearing is to consider the nomination of: Mary Amelia Bomar, of Pennsylvania, to be Director of the National Park Service, vice Frances P. Mainella, resigned.

For further information, please contact Judy Pensabene or Kara Gleason of the Committee staff at: (202) 224–5305.

## AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Ms. COLLINS. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on September 13, 2006, at 10 a.m., to conduct a hearing on ''The Housing Bubble and its Implications for the Economy.''

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Ms. COLLINS. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Wednesday, September 13 at 11:30 a.m.

The purpose of this meeting is to consider the nominations of John Ray Correll to be director of the Office of Surface Mining Reclamation and Enforcement, Mark Myers to be director of the United States Geological Survey, and David Longly Bernhardt to be solicitor of the Department of the Interior.

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

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Ms. COLLINS. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to hold a Business Meeting on Wednesday, September 13, 2006, at 9:30 a.m. to consider the following agenda:

Legislation: H.R. 5689, To amend the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users to make technical corrections, and for other purposes; S.1848, Cleanup of Inactive and Abandoned Mines Act; S. 3630, To amend the Federal Water Pollution Control Act to reauthorize a program relating to the Lake Pontchartrain Basin, and for other purposes; H.R. 3929, Dana Point Desalination Project Authorization Act; S. 3617, North American Wetlands Conservation Reauthoriiation Act of 2006; H.R. 5061, Paint Bank and Wytheville National Fish Hatcheries Conveyance Act; S. 3551, Tylersville Fish Hatchery Conveyance Act; S. 3867, To Designate the Federal Courthouse at 555 Independence Street, Cape Girardeau, Missouri, as the ''Rush H. Limbaugh Sr., Federal Courthouse''; H.R. 5187, To Amend the John F. Kennedy Center Act to authorize additional appropriations for the John F. Kennedy Center for the Performing Arts for fiscal year 2007; S. 3879 ''Convention on Supplementary Compensation for Nuclear Damage Contingent Cost Allocation Act''; S. 2348, Nuclear Release Notice Act of 2006; and S. 3591, High-Performance Green Buildings Act of 2006.

Nominees: William B. Wark to be a Member of the Chemical Safety and Hazard Investigation Board; William E.

Wright to be a Member of the Chemical Safety and Hazard Investigation Board; Stephen M. Prescott to be a Member of the Board of Trustees of the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation; Anne Jeannette Udall to be a Member of the Board of Trustees of the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation; Brigadier General Bruce Arlan Berwick to be a Member of the Mississippi River Commission; Colonel Gregg F. Martin to be a Member of the Mississippi River Commission; Brigadier General Robert Crear to be a Member of the Mississippi River Commission; and Rear Admiral Samuel P. DeBow, Jr. to be a Member of the Mississippi River Commission.

Resolutions: Committee Resolution for the Republican River Basin—Colorado, Nebraska, Kansas; Committee Resolution for Beverly Hills, New Haven, Connecticut; Committee Resolution for Hanover Pond; Holly Pond; and Eisenhower Park—Connecticut; Committee Resolution for Mystic Harbor Water Resources Development—Mystic, Connecticut; Committee Resolution for the Burns Waterway Harbor—Indiana; Committee Resolution for Jefferson Parish Flood Control, Jefferson Parish, Louisiana; Committee Resolution for the Blackstone River Watershed—Massachusetts, Rhode Island; Committee Resolution for the St. Clair River, Lake Level Study—Michigan; Committee Resolution for the Crow Creek Watershed—Cheyenne, Wyoming; Committee Resolution to direct GSA to prepare a Report of Building Project Survey; 12 resolutions to authorize the majority of the remainder of the General Services Administration's FY 2007 Capital Investment and Leasing Program; and 8 resolutions authorizing courthouse projects.

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

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Ms. COLLINS. Mr. President: I ask unanimous consent that on Wednesday, September 13, immediately following the 9:30 a.m. Business Meeting the Committee on Environment and Public Works be authorized to hold a hearing to consider the following pending nominations:

Roger Romulus Martella, Jr., to be Assistant Administrator of the Environmental Protection Agency;

Alex A. Beehler to be Assistant Administrator of the Environmental Protection Agency; and

William H. Graves to be a Member of the Board of Directors of the Tennessee Valley Authority.

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

COMMITTEE ON FINANCE

Ms. COLLINS. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session on Wednesday, September 13, 2006, at 10 a.m., in 215 Dirksen Senate Office Building, to hear testimony on ''Taking the Pulse of Charitable Care and Community Benefits at Nonprofit Hospitals.''

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

COMMITTEE ON FOREIGN RELATIONS

Ms. COLLINS. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, September 13, 2006, at 9:30 a.m. to hold a hearing on Lebanon.

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

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Ms. COLLINS. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be authorized to meet on Wednesday, September 13, 2006, at 2:30 p.m. to consider the nominations of Wayne C. Beyer to be Member, Federal Labor Relations Authority, and Stephen T. Conboy to be U.S. Marshal, Superior Court of the District of Columbia.

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

COMMITTEE ON THE JUDICIARY

Ms. COLLINS. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a markup on Wednesday, September 13, 2006, at 9:30 a.m. in the Dirksen Senate Office Building Room 226.

Agenda

I. Bills: S. 2453, National Security Surveillance Act of 2006, Specter; S. 2455, Terrorist Surveillance Act of 2006, DeWine, Graham; S. 2468, A bill to provide standing for civil actions for declaratory and injunctive relief to persons who refrain from electronic communications through fear of being subject to warrantless electronic surveillance for foreign intelligence purposes, and for other purposes, Schumer; S. 3001, Foreign Intelligence Surveillance Improvement and Enhancement Act of 2006, Specter, Feinstein.

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

SELECT COMMITTEE ON INTELLIGENCE

Ms. COLLINS. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on September 13, 2006 at 2:30 p.m. to hold a closed briefing.

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

SPECIAL COMMITTEE ON AGING

Ms. COLLINS. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet Wednesday, September 13, 2006 from 10 a.m.–11:30 a.m. in Dirksen 562 for the purpose of conducting meeting.

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

SUBCOMMITTEE ON CRIME AND DRUGS

Ms. COLLINS. Mr. President, I ask unanimous consent that the Subcommittee on Crime and Drugs be authorized to meet to conduct a hearing on ''Challenges Facing Today's Federal Prosecutors,'' on Wednesday, September 13, 2006, at 2:30 p.m. in SD226.

*Witness list*

Panel I: Mike Battle, Director, Executive Office of U.S. Attorneys, United States Department of Justice, Washington, DC; Susan Brooks, U.S. Attorney, Southern District of Indiana, United States Department of Justice, Washington, DC.

Panel II: William Shockley, Former President, National Association of Assistant U.S. Attorneys, Lake Ridge, VA.

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

## CORRECTIONS TO THE ENROLLMENT OF S. 2590

Ms. COLLINS. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of S. Con. Res. 114, which was submitted earlier today, that the resolution be agreed to, and the motion to reconsider be laid upon the table.

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

The concurrent resolution (S. Con. Res. 114) was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, reads as follows:

S. CON. RES. 114

*Resolved by the Senate (the House of Representatives concurring),* That, in the enrollment of the bill S. 2590, the Secretary of the Senate shall make the following corrections:

(1) In section 2(a), strike paragraphs (2) and (3) and insert the following:

''(2) FEDERAL AWARD.—The term 'Federal award'—

''(A) means Federal financial assistance and expenditures that—

''(i) include grants, subgrants, loans, awards, cooperative agreements, and other forms of financial assistance;

''(ii) include contracts, subcontracts, purchase orders, task orders, and delivery orders;

''(B) does not include individual transactions below $25,000; and

''(C) before October 1, 2008, does not include credit card transactions.

''(3) SEARCHABLE WEBSITE.—The term 'searchable website' means a website that allows the public to—

''(A) search and aggregate Federal funding by any element required by subsection (b)(1);

''(B) ascertain through a single search the total amount of Federal funding awarded to an entity by a Federal award described in paragraph (2)(A)(i), by fiscal year;

''(C) ascertain through a single search the total amount of Federal funding awarded to an entity by a Federal award described in paragraph (2)(A)(ii), by fiscal year; and

''(D) download data included in subparagraph (A) included in the outcome from searches.''.

(2) In section 2(b)(1), strike ''section and section 204 of the E-Government Act of 2002 (Public Law 107–347; 44 U.S.C. 3501 note),'' and insert ''section, section 204 of the E-Government Act of 2002 (Public Law 107–347; 44 U.S.C. 3501 note), and the Office of Federal Procurement Policy Act (41 U.S.C. 403 et seq.),''.

(3) In section 2, strike subsection (c) and insert the following:

''(c) WEBSITE.—The website established under this section—

''(1) may use as the source of its data the Federal Procurement Data System, Federal Assistance Award Data System, and Grants.gov, if all of these data sources are searchable through the website and can be accessed in a search on the website required by this Act, provided that the user may—

''(A) specify such search shall be confined to Federal contracts and subcontracts;

''(B) specify such search shall be confined to include grants, subgrants, loans, awards, cooperative agreements, and other forms of financial assistance;

''(2) shall not be considered in compliance if it hyperlinks to the Federal Procurement Data System website, Federal Assistance Award Data System website, Grants.gov website, or other existing websites, so that the information elements required by subsection (b)(1) cannot be searched electronically by field in a single search;

''(3) shall provide an opportunity for the public to provide input about the utility of the site and recommendations for improvements;

''(4) shall be updated not later than 30 days after the award of any Federal award requiring a posting; and

''(5) shall provide for separate searches for Federal awards described in subsection (a) to distinguish between the Federal awards described in subsection (a)(2)(A)(i) and those described in subsection (a)(2)(A)(ii).''.

(4) Add at the end the following:

**''SEC. 4. GOVERNMENT ACCOUNTABILITY OFFICE REPORTING REQUIREMENT.**

''Not later than January 1, 2010, the Comptroller General shall submit to Congress a report on compliance with this Act.''.

Ms. COLLINS. Mr. President, I understand that this is directly related to the fiscal transparency, Google For Good Government, bill of the Senator from Oklahoma. I hope this will clear the way for its passage.

## FORT McDOWELL INDIAN COMMUNITY WATER RIGHTS SETTLEMENT REVISION ACT OF 2006

Mr. STEVENS. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of Calendar No. 522, S. 2464.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 2464) to revise a provision relating to a repayment obligation of the Fort McDowell Yavapai Nation under the Fort McDowell Indian Community Water Rights Settlement Act of 1990, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. McCAIN. Mr. President, I am pleased that today the Senate has agreed to pass S. 2464, the Fort McDowell Indian Community Water Rights Settlement Revision Act of 2006, with an amendment that I have also offered. S. 2464 amends the Fort McDowell Indian Community Water Rights Settlement Act of 1990, which ratified a negotiated settlement of the Fort McDowell Yavapai Nation's water entitlement to flow from the Verde River. I am pleased to be joined by Senator KYL as an original cosponsor of this bill and the amendment.

The 1990 Settlement Act provided, among other things, for the Secretary of the Interior to provide the Fort McDowell Yavapai Nation a no-interest loan pursuant to the Small Reclamation Project Act for construction of facilities for the conveyance and delivery of water to the Fort McDowell reservation. However, during environmental review conducted prior to construction of the irrigation system, 227 of the acres to be irrigated were discovered to contain significant cultural sites. With the agreement of the tribe, the Secretary withdrew those acres from development, but replacement lands have proven difficult and expensive to mitigate and implementation of the Act has been left uncompleted.

The current values of the no-interest loan outstanding and the current cost of the Department of the Interior's obligation to mitigate replacement acreage are nearly identical, thus the tribe and the Department have agreed to resolve this issue by mutually releasing their remaining obligations under the reclamation provisions of the 1990 Settlement Act. S. 2464 would implement this mutually agreed upon resolution.

After approval of this measure by the Indian Affairs Committee, a potential ambiguity in the bill was identified, possibly calling into question the finality of the 1990 Settlement Act. The amendment offered strikes the potentially ambiguous language and inserts new language to clarify that the agreement of the Yavapai Nation and the Department of the Interior contained in S. 2464 achieves a full and final implementation to the Fort McDowell Water Rights Settlement Act of 1990.

I yield the floor.

Mr. STEVENS. Mr. President, I ask unanimous consent the amendment at the desk be agreed to, the bill, as amended, be read the third time and passed, the motion to reconsider be laid upon the table, and any statements relating to the bill be printed in the RECORD.

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

The amendment (No. 5006) was agreed to, as follows:

(Purpose: To make a technical correction)

On page 3, strike lines 7 through 9 and insert the following:

achieve the full and final implementation of the Fort McDowell Water

The bill (S. 2464), as amended, was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 2464

*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 ''Fort McDowell Indian Community Water Rights Settlement Revision Act of 2006''.

**SEC. 2. DEFINITIONS.**

In this Act:

(1) FORT MCDOWELL WATER RIGHTS SETTLEMENT ACT.—The term ''Fort McDowell Water Rights Settlement Act'' means the Fort McDowell Indian Community Water Rights Settlement Act of 1990 (Public Law 101–628; 104 Stat. 4480).

(2) NATION.—The term ''Nation'' means the Fort McDowell Yavapai Nation, formerly known as the ''Fort McDowell Indian Community''.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

**SEC. 3. CANCELLATION OF REPAYMENT OBLIGATION.**

(a) CANCELLATION OF OBLIGATION.—The obligation of the Nation to repay the loan made under section 408(e) of the Fort McDowell Water Rights Settlement Act (104 Stat. 4489) is cancelled.

(b) EFFECT OF ACT.—

(1) RIGHTS OF NATION UNDER FORT MCDOWELL WATER RIGHTS SETTLEMENT ACT.—

(A) IN GENERAL.—Except as provided in subparagraph (B), nothing in this Act alters or affects any right of the Nation under the Fort McDowell Water Rights Settlement Act.

(B) EXCEPTION.—The cancellation of the repayment obligation under subsection (a) shall be considered—

(i) to fulfill all conditions required to achieve the full and final implementation of the Fort McDowell Water Rights Settlement Act; and

(ii) to relieve the Secretary of any responsibility or obligation to obtain mitigation property or develop additional farm acreage under section 410 the Fort McDowell Water Rights Settlement Act (104 Stat. 4490).

(2) ELIGIBILITY FOR SERVICES AND BENEFITS.—Nothing in this Act alters or affects the eligibility of the Nation or any member of the Nation for any service or benefit provided by the Federal Government to federally recognized Indian tribes or members of such Indian tribes.

## CHILDREN AND MEDIA RESEARCH ADVANCEMENT ACT

Mr. STEVENS. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of Calendar No. 585, S. 1902.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1902) to amend the Public Health Service Act to authorize funding for the establishment of a program on children and the media within the Centers for Disease Control and Prevention to study the role and impact of electronic media in the development of children, and for other purposes.

There being no objection, the Senate proceeded to consider the bill which had been reported by the Committee on Health, Education, Labor, and Pensions with an amendment to strike out all after the enacting clause and insert in lieu thereof the part printed in italic.

[''(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

[''(1) $10,000,000 for fiscal year 2006;

[''(2) $15,000,000 for fiscal year 2007;

[''(3) $15,000,000 for fiscal year 2008;

[''(4) $25,000,000 for fiscal year 2009; and

[''(5) $25,000,000 for fiscal year 2010.''.]

***SECTION 1. SHORT TITLE.***

*This Act may be cited as the ''Children and Media Research Advancement Act'' or the ''CAMRA Act''.*

***SEC. 2. PURPOSE.***

*It is the purpose of this Act to enable the Centers for Disease Control and Prevention to—*

*(1) examine the role and positive and negative impact of electronic media in children's and adolescents' cognitive, social, emotional, physical, and behavioral development; and*

*(2) provide for a report to Congress containing the empirical evidence and other results produced by the research funded through grants under this Act.*

***SEC. 3. RESEARCH ON THE ROLE AND IMPACT OF ELECTRONIC MEDIA IN THE DEVELOPMENT OF CHILDREN AND ADOLESCENTS.***

*Part P of title III of the Public Health Service Act (42 U.S.C. 280g et seq.) is amended—*

*(1) by redesignating the second section 399O (relating to grants to foster public health responses to domestic violence, dating violence, sexual assault, and stalking) as section 399P; and*

*(2) by adding at the end the following:*

***"SEC. 399Q. RESEARCH ON THE ROLE AND IMPACT OF ELECTRONIC MEDIA IN THE DEVELOPMENT OF CHILDREN AND ADOLESCENTS.***

*''(a) IN GENERAL.—Subject to the availability of appropriations, the Secretary, acting through the Director of the Centers for Disease Control and Prevention (referred to in this section as the 'Director'), shall enter into a contract with the National Academy of Science or another appropriate entity to review, synthesize, and report on research, and establish research priorities, regarding the roles and impact of electronic media (including television, motion pictures, DVD's, interactive video games, digital music, the Internet, and cell phones) and exposures to such media on youth in the following core areas of development:*

*''(1) COGNITIVE.—Cognitive areas such as language development, attention span, problem solving skills (such as the ability to conduct multiple tasks or 'multitask'), visual and spatial skills, reading, and other learning abilities.*

*''(2) PHYSICAL.—Physical areas such as physical coordination, diet, exercise, sleeping and eating routines.*

*''(3) SOCIO-BEHAVIORAL.—Socio-behavioral areas such as family activities and peer relationships including indoor and outdoor play time, interactions with parents, consumption habits, social relationships, aggression, and positive social behavior.*

*''(b) RESEARCH PROGRAM.—*

*''(1) IN GENERAL.—Taking into account the report provided for under subsection (a), the Secretary, acting through the Director and in coordination with the Director of the National Institutes of Health, shall, subject to the availability of appropriations, award grants for research concerning the role and impact of electronic media on the cognitive, physical, and socio-behavioral development of youth.*

*''(2) REQUIREMENTS.—The research provided for under paragraph (1) shall comply with the following requirements:*

*''(A) Such research shall focus on the impact of factors such as media content (whether direct or indirect), format, length of exposure, age of youth, venue, and nature of parental involvement.*

*''(B) Such research shall not duplicate other Federal research activities.*

*''(C) For purposes of such research, electronic media shall include television, motion pictures, DVD's, interactive video games, digital music, the Internet, and cell phones.*

*''(3) ELIGIBLE ENTITIES.—To be eligible to receive a grant under this subsection, an entity shall—*

*''(A) prepare and submit to the Director an application at such time, in such manner, and containing such information as the Director shall require; and*

*''(B) agree to use amounts received under the grant to carry out activities as described in this subsection.*

*''(c) REPORTS.—*

*''(1) REPORT TO THE DIRECTOR.—Not later than 15 months after the date of the enactment of this section, the report provided for under subsection (a) shall be submitted to the Director and to the appropriate committees of Congress.*

*''(2) REPORT TO CONGRESS.—Not later than December 31, 2012, the Secretary, acting through the Director, shall prepare and submit to the appropriate committees of Congress a report that—*

*''(A) synthesizes the results of—*

*''(i) research carried out under the grant program under subsection (b); and*

*''(ii) other related research, including research conducted by the private or public sector and other Federal entities; and*

*''(B) outlines existing research gaps in light of the information described in subparagraph (A).*

*''(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, such sums as may be necessary for each of fiscal years 2007 through 2012.''.*

Mr. STEVENS. Mr. President, I ask unanimous consent the committee-reported substitute be agreed to, the bill, as amended, be read the third time and passed, the motion to reconsider be laid on the table, and any statements relating to the bill be printed in the RECORD.

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

The committee amendment in the nature of a substitute was agreed to.

The bill (S. 1902), as amended, was ordered to be engrossed for a third reading, was read the third time, and passed.

## DEATH ON THE HIGH SEAS ACT

Mr. STEVENS. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of Calendar No. 594, H.R. 1442.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 1442) to complete the codification of title 46, United States Code, ''Shipping'', as positive law.

There being no objection, the Senate proceeded to consider the bill.

Mr. STEVENS. Mr. President, I ask unanimous consent the bill be read the third time and passed, the motion to reconsider be laid upon the table, and any statements relating to the bill be printed in the RECORD.

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

The bill (H.R. 1442) was read the third time and passed.

## DESIGNATING OCTOBER 22 THROUGH OCTOBER 28, 2006, AS ''NATIONAL SAVE FOR RETIREMENT WEEK''

Mr. STEVENS. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. Res. 550 and the Senate now proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 550) designating October 22 through October 28, 2006, as ''National Save for Retirement Week''.

There being no objection, the Senate proceeded to consider the resolution.

Mr. STEVENS. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid on the table.

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

The resolution (S. Res. 550) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 550

Whereas the cost of retirement continues to rise, in part, because people in the United States are living longer than ever before, the number of employers providing retiree health coverage continues to decline, and retiree health care costs continue to increase at a rapid pace;

Whereas Social Security remains the bedrock of retirement income for the great majority of the people of the United States, but was never intended by Congress to be the sole source of retirement income for families;

Whereas recent data from the Employee Benefit Research Institute indicates that, in the United States, less than ⅔ of workers or their spouses are currently saving for retirement and that the actual amount of retirement savings of workers lags far behind the amount that is realistically needed to adequately fund retirement;

Whereas many employees have available to them through their employers access to defined benefit or defined contribution plans to assist them in preparing for retirement;

Whereas many employees may not be aware of their retirement savings options and may not have focused on the importance of and need for saving for their own retirement;

Whereas many employees may not be taking advantage of workplace defined contribution plans at all or to the full extent allowed by the plans or under Federal law; and

Whereas all workers, including public- and private-sector employees, employees of tax-exempt organizations, and self-employed individuals, can benefit from increased awareness of the need to save for retirement and the availability of tax-advantaged retirement savings vehicles to assist them in saving for retirement: Now, therefore, be it

*Resolved*, That the Senate—

(1) designates October 22 through October 28, 2006, as ''National Save for Retirement Week'';

(2) supports the goals and ideals of National Save for Retirement Week, including raising public awareness about the importance of adequate retirement savings and the availability of employer-sponsored retirement plans; and

(3) calls on the Federal Government, States, localities, schools, nonprofit organizations, businesses, other entities, and the people of the United States to observe the week with appropriate programs and activities with the goal of increasing the retirement savings of all the people of the United States.

## CALLING ON THE PRESIDENT TO TAKE IMMEDIATE STEPS TO HELP STOP THE VIOLENCE IN DARFUR

Mr. STEVENS. I ask unanimous consent that the Foreign Relations Committee be discharged from the consideration of S. Res. 559 and the Senate

proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 559) calling on the President to take immediate steps to help stop the violence in Darfur.

There being no objection, the Senate proceeded to consider the resolution.

Mr. STEVENS. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid on the table, and any statements relating thereto be printed in the RECORD.

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

The resolution (S. Res. 559) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 559

Whereas the Darfur Peace Agreement, signed on May 5, 2006, between the Government of Sudan and rebels in Darfur has not resulted in a cessation of hostilities in Darfur;

Whereas, although the United Nations Security Council approved Security Council Resolution 1706 (2006), which provides for a United Nations peacekeeping presence in Darfur to replace the African Union Mission in Sudan (AMIS), the Government of Sudan has rejected the deployment of United Nations peacekeepers;

Whereas the Government of Sudan is engaged in a major offensive in Darfur, in direct violation of the Darfur Peace Agreement;

Whereas violence in the Darfur region has increased since the signing of the Darfur Peace Agreement;

Whereas Jan Egeland, the United Nations Under-Secretary-General for Humanitarian Affairs, has stated that the coming weeks may result in a ''man-made catastrophe of an unprecedented scale'' in Darfur;

Whereas the African Union has decided to terminate the African Union Mission in Sudan (AMIS) at the end of September 2006;

Whereas it is unlikely that the United Nations will have the logistical means or capability to deploy peacekeepers to Sudan until the end of 2006;

Whereas the people of Darfur cannot wait that long for security to be re-established; and

Whereas the international community must renew its efforts to stop genocide, war crimes, and crimes against humanity in Darfur:

Now, therefore, be it

*Resolved,* That the Senate—

(1) strongly condemns—

(A) the current military offensive of the Government of Sudan in Darfur in violation of the terms of the May 5, 2006, Darfur Peace Agreement and the April 8, 2004, N'Djamena cease-fire accord; and

(B) the rejection by the Government of Sudan of United Nations Security Council Resolution 1706 (2006);

(2) commends the African Union Mission in Sudan (AMIS) for its actions to date in monitoring the April 8, 2004, N'Djamena cease-fire agreement in Darfur and encourages the African Union to leave the AMIS force in place until a United Nations peacekeeping mission is deployed to Darfur;

(3) calls upon the Government of Sudan to immediately—

(A) cease its military offensive in Darfur; and

(B) comply with the deployment of United Nations peacekeepers to Darfur as called for by the United Nations Security Council;

(4) calls upon the United Nations—

(A) to deploy as quickly as practicable peacekeeping troops as authorized by United Nations Security Council Resolution 1706 (2006) that are well trained and equipped; and

(B) to begin considerations of sanctions as called for by paragraphs 6 and 7 of United Nations Security Council Resolution 1556 (2004) and paragraph 14 of United Nations Security Council Resolution 1564 (2004);

(5) urges the President to take urgent steps to help improve the security situation in Darfur, including by—

(A) pursuing the imposition of a ''no-fly zone'' in Darfur in cooperation with the United Nations, NATO, or NATO allies;

(B) garnering support for NATO assistance with the handover by the African Union of the AMIS mission to the United Nations;

(C) working through diplomatic channels to obtain the support of China, Russia, and United States allies in the Arab League in securing the compliance of the Government of Sudan with the deployment of United Nations peacekeepers as provided by United Nations Security Council Resolution 1706 (2006);

(D) supporting full funding for the United Nations Peacekeeping Mission in Sudan;

(E) securing the necessary support from United Nations member states to schedule a special session on Sudan in the United Nations Human Rights Council; and

(F) appointing a Special Envoy to Sudan to head the Office of the Presidential Special Envoy established pursuant to chapter 6 of title I of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery, 2006 (Public Law 109–234; 120 Stat. 439); and

(6) urges the international community—

(A) to support the deployment of United Nations peacekeepers to Darfur financially, with logistical and equipment support, or through troop contributions;

(B) to fulfill financial obligations to United Nations and international humanitarian aid agencies for responding to the crisis in Darfur or addressing humanitarian needs throughout Sudan;

(C) to impose targeted sanctions against members of the National Congress Party determined to be responsible for human rights violations, war crimes, and crimes against humanity; and

(D) to impose sanctions consistent with paragraphs 6 and 7 of United Nations Security Council Resolution 1556 (2004) and paragraph 14 of United Nations Security Council Resolution 1564 (2004).

## HONORING THE LIFE OF THOSE WHO DIED IN SERVICE TO THEIR COUNTRY ABOARD THE U.S.S. ENTERPRISE ON JANUARY 14, 1969

Mr. STEVENS. I ask unanimous consent to now proceed to consideration of S. Res. 569, 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. 569) honoring the life of those who died in service to their country aboard the U.S.S. *Enterprise* on January 14, 1969.

There being no objection, the Senate proceeded to consider the resolution.

Mr. STEVENS. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid on the table.

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

The resolution (S. Res. 569) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 569

Whereas, on the morning of January 14, 1969, an MK–32 Zuni rocket fixed to an F–4 Phantom on the U.S.S. Enterprise (CVN–65) was overheated due to the exhaust of a nearby aircraft causing the rocket to explode;

Whereas the initial explosion of the MK–32 Zuni rocket set off a chain reaction of explosions, thus causing the death of 28 sailors and injuries to 314 more;

Whereas the servicemen killed include FA Paul Akers, AN David M. Asbury, LTJG Carl D. Berghult, LTJG James H. Berry, AO3 Richard W. Bovaird, AE3 Patrick L. Bulingham, AMS3 James R. Floyd Jr., AN Ernest L. Foster, ABHAN Delbert D. Girty, AEC Ronald E. Hay, ASH3 Roger L. Halbrook, AN Dole L. Hunt, ALAN Donald R. Lacy, ADJ3 Armando Limon, AME3 Dennis E. Marks, ABH1 James Martineau, ALAN Joseph C. Mason, AN Dennis R. Milburn, AN Joseph W. Oates, LTJG Buddy D. Pyeatt, ABE3 Jacob J. Quintis, BM2 James C. Snipes, AN Russell J. Tyler, AN Lavern R. Von Feldt, AN Robert C. Ward Jr., AN John R. Webster, ASM2 Henry S. Yates Jr., and AMS3 Jerome D. Yoakum;

Whereas the U.S.S. Enterprise, also known as ''the Big E'', was the world's first nuclear-powered aircraft carrier, and changed forever the face of maritime warfare;

Whereas the U.S.S. Enterprise, commissioned on November 25, 1961, is the world's longest aircraft carrier, measuring 1,123 feet, and remains in service docked at its home in Norfolk, Virginia; and

Whereas those who perished aboard the U.S.S. Enterprise on January 14, 1969, served their country bravely: Now, therefore, be it

*Resolved,* That the Senate honors the life and legacy of those who bravely served aboard the U.S.S. Enterprise (CVN–65), especially those who gave their lives in service to the United States on January 14, 1969.

## ORDER FOR STAR PRINT—S. 3861

Mr. STEVENS. Mr. President, I ask unanimous consent S. 3861 be star printed, and the changes are at the desk.

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

## EXECUTIVE SESSION

## EXECUTIVE CALENDAR

Mr. STEVENS. Mr. President, I ask unanimous consent the Senate proceed to executive session to consider the following nominations on today's Executive Calendar: Calendar No. 376, Calendar No. 887, Calendar No. 888, Calendar No. 889, Calendar No. 891, and Calendar No. 894. I further ask unanimous consent that the nominations be confirmed en bloc and the motion to reconsider be laid upon the table, that the President be immediately notified

of the Senate's action, and the Senate resume legislative session.

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

The nominations considered and confirmed en bloc are as follows:

EXECUTIVE OFFICE OF THE PRESIDENT

Bertha K. Madras, of Massachusetts, to be Deputy Director for Demand Reduction, Office of National Drug Control Policy.

DEPARTMENT OF JUSTICE

George E.B. Holding, of North Carolina, to be United States Attorney for the Eastern District of North Carolina for the term of four years.

PEACE CORPS

Ronald A. Tschetter, of Minnesota, to be Director of the Peace Corps.

DEPARTMENT OF STATE

John C. Rood, of Arizona, to be an Assistant Secretary of State (International Security and Non-Proliferation).

Cesar Benito Cabrera, of Puerto Rico, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Mauritius, and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Seychelles.

Mary Martin Ourisman, of Florida, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Barbados, and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to St. Kitts and Nevis, Saint Lucia, Antigua and Barbuda, the Commonwealth of Dominica, Grenada, and Saint Vincent and the Grenadines.

## LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

## ORDERS FOR THURSDAY, SEPTEMBER 14, 2006

Mr. STEVENS. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m. tomorrow, Thursday, September 14. I further ask unanimous consent that following the prayer and pledge the morning hour be deemed expired, the Journal of proceedings be considered approved to date, the time for the two leaders be reserved, and the Senate proceed to a period of morning business for up to 30 minutes, with the first 15 minutes under the control of the majority leader or his designee and the final 15 minutes under the control of the Democratic leader or his designee; further, that following morning business the Senate resume consideration of H.R. 4954, the port security bill.

I further ask unanimous consent that there be 1 hour of debate equally divided in the usual form, followed by a vote on the cloture motion.

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

## PROGRAM

Mr. STEVENS. Mr. President, tomorrow the Senate will finish consideration of the port security bill. The cloture vote will occur at approximately 11 a.m. The leader urges our colleagues on both sides of the aisle to vote for cloture so that we can expedite passage of this important bill. Following the cloture vote, the bill's manager will work through the remaining amendments. Senators should expect votes throughout the day.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

## SECURITY AND ACCOUNTABILITY FOR EVERY PORT ACT—Continued

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate resume consideration of H.R. 4954, the port security bill.

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

Mr. STEVENS. Mr. President, I ask unanimous consent that all second-degree amendments be filed at the desk by 10 a.m. tomorrow.

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

AMENDMENTS NOS. 4924, AS MODIFIED; 4928; 4932; 4933; 4939, AS MODIFIED; 4946, AS MODIFIED; 4950, AS MODIFIED; 4949; 4951; 4953; 4954, AS MODIFIED; 4955; 4959, AS MODIFIED; 4964; 4976; 4985, AS MODIFIED; 4988, AS MODIFIED; 5000; AND 4947, AS MODIFIED

Mr. STEVENS. Mr. President, I send to the desk a package of amendments. I would like to read them: amendment No. 4924, as modified, for Senator ROCKEFELLER; amendment No. 4928, for Senator BINGAMAN; amendment No. 4932, for Senator DOMENICI; amendment No. 4933, for Senator DOMENICI; amendment No. 4939, as modified, for Senator KERRY; amendment No. 4946, as modified, for Senator BURNS; amendment No. 4950, as modified, for Senator CANTWELL; amendment No. 4949, for Senator CANTWELL; amendment No. 4951, for Senator MCCAIN; amendment No. 4953, for Senator VITTER; amendment No. 4954, as modified, for Senator SNOWE; amendment No. 4955, for Senator ALLARD; amendment No. 4959, as modified, for Senator PRYOR; amendment No. 4964, for Senator BURNS; amendment No. 4976, for Senator BOXER; amendment No. 4985, as modified, for Senator BAUCUS; amendment No. 4988, as modified, for Senator LAUTENBERG; amendment No. 5000, for Senator SNOWE; and amendment No. 4947, as modified, for Senator BURNS.

I ask unanimous consent that these amendments be considered en bloc, adopted en bloc, and I move to reconsider that action.

Mrs. MURRAY. I move to lay that motion on the table.

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

The amendments were agreed to en bloc as follows:

AMENDMENT NO. 4924, AS MODIFIED

**SEC. ——. ESTABLISHMENT OF COMPETITIVE RESEARCH PROGRAM.**

(a) IN GENERAL.—Title III of the Homeland Security Act of 2002 (6 U.S.C. 181 et seq.) is amended by adding at the end the following:

**"SEC. 314. COMPETITIVE RESEARCH PROGRAM.**

"(a) IN GENERAL.—

"(1) ESTABLISHMENT.—The Secretary, acting through the Under Secretary for Science and Technology, shall establish a competitive research program within the Directorate.

"(2) DIRECTOR.—The program shall be headed by a Director, who shall be appointed by the Secretary. The Director shall report to the Under Secretary.

"(3) DUTIES OF DIRECTOR.—In the administration of the program, the Director shall—

"(A) establish a cofunding mechanism for States with academic facilities that have not fully developed security-related science and technology to support burgeoning research efforts by the faculty or link them to established investigators;

"(B) provide for conferences, workshops, outreach, and technical assistance to researchers and institutions of higher education in States on topics related to developing science and technology expertise in areas of high interest and relevance to the Department;

"(C) monitor the efforts of States to develop programs that support the Department's mission;

"(D) implement a merit review program, consistent with program objectives, to ensure the quality of research conducted with Program funding; and

"(E) provide annual reports on the progress and achievements of the Program to the Secretary.

"(b) ASSISTANCE UNDER THE PROGRAM.—

"(1) SCOPE.—The Director shall provide assistance under the program for research and development projects that are related to, or qualify as, homeland security research (as defined in section 307(a)(2)) under the program.

"(2) FORM OF ASSISTANCE.—Assistance under the program can take the form of grants, contracts, or cooperative arrangements.

"(3) APPLICATIONS.—Applicants shall submit proposals or applications in such form, at such times, and containing such information as the Director may require.

"(c) IMPLEMENTATION.—

"(1) START-UP PHASES.—For the first 3 fiscal years beginning after the date of enactment of the Border Infrastructure and Technology Integration Act of 2004, assistance under the program shall be limited to institutions of higher education located in States in which an institution of higher education with a grant from, or a contract or cooperative agreement with, the National Science Foundation under section 113 of the National Science Foundation Act of 1988 (42 U.S.C. 1862) is located.

"(2) SUBSEQUENT FISCAL YEARS.—

"(A) IN GENERAL.—Beginning with the 4th fiscal year after the date of enactment of this Act, the Director shall rank order the States (excluding any noncontiguous State (as defined in section 2(14)) other than Alaska, Hawaii, the Commonwealth of Puerto Rico, and the Virgin Islands) in descending order in terms of the average amount of funds received by institutions of higher education (as that term is defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)) in each State that received financial assistance in the form of grants, contracts, or cooperative arrangements under

this title during each of the preceding 3 fiscal years.

''(B) ALLOCATION.—Beginning with the 4th fiscal year after the date of enactment of this Act, assistance under the program for any fiscal year is limited to institutions of higher education located in States in the lowest third of those ranked under subparagraph (A) for that fiscal year.

''(C) DETERMINATION OF LOCATION.—For purposes of this paragraph, an institution of higher education shall be considered to be located in the State in which its home campus is located, except that assistance provided under the program to a division, institute, or other facility located in another State for use in that State shall be considered to have been provided to an institution of higher education located in that other State.

''(D) MULTIYEAR ASSISTANCE.—For purposes of this paragraph, assistance under the program that is provided on a multi-year basis shall be counted as provided in each such year in the amount so provided for that year.

''(d) FUNDING.—The Secretary shall ensure, subject to the availability of appropriations, that up to 5 percent of the amount appropriated for each fiscal year to the Acceleration Fund for Research and Development of Homeland Security Technologies established by section 307(c)(1) is allocated to the program established by subsection (a).''.

''(e) REPORT.—The Secretary shall submit an annual report to the appropriate congressional committees detailing the funds expended for the Acceleration Fund for Research and Development of Homeland Security technologies established by section 307(c)(1).''.

(b) CONFORMING AMENDMENT.—The table of contents of the Homeland Security Act of 2002 is amended by inserting after the item relating to section 313 the following:

''Sec. 314. Competitive research program.''.

AMENDMENT NO. 4928

(Purpose: To provide a pilot program to extend the hours of commercial operations at Santa Teresa, New Mexico)

At the appropriate place, insert the following:

**SEC. ———. PILOT PROGRAM TO EXTEND CERTAIN COMMERCIAL OPERATIONS.**

(a) IN GENERAL.—During fiscal year 2006, the Commissioner shall extend the hours of commercial operations at the port of entry located at Santa Teresa, New Mexico, to a minimum of 16 hours a day.

''(B) REPORT.—The Commissioner shall submit a report to the appropriate congressional committees not later than September 30, 2006, with respect to the extension of hours of commercial operations described in subsection (a). The report shall include—

''(1) an analysis of the impact of the extended hours of operation on the port facility, staff, and trade volume handled at the port; and

''(2) recommendations regarding whether to extend such hours of operation beyond fiscal year 2007.

AMENDMENT NO. 4932

(Purpose: To establish a Domestic Nuclear Detection Office with the Department of Homeland Security, and for other purposes)

On page 87, add after line 18, the following:

**TITLE V—DOMESTIC NUCLEAR DETECTION OFFICE**

**SEC. 501. ESTABLISHMENT OF DOMESTIC NUCLEAR DETECTION OFFICE.**

(a) ESTABLISHMENT OF OFFICE.—The Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended by adding at the end the following:

**''TITLE XVIII—DOMESTIC NUCLEAR DETECTION OFFICE**

**''SEC. 1801. DOMESTIC NUCLEAR DETECTION OFFICE.**

''(a) ESTABLISHMENT.—There shall be established in the Department of Homeland Security a Domestic Nuclear Detection Office. The Secretary of Homeland Security may request that the Secretaries of Defense, Energy, and State, the Attorney General, the Nuclear Regulatory Commission, and the directors of other Federal agencies, including elements of the Intelligence Community, provide for the reimbursable detail of personnel with relevant expertise to the Office.

''(b) DIRECTOR.—The Office shall be headed by a Director for Domestic Nuclear Detection, who shall be appointed by the President.

**''SEC. 1802. MISSION OF OFFICE.**

''(a) MISSION.—The Office shall be responsible for coordinating Federal efforts to detect and protect against the unauthorized importation, possession, storage, transportation, development, or use of a nuclear explosive device, fissile material, or radiological material in the United States, and to protect against attack using such devices or materials against the people, territory, or interests of the United States and, to this end, shall—

''(1) serve as the primary entity in the United States Government to further develop, acquire, and support the deployment of an enhanced domestic system to detect and report on attempts to import, possess, store, transport, develop, or use an unauthorized nuclear explosive device, fissile material, or radiological material in the United States, and improve that system over time;

''(2) enhance and coordinate the nuclear detection efforts of Federal, State, local, and tribal governments and the private sector to ensure a managed, coordinated response;

''(3) establish, with the approval of the Secretary of Homeland Security and in coordination with the Attorney General and the Secretaries of Defense and Energy, additional protocols and procedures for use within the United States to ensure that the detection of unauthorized nuclear explosive devices, fissile material, or radiological material is promptly reported to the Attorney General, the Secretaries of Defense, Homeland Security, and Energy, and other appropriate officials or their respective designees for appropriate action by law enforcement, military, emergency response, or other authorities;

''(4) develop, with the approval of the Secretary of Homeland Security and in coordination with the Attorney General and the Secretaries of State, Defense, and Energy, an enhanced global nuclear detection architecture with implementation under which—

''(A) the Domestic Nuclear Detection Office will be responsible for the implementation of the domestic portion of the global architecture;

''(B) the Secretary of Defense will retain responsibility for implementation of Department of Defense requirements within and outside the United States; and

''(C) the Secretaries of State, Defense, and Energy will maintain their respective responsibilities for policy guidance and implementation of the portion of the global architecture outside the United States, which will be implemented consistent with applicable law and relevant international arrangements;

''(5) conduct, support, coordinate, and encourage an aggressive, expedited, evolutionary, and transformational program of research and development efforts to prevent and detect the illicit entry, transport, assembly, or potential use within the United States of a nuclear explosive device or fissile or radiological material;

''(6) support and enhance the effective sharing and use of appropriate information generated by the intelligence community, law enforcement agencies, counterterrorism community, other government agencies, and foreign governments, as well as provide appropriate information to such entities;

''(7) further enhance and maintain continuous awareness by analyzing information from all Domestic Nuclear Detection Office mission-related detection systems; and

''(8) perform other duties as assigned by the Secretary.

**''SEC. 1803. HIRING AUTHORITY.**

''In hiring personnel for the Office, the Secretary of Homeland Security shall have the hiring and management authorities provided in section 1101 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (5 U.S.C. 3104 note; Public Law 105–261). The term of appointments for employees under subsection (c)(1) of that section may not exceed 5 years before granting any extension under subsection (c)(2) of that section.

**''SEC. 1804. TESTING AUTHORITY.**

''(a) IN GENERAL.—The Director shall coordinate with the responsible Federal agency or other entity to facilitate the use by the Office, by its contractors, or by other persons or entities, of existing Government laboratories, centers, ranges, or other testing facilities for the testing of materials, equipment, models, computer software, and other items as may be related to the missions identified in section 1802. Any such use of Government facilities shall be carried out in accordance with all applicable laws, regulations, and contractual provisions, including those governing security, safety, and environmental protection, including, when applicable, the provisions of section 309. The Office may direct that private-sector entities utilizing Government facilities in accordance with this section pay an appropriate fee to the agency that owns or operates those facilities to defray additional costs to the Government resulting from such use.

''(b) CONFIDENTIALITY OF TEST RESULTS.—The results of tests performed with services made available shall be confidential and shall not be disclosed outside the Federal Government without the consent of the persons for whom the tests are performed.

''(c) FEES.—Fees for services made available under this section shall not exceed the amount necessary to recoup the direct and indirect costs involved, such as direct costs of utilities, contractor support, and salaries of personnel that are incurred by the United States to provide for the testing.

''(d) USE OF FEES.—Fees received for services made available under this section may be credited to the appropriation from which funds were expended to provide such services.

**''SEC. 1805. RELATIONSHIP TO OTHER DEPARTMENT ENTITIES AND FEDERAL AGENCIES.**

''The authority of the Director under this title shall not affect the authorities or responsibilities of any officer of the Department of Homeland Security or of any officer of any other Department or agency of the United States with respect to the command, control, or direction of the functions, personnel, funds, assets, and liabilities of any entity within the Department of Homeland Security or any Federal department or agency.''.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 103(d) of the Homeland Security Act of 2002 (6 U.S.C. 113(d)) is amended by adding at the end the following:

''(5) A Director of the Domestic Nuclear Detection Office.''.

(2) Section 302 of such Act (6 U.S.C. 182) is amended—

(A) in paragraph (2) by striking ''radiological, nuclear''; and

(B) in paragraph (5)(A) by striking ''radiological, nuclear''.

(3) Section 305 of such Act (6 U.S.C. 185) is amended by inserting ''and the Director of the Domestic Nuclear Detection Office'' after ''Technology''.

(4) Section 308 of such Act (6 U.S.C. 188) is amended in each of subsections (a) and (b)(1) by inserting ''and the Director of the Domestic Nuclear Detection Office'' after ''Technology'' each place it appears.

(5) The table of contents of such Act (6 U.S.C. 101) is amended by adding at the end the following:

''TITLE XVIII—DOMESTIC NUCLEAR DETECTION OFFICE

''Sec. 1801. Domestic Nuclear Detection Office.
''Sec. 1802. Mission of office.
''Sec. 1803. Hiring authority.
''Sec. 1804. Testing authority.
''Sec. 1805. Relationship to other department entities and Federal agencies.''.

**SEC. 502. TECHNOLOGY RESEARCH AND DEVELOPMENT INVESTMENT STRATEGY FOR NUCLEAR AND RADIOLOGICAL DETECTION.**

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary of Homeland Security, the Secretary of the Department of Energy, the Secretary of Defense, and the Director of National Intelligence shall submit to Congress a research and development investment strategy for nuclear and radiological detection.

(b) CONTENTS.—The strategy under subsection (a) shall include—

(1) a long-term technology roadmap for nuclear and radiological detection applicable to the mission needs of the Departments of Homeland Security, Energy, and Defense, and the Office of the Director of National Intelligence;

(2) budget requirements necessary to meet the roadmap; and

(3) documentation of how the Departments of Homeland Security, Energy, and Defense, and the Office of the Director of National Intelligence will implement the intent of this title.

AMENDMENT NO. 4933

(Purpose: To provide for coordination between the Department of Homeland Security and the Department of Energy, and for other purposes)

On page 44, lines 14 and 15, strike ''under any program administered by the Department''.

On page 44, lines 23 and 24, strike ''the Department's'' and insert ''both the Department's and the Department of Energy's''.

On page 59, lines 12 and 13, strike ''The equipment may be provided by the Megaports Initiative of the Department of Energy.''.

On page 59, line 17, insert ''(1) IN GENERAL.—'' before ''The''.

On page 59, between lines 22 and 23, insert the following:

(2) COORDINATION.—The Secretary shall coordinate with the Secretary of Energy to—

(A) provide radiation detection equipment required to support the pilot-integrated scanning system established pursuant to subsection (a) through the Department of Energy's Second Line of Defense and Megaports programs; or

(B) work with the private sector to obtain radiation detection equipment that meets both the Department's and the Department of Energy's technical specifications for such equipment.

AMENDMENT NO. 4939, AS MODIFIED

On page 8, between lines 18 and 19, insert the following:

(B) in subparagraph (E), by striking ''describe the'' and inserting ''provide a strategy and timeline for conducting'';

On page 8, line 19, strike ''(B)'' and insert ''(C)''.

On page 8, line 21, strike ''(C)'' and insert ''(D)''.

On page 8, line 23, strike ''(D)'' and insert ''(E)''.

On page 20, line 12, strike ''may'' and insert ''shall''.

On page 22, between lines 16 and 17, insert the following:

(c) TRAINING PARTNERS.—In developing and delivering training under the Program, the Secretary, in coordination with the Maritime Administration of the Department of Transportation, and consistent with section 109 of the Maritime Transportation Security Act of 2002 (46 U.S.C. 70101 note), shall—

(1) work with government training facilities, academic institutions, private organizations, employee organizations, and other entities that provide specialized, state-of-the-art training for governmental and non-governmental emergency responder providers or commercial seaport personnel and management; and

(2) utilize, as appropriate, government training facilities, courses provided by community colleges, public safety academies, State and private universities, and other facilities.

On page 22, line 20, strike ''may'' and insert ''shall''.

(d) DEFINITIONS.—On page 7, line 4, strike ''labor dispute,''.

AMENDMENT NO. 4946, AS MODIFIED

At the appropriate place, insert the following:

**SEC. _____. SECURITY PLAN FOR ESSENTIAL AIR SERVICE AIRPORTS.**

(a) IN GENERAL.—Not later than 60 days after the date of the enactment of this Act, the Assistant Secretary for the Transportation Security Administration shall submit to Congress a security plan for Essential Air Service airports in the United States.

(b) ELEMENTS OF PLAN.—The security plan required by subsection (a) shall include the following:

(1) Recommendations for improved security measures at such airports.

(2) Recommendations for proper passenger and cargo security screening procedures at such airports.

(3) A timeline for implementation of recommended security measures or procedures at such airports.

(4) Cost analysis for implementation of recommended security measures or procedures at such airports.

AMENDMENT NO. 4950, AS MODIFIED

On page 27, between lines 20 and 21, insert the following:

(h) INTERMODAL RAIL RADIATION DETECTION TEST CENTER.—

(1) ESTABLISHMENT.—In accordance with subsection (b), and in order to comply with this section, the Secretary shall establish Intermodal Rail Radiation Detection Test Centers (referred to in this subsection as the ''Test Centers'').

(2) PROJECTS.—The Secretary shall conduct multiple, concurrent projects at the Test Centers to rapidly identify and test concepts specific to the challenges posed by on-dock rail.

(3) LOCATION.—The Test Centers shall be located within public port facilities which have a significant portion of the containerized cargo directly laden from (or unladen to) on-dock, intermodal rail, including at least one public port facility at which more than 50 percent of the containerized cargo is directly laden from (or unladen to) on-dock, intermodal rail.

AMENDMENT NO. 4949

On page 29, line 6, insert ''ferry operators and'' after ''with''.

AMENDMENT NO. 4951

(Purpose: To require disclosures regarding homeland security grants)

At the appropriate place, insert the following:

**SEC. ____. DISCLOSURES REGARDING HOMELAND SECURITY GRANTS.**

(a) DEFINITIONS.—In this section:

(1) HOMELAND SECURITY GRANT.—The term ''homeland security grant'' means any grant made or administered by the Department, including—

(A) the State Homeland Security Grant Program;

(B) the Urban Area Security Initiative Grant Program;

(C) the Law Enforcement Terrorism Prevention Program;

(D) the Citizen Corps; and

(E) the Metropolitan Medical Response System.

(2) LOCAL GOVERNMENT.—The term ''local government'' has the meaning given the term in section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101).

(b) REQUIRED DISCLOSURES.—Each State or local government that receives a homeland security grant shall, not later than 12 months after the later of the date of enactment of this Act and the date of receipt of such grant, and every 12 months thereafter until all funds provided under such grant are expended, report to the Secretary a list of all expenditures made by such State or local government using funds from such grant.

AMENDMENT NO. 4953

(Purpose: To provide for additional security relating to foreign vessels working on the outer Continental Shelf)

On page 18, before line 16, insert the following:

**SEC. 107. NOTICE OF ARRIVAL FOR FOREIGN VESSELS ON THE OUTER CONTINENTAL SHELF.**

(a) NOTICE OF ARRIVAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary is directed to update and finalize its rulemaking on Notice of Arrival for foreign vessels on the outer Continental Shelf.

(b) CONTENT OF REGULATIONS.—The regulations promulgated pursuant to paragraph (1) shall be consistent with information required under the Notice of Arrival under section 160.206 of title 33, Code of Federal Regulations, as in effect on the date of the enactment of this Act.

AMENDMENT TO 4954, AS MODIFIED

On page 66, before line 9, insert the following:

**SEC. 233. INTERNATIONAL SHIP AND PORT FACILITY SECURITY CODE.**

(a) FINDING.—Congress finds that the Coast Guard, with existing resources, is able to inspect foreign countries no more frequently than on a 4 to 5 year cycle.

(b) IN GENERAL.—

(1) RESOURCES TO COMPLETE INITIAL INSPECTIONS AND VALIDATION.—The Commandant of the Coast Guard shall increase the resources dedicated to the International Port Inspection Program and complete inspection of all foreign countries that trade with the United States, including the validation of compliance of such countries with the International Ship and Port Facility Security

Code, not later than December 31, 2008. If the Commandant of the Coast Guard is unable to meet this objective, the Commandant of the Coast Guard shall report to Congress on the resources needed to meet the objective.

(2) REINSPECTION AND VALIDATION.—The Commandant of the Coast Guard shall maintain the personnel and resources necessary to maintain a schedule of re-inspection of foreign countries every 2 years under the International Port Inspection Program.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Coast Guard such sums as are necessary to carry out the provisions of this section, subject to the availability of appropriations.

AMENDMENT NO. 4955

(Purpose: To include the Transportation Technology Center in the National Domestic Preparedness Consortium)

At the appropriate place, insert the following:

**SEC. ___. INCLUSION OF THE TRANSPORTATION TECHNOLOGY CENTER IN THE NATIONAL DOMESTIC PREPAREDNESS CONSORTIUM.**

The National Domestic Preparedness Consortium shall include the Transportation Technology Center in Pueblo, Colorado.

AMENDMENT NO. 4959, AS MODIFIED

At the appropriate place, insert the following:

**SEC. ___. TRUCKING SECURITY.**

(a) LEGAL STATUS VERIFICATION FOR LICENSED UNITED STATES COMMERCIAL DRIVERS.—Not later than 12 months after the date of the enactment of this Act, the Secretary of Transportation, in cooperation with the Secretary of Homeland Security, shall issue regulations to implement the recommendations contained in the memorandum of the Inspector General of the Department of Transportation issued on June 4, 2004 (Control No. 2004–054).

(b) COMMERCIAL DRIVER'S LICENSE ANTI-FRAUD PROGRAMS.—Not later than 12 months after the date of the enactment of this Act, the Secretary of the Transportation, in conjunction with the Secretary of the Department of Homeland Security, shall issue a regulation to implement the recommendations contained in the Report on Federal Motor Carrier Safety Administration Oversight of the Commercial Driver's License Program (MH–2006–037).

(c) VERIFICATION OF COMMERCIAL MOTOR VEHICLE TRAFFIC.—

(1) GUIDELINES.—Not later than 12 months after the date of the enactment of this Act, the Secretary of Homeland Security shall draft guidelines for Federal, State, and local law enforcement officials, including motor carrier safety enforcement personnel, to improve compliance with Federal immigration and customs laws applicable to all commercial motor vehicles and commercial motor vehicle operators engaged in cross-border traffic.

(2) VERIFICATION.—Not later than 12 months after the date of the enactment of this Act, the Administrator of the Federal Motor Carrier Safety Administration shall modify the final rule regarding the enforcement of operating authority (Docket No. FMCSA–2002–13015) to establish a system or process by which a carrier's operating authority can be verified during a roadside inspection.

AMENDMENT NO. 4964

(Purpose: To extend the requirement for air carriers to honor tickets for suspended air passenger service)

At the appropriate place, insert the following:

**SEC. ———. EXTENSION OF REQUIREMENT FOR AIR CARRIERS TO HONOR TICKETS FOR SUSPENDED AIR PASSENGER SERVICE.**

Section 145(c) of the Aviation and Transportation Security Act (49 U.S.C. 40101 note) is amended by striking ''November 19, 2005.'' and inserting ''November 30, 2007.''.

AMENDMENT NO. 4976

(Purpose: To protect commercial aircraft from the threat of Man-Portable Air Defense Systems)

At the appropriate place, insert the following:

**SEC. ___. MAN-PORTABLE AIR DEFENSE SYSTEMS.**

(a) IN GENERAL.—It is the sense of Congress that the budget of the United States Government submitted by the President for fiscal year 2008 under section 1105(a) of title 31, United States Code, should include an acquisition fund for the procurement and installation of countermeasure technology, proven through the successful completion of operational test and evaluation, to protect commercial aircraft from the threat of Man-Portable Air Defense systems (MANPADS).

(b) DEFINITION OF MANPADS.—In this section, the term ''MANPADS'' means—

(1) a surface-to-air missile system designed to be man-portable and carried and fired by a single individual; and

(2) any other surface-to-air missile system designed to be operated and fired by more than one individual acting as a crew and portable by several individuals.

AMENDMENT NO. 4985, AS MODIFIED

At the appropriate place, insert the following:

**SEC. ___. AIR AND MARINE OPERATIONS OF THE NORTHERN BORDER AIR WING.**

In addition to any other amounts authorized to be appropriated for Air and Marine Operations of United States Customs and Border Protection, there are authorized to be appropriated for fiscal year 2007 and 2008 for operating expenses of the Northern Border Air Wing—$40,000,000 for the branch in Great Falls, Montana.

AMENDMENT NO. 4988, AS MODIFIED

At the appropriate place insert the following:

**TITLE —IMPROVED MOTOR CARRIER, BUS, AND HAZARDOUS MATERIAL SECURITY**

**SEC. —100. SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This title may be cited as the ''Transportation Security Improvement Act of 2006''.

(b) TABLE OF CONTENTS.—The table of contents for this title is as follows:

Sec. —100. Short title; table of contents.
Sec. —101. Hazardous materials highway routing.
Sec. —102. Motor carrier high hazard material tracking.
Sec. —103. Hazardous materials security inspections and enforcement.
Sec. —104. Truck security assessment.
Sec. —105. National public sector response system.
Sec. —106. Over-the-road bus security assistance.
Sec. —107. Pipeline security and incident recovery plan.
Sec. —108. Pipeline security inspections and enforcement.

**SEC. —101. HAZARDOUS MATERIALS HIGHWAY ROUTING.**

(a) ROUTE PLAN GUIDANCE.—Within one year after the date of enactment of this Act, the Secretary of Transportation, in consultation with the Secretary of Homeland Security, shall—

(1) document existing and proposed routes for the transportation of radioactive and non-radioactive hazardous materials by motor carrier, and develop a framework for using a Geographic Information System-based approach to characterize routes in the National Hazardous Materials Route Registry;

(2) assess and characterize existing and proposed routes for the transportation of radioactive and non-radioactive hazardous materials by motor carrier for the purpose of identifying measurable criteria for selecting routes based on safety and security concerns;

(3) analyze current route-related hazardous materials regulations in the United States, Canada, and Mexico to identify cross-border differences and conflicting regulations;

(4) document the concerns of the public, motor carriers, and State, local, territorial, and tribal governments about the highway routing of hazardous materials for the purpose of identifying and mitigating security vulnerabilities associated with hazardous material routes;

(5) prepare guidance materials for State officials to assist them in identifying and reducing both safety concerns and security vulnerabilities when designating highway routes for hazardous materials consistent with the 13 safety-based non-radioactive materials routing criteria and radioactive materials routing criteria in Subpart C part 397 of title 49, Code of Federal Regulations;

(6) develop a tool that will enable State officials to examine potential routes for the highway transportation of hazardous material and assess specific security vulnerabilities associated with each route and explore alternative mitigation measures; and

(7) transmit to the Senate Committee on Commerce, Science, and Transportation, and the House of Representatives Committee on Transportation and Infrastructure a report on the actions taken to fulfill paragraphs (1) through (6) of this subsection and any recommended changes to the routing requirements for the highway transportation of hazardous materials in part 397 of title 49, Code of Federal Regulations.

(b) ROUTE PLANS.—

(1) ASSESSMENT.—Within one year after the date of enactment of this Act, the Secretary of Transportation shall complete an assessment of the safety and national security benefits achieved under existing requirements for route plans, in written or electronic format, for explosives and radioactive materials. The assessment shall, at a minimum—

(A) compare the percentage of Department of Transportation recordable incidents and the severity of such incidents for shipments of explosives and radioactive materials for which such route plans are required with the percentage of recordable incidents and the severity of such incidents for shipments of explosives and radioactive materials not subject to such route plans; and

(B) quantify the security and safety benefits, feasibility, and costs of requiring each motor carrier that is required to have a hazardous material safety permit under part 385 of title 49, Code of Federal Regulations, to maintain, follow, and carry such a route plan that meets the requirements of section 397.101 of that title when transporting the type and quantity of hazardous materials described in section 385.403 of that title, taking into account the various segments of the trucking industry, including tank truck, truckload and less than truckload carriers.

(2) REPORT.—Within one year after the date of enactment of this Act, the Secretary of Transportation shall submit a report to the Senate Committee on Commerce, Science, and Transportation, and the House of Representatives Committee on Transportation and Infrastructure containing the findings and conclusions of the assessment.

(c) REQUIREMENT.—The Secretary shall require motor carriers that have a hazardous material safety permit under part 385 of title 49, Code of Federal Regulations, to maintain, follow, and carry a route plan, in written or electronic format, that meets the requirements of section 397.101 of that title when transporting the type and quantity of hazardous materials described in section 385.403 of that title if the Secretary determines, under the assessment required in subsection (b), that such a requirement would enhance the security and safety of the nation without imposing unreasonable costs or burdens upon motor carriers.

**SEC. —102. MOTOR CARRIER HIGH HAZARD MATERIAL TRACKING.**

(a) WIRELESS COMMUNICATIONS—

(1) IN GENERAL.—Consistent with the findings of the Transportation Security Administration's Hazmat Truck Security Pilot Program and within 6 months after the date of enactment of this Act, the Secretary of Homeland Security, through the Transportation Security Administration and in consultation with the Secretary of Transportation, shall develop a program to encourage the equipping of motor carriers transporting high hazard materials in quantities equal to or greater than the quantities specified in subpart 171.800 of title 49, Code of Federal Regulations, with wireless communications technology that provides—

(A) continuous communications;

(B) vehicle position location and tracking capabilities; and

(C) a feature that allows a driver of such vehicles to broadcast an emergency message.

(2) CONSIDERATIONS.—In developing the program required by paragraph (1), the Secretary shall—

(A) consult with the Secretary of Transportation to coordinate the program with any ongoing or planned efforts for motor carrier tracking at the Department of Transportation;

(B) take into consideration the recommendations and findings of the report on theHazardous Material Safety and Security Operation Field Test released by the Federal Motor Carrier Safety Administration on November 11, 2004;

(C) evaluate—

(i) any new information related to the cost and benefits of deploying and utilizing truck tracking technology for motor carriers transporting high hazard materials not included in the Hazardous Material Safety and Security Operation Field Test Report released by the Federal Motor Carrier Safety Administration on November 11, 2004;

(ii) the ability of truck tracking technology to resist tampering and disabling;

(iii) the capability of truck tracking technology to collect, display, and store information regarding the movements of shipments of high hazard materials by commercial motor vehicles;

(iv) the appropriate range of contact intervals between the tracking technology and a commercial motor vehicle transporting high hazard materials; and

(v) technology that allows the installation by a motor carrier of concealed electronic devices on commercial motor vehicles that can be activated by law enforcement authorities and alert emergency response resources to locate and recover security sensitive material in the event of loss or theft of such material.

(b) FUNDING.—There are authorized to be appropriated to the Secretary of Homeland Security to carry out this section $3,000,000 for each of fiscal years 2007, 2008, and 2009.

**SEC. —103. HAZARDOUS MATERIALS SECURITY INSPECTIONS AND ENFORCEMENT.**

(a) IN GENERAL.—The Secretary of Homeland Security shall establish a program within the Transportation Security Administration, in consultation with the Secretary of Transportation, for reviewing hazardous materials security plans required under part 172, title 49, Code of Federal Regulations, within 180 days after the date of enactment of this Act. In establishing the program, the Secretary shall ensure that—

(1) the program does not subject carriers to unnecessarily duplicative reviews of their security plans by the 2 departments; and

(2) a common set of standards is used to review the security plans.

(b) CIVIL PENALTY.—The failure, by a shipper, carrier, or other person subject to part 172 of title 49, Code of Federal Regulations, to comply with any applicable section of that part within 180 days after being notified by the Secretary of such failure to comply, is punishable by a civil penalty imposed by the Secretary under title 49, United States Code. For purposes of this subsection, each day of noncompliance after the 181st day following the date on which the shipper, carrier, or other person received notice of the failure shall constitute a separate failure.

(c) COMPLIANCE REVIEW.—In reviewing the compliance of hazardous materials shippers, carriers, or other persons subject to part 172 of title 49, Code of Federal Regulations, with the provisions of that part, the Secretary shall utilize risk assessment methodologies to prioritize review and enforcement actions to the most vulnerable and critical hazardous materials transportation operations.

(d) TRANSPORTATION COSTS STUDY.—Within 1 year after the date of enactment of this Act, the Secretary of Transportation, in conjunction with the Secretary of Homeland Security, shall study to what extent the insurance, security, and safety costs borne by railroad carriers, motor carriers, pipeline carriers, air carriers, and maritime carriers associated with the transportation of hazardous materials are reflected in the rates paid by shippers of such commodities as compared to the costs and rates respectively for the transportation of non-hazardous materials.

(e) FUNDING.—There are authorized to be appropriated to the Secretary of Homeland Security to carry out this section—

(1) $2,000,000 for fiscal year 2007;

(2) $2,000,000 for fiscal year 2008; and

(3) $2,000,000 for fiscal year 2009.

**SEC. —104. TRUCK SECURITY ASSESSMENT.**

Not later than 1 year after the date of enactment of this Act, the Secretary of Transportation shall transmit to the Senate Committee on Commerce, Science, and Transportation, Senate Committee on Finance, the House of Representatives Committee on Transportation and Infrastructure, the House of Representatives Committee on Homeland Security and the House of Representatives Committee on Ways and Means a report on security issues related to the trucking industry that includes—

(1) an assessment of actions already taken to address identified security issues by both public and private entities;

(2) an assessment of the economic impact that security upgrades of trucks, truck equipment, or truck facilities may have on the trucking industry and its employees, including independent owner-operators;

(3) an assessment of ongoing research and the need for additional research on truck security; and

(4) an assessment of industry best practices to enhance security.

**SEC. —105. NATIONAL PUBLIC SECTOR RESPONSE SYSTEM.**

(a) DEVELOPMENT.—The Secretary of Homeland Security, in conjunction with the Secretary of Transportation, shall consider the development of a national public sector response system to receive security alerts, emergency messages, and other information used to track the transportation of high hazard materials which can provide accurate, timely, and actionable information to appropriate first responder, law enforcement and public safety, and homeland security officials, as appropriate, regarding accidents, threats, thefts, or other safety and security risks or incidents. In considering the development of this system, they shall consult with law enforcement and public safety officials, hazardous material shippers, motor carriers, railroads, organizations representing hazardous material employees, State transportation and hazardous materials officials, private for-profit and nonprofit emergency response organizations, and commercial motor vehicle and hazardous material safety groups. Consideration of development of the national public sector response system shall be based upon the public sector response center developed for the Transportation Security Administration hazardous material truck security pilot program and hazardous material safety and security operational field test undertaken by the Federal Motor Carrier Safety Administration.

(b) CAPABILITY.—The national public sector response system to be considered shall be able to receive, as appropriate—

(1) negative driver verification alerts;

(2) out-of-route alerts;

(3) driver panic or emergency alerts; and

(4) tampering or release alerts.

(c) CHARACTERISTICS.—The national public sector response system to be considered shall—

(1) be an exception-based system;

(2) be integrated with other private and public sector operation reporting and response systems and all Federal homeland security threat analysis systems or centers (including the National Response Center); and

(3) provide users the ability to create rules for alert notification messages.

(d) CARRIER PARTICIPATION.—The Secretary of Homeland Security shall coordinate with motor carriers and railroads transporting high hazard materials, entities acting on their behalf who receive communication alerts from motor carriers or railroads, or other Federal agencies that receive security and emergency related notification regarding high hazard materials in transit to facilitate the provisions of the information listed in subsection (b) to the national public sector response system to the extent possible if the system is established.

(e) DATA PRIVACY.—The national public sector response system shall be designed to ensure appropriate protection of data and information relating to motor carriers, railroads, and employees.

(f) REPORT.—Not later than 180 days after the date of enactment of this Act, the Secretary shall transmit to the Senate Committee on Commerce, Science, and Transportation, the House of Representatives Committee on Transportation and Infrastructure, and the House of Representatives Committee on Homeland Security a report on whether to establish a national public sector response system and the estimated total public and private sector costs to establish and annually operate such a system, together with any recommendations for generating private sector participation and investment in the development and operation of such a system.

(g) FUNDING.—There are authorized to be appropriated to the Secretary of Homeland Security to carry out this section—

(1) $1,000,000 for fiscal year 2007;

(2) $1,000,000 for fiscal year 2008; and

(3) $1,000,000 for fiscal year 2009.

**SEC. —106. OVER-THE-ROAD BUS SECURITY ASSISTANCE.**

(a) IN GENERAL.—The Secretary of Homeland Security shall establish a program within the Transportation Security Administration for making grants to private operators of over-the-road buses or over-the-road-bus terminal operators for system-wide security improvements to their operations, including—

(1) constructing and modifying terminals, garages, facilities, or over-the-road buses to assure their security;

(2) protecting or isolating the driver;

(3) acquiring, upgrading, installing, or operating equipment, software, or accessorial services for collection, storage, or exchange of passenger and driver information through ticketing systems or otherwise, and information links with government agencies;

(4) training employees in recognizing and responding to security threats, evacuation procedures, passenger screening procedures, and baggage inspection;

(5) hiring and training security officers;

(6) installing cameras and video surveillance equipment on over-the-road buses and at terminals, garages, and over-the-road bus facilities;

(7) creating a program for employee identification or background investigation;

(8) establishing and upgrading an emergency communications system linking operational headquarters, over-the-road buses, law enforcement, and emergency personnel; and

(9) implementing and operating passenger screening programs at terminals and on over-the-road buses.

(b) FEDERAL SHARE.—The Federal share of the cost for which any grant is made under this section shall be 80 percent.

(c) DUE CONSIDERATION.—In making grants under this section, the Secretary shall give due consideration to private operators of over-the-road buses that have taken measures to enhance bus transportation security from those in effect before September 11, 2001, and shall prioritize grant funding based on the magnitude and severity of the security threat to bus passengers and the ability of the funded project to reduce, or respond to, that threat.

(d) GRANT REQUIREMENTS.—A grant under this section shall be subject to all the terms and conditions that a grant is subject to under section 3038(f) of the Transportation Equity Act for the 21st Century (49 U.S.C. 5310 note; 112 Stat. 393).

(e) PLAN REQUIREMENT.—

(1) IN GENERAL.—The Secretary may not make a grant under this section to a private operator of over-the-road buses until the operator has first submitted to the Secretary—

(A) a plan for making security improvements described in subsection (a) and the Secretary has approved the plan; and

(B) such additional information as the Secretary may require to ensure accountability for the obligation and expenditure of amounts made available to the operator under the grant.

(2) COORDINATION.—To the extent that an application for a grant under this section proposes security improvements within a specific terminal owned and operated by an entity other than the applicant, the applicant shall demonstrate to the satisfaction of the Secretary that the applicant has coordinated the security improvements for the terminal with that entity.

(f) OVER-THE-ROAD BUS DEFINED.—In this section, the term ''over-the-road bus'' means a bus characterized by an elevated passenger deck located over a baggage compartment.

(g) BUS SECURITY ASSESSMENT.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall transmit to the Senate Committee on Commerce, Science, and Transportation, the House of Representatives Committee on Transportation and Infrastructure, and the House of Representatives Committee on Homeland Security a preliminary report in accordance with the requirements of this section.

(2) CONTENTS OF PRELIMINARY REPORT.—The preliminary report shall include—

(A) an assessment of the over-the-road bus security grant program;

(B) an assessment of actions already taken to address identified security issues by both public and private entities and recommendations on whether additional safety and security enforcement actions are needed;

(C) an assessment of whether additional legislation is needed to provide for the security of Americans traveling on over-the-road buses;

(D) an assessment of the economic impact that security upgrades of buses and bus facilities may have on the over-the-road bus transportation industry and its employees;

(E) an assessment of ongoing research and the need for additional research on over-the-road bus security, including engine shut-off mechanisms, chemical and biological weapon detection technology, and the feasibility of compartmentalization of the driver; and

(F) an assessment of industry best practices to enhance security.

(3) CONSULTATION WITH INDUSTRY, LABOR, AND OTHER GROUPS.—In carrying out this section, the Secretary shall consult with over-the-road bus management and labor representatives, public safety and law enforcement officials, and the National Academy of Sciences.

(h) FUNDING.—There are authorized to be appropriated to the Secretary of Homeland Security to carry out this section—

(1) $12,000,000 for fiscal year 2007;

(2) $25,000,000 for fiscal year 2008; and

(3) $25,000,000 for fiscal year 2009.

Amounts made available pursuant to this subsection shall remain available until expended.

**SEC. —107. PIPELINE SECURITY AND INCIDENT RECOVERY PLAN.**

(a) IN GENERAL.—The Secretary of Homeland Security, in consultation with the Secretary of Transportation and the Pipeline and Hazardous Materials Safety Administration, and in accordance with the Memorandum of Understanding Annex executed under section —108, shall develop a Pipeline Security and Incident Recovery Protocols Plan. The plan shall include—

(1) a plan for the Federal Government to provide increased security support to the most critical interstate and intrastate natural gas and hazardous liquid transmission pipeline infrastructure and operations as determined under section —108—

(A) at high or severe security threat levels of alert; and

(B) when specific security threat information relating to such pipeline infrastructure or operations exists; and

(2) an incident recovery protocol plan, developed in conjunction with interstate and intrastate transmission and distribution pipeline operators and terminals and facilities operators connected to pipelines, to develop protocols to ensure the continued transportation of natural gas and hazardous liquids to essential markets and for essential public health or national defense uses in the event of an incident affecting the interstate and intrastate natural gas and hazardous liquid transmission and distribution pipeline system, which shall include protocols for granting access to pipeline operators for pipeline infrastructure repair, replacement or bypass following an incident.

(b) EXISTING PRIVATE AND PUBLIC SECTOR EFFORTS.—The plan shall take into account actions taken or planned by both private and public entities to address identified pipeline security issues and assess the effective integration of such actions.

(c) CONSULTATION.—In developing the plan under subsection (a), the Secretary of Homeland Security shall consult with the Secretary of Transportation, interstate and intrastate transmission and distribution pipeline operators, pipeline labor, first responders, shippers of hazardous materials, State Departments of Transportation, public safety officials, and other relevant parties.

(d) REPORT.—

(1) CONTENTS.—Not later than 1 year after the date of enactment of this Act, the Secretary of Homeland Security shall transmit to the Committee on Commerce, Science, and Transportation of the Senate, the Committee on Homeland Security of the House of Representatives, and the Committee on Transportation and Infrastructure of the House of Representatives a report containing the plan required by subsection (a), along with an estimate of the private and public sector costs to implement any recommendations.

(2) FORMAT.—The Secretary may submit the report in both classified and redacted formats if the Secretary determines that such action is appropriate or necessary.

(e) FUNDING.—There are authorized to be appropriated to the Secretary of Homeland Security to carry out this section $1,000,000 for fiscal year 2007.

**SEC. —108. PIPELINE SECURITY INSPECTIONS AND ENFORCEMENT.**

(a) IN GENERAL.—Within 1 year after the date of enactment of this Act the Secretary of Homeland Security, in consultation with the Secretary of Transportation, shall establish a program for reviewing pipeline operator adoption of recommendations in the September, 5, 2002, Department of Transportation Research and Special Programs Administration Pipeline Security Information Circular, including the review of pipeline security plans and critical facility inspections.

(b) REVIEW AND INSPECTION.—Within 9 months after the date of enactment of this Act the Secretary shall complete a review of the pipeline security plan and an inspection of the critical facilities of the 100 most critical pipeline operators covered by the September, 5, 2002, circular, where such facilities have not been inspected for security purposes since September 5, 2002, by either the Department of Homeland Security or the Department of Transportation, as determined by the Secretary in consultation with the Secretary of Transportation.

(c) COMPLIANCE REVIEW METHODOLOGY.—In reviewing pipeline operator compliance under subsections (a) and (b), the Secretary shall utilize risk assessment methodologies to prioritize vulnerabilities and to target inspection and enforcement actions to the most vulnerable and critical pipeline assets.

(d) REGULATIONS.—Within 1 year after the date of enactment of this Act, the Secretary shall transmit to pipeline operators and the Secretary of Transportation security recommendations for natural gas and hazardous liquid pipelines and pipeline facilities. If the Secretary of Homeland Security determines that regulations are appropriate, the Secretary shall promulgate such regulations and carry out necessary inspection and enforcement actions. Any regulations should incorporate the guidance provided to pipeline operators by the September 5, 2002, Department of Transportation Research and Special Programs Administration's Pipeline Security Information Circular and contain additional requirements as necessary based upon the results of the inspections performed under subsection (b). The regulations shall include the

imposition of civil penalties for non-compliance.

(e) FUNDING.—There are authorized to be appropriated to the Secretary of Homeland Security to carry out this section—

(1) $2,000,000 for fiscal year 2007; and

(2) $2,000,000 for fiscal year 2008.

**SEC. —109. TECHNICAL CORRECTIONS.**

(a) HAZMAT LICENSES.—Section 5103a of title 49, United States Code, is amended—

(1) by inserting ''of Homeland Security'' each place it appears in subsections (a)(1), (d)(1)(b), and (e); and

(2) by redesignating subsection (h) as subsection (i) and inserting the following after subsection (g):

''(h) RELATIONSHIP TO TRANSPORTATION SECURITY CARDS.—Upon application, a State shall issue to an individual a license to operate a motor vehicle transporting in commerce a hazardous material without the security assessment required by this section, provided the individual meets all other applicable requirements for such a license, if the Secretary of Homeland Security has previously determined, under section 70105 of title 46, United States Code, that the individual does not pose a security risk.''.

AMENDMENT NO. 5000

(Purpose: To conduct a study to identify redundancies and inefficiencies in connection with Federal background checks)

At the appropriate place, insert the following:

**SEC. ___. STUDY TO IDENTIFY REDUNDANT BACKGROUND RECORDS CHECKS.**

(a) STUDY.—The Comptroller General of the United States shall conduct a study of background records checks carried out by Federal departments and agencies that are similar to the background records check required under section 5103a of title 49, United States Code, to identify redundancies and inefficiencies in connection with such checks.

(b) CONTENTS.—In conducting the study, the Comptroller General of the United States shall review, at a minimum, the background records checks carried out by—

(1) the Secretary of Defense;

(2) the Secretary of Homeland Security; and

(3) the Secretary of Energy.

(c) REPORT.—Not later than 6 months after the date of the enactment of this Act, the Comptroller General of the United States shall submit a report to Congress on the results of the study, including—

(1) an identification of redundancies and inefficiencies referred to in subsection (a); and

(2) recommendations for eliminating such redundancies and inefficiencies.

AMENDMENT NO. 4947 AS MODIFIED

At the appropriate place, insert the following:

**TITLE ___—IP-ENABLED VOICE COMMUNICATIONS AND PUBLIC SAFETY**

**SEC. —01. SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This title may be cited as the ''IP-Enabled Voice Communications and Public Safety Act of 2006''.

(b) TABLE OF CONTENTS.—The table of contents for this title is as follows:

Sec. —01. Short title; table of contents.
Sec. —02. Emergency service.
Sec. —03. Enforcement.
Sec. —04. Migration to IP-enabled emergency network.
Sec. —05. Definitions.

**SEC. —02. EMERGENCY SERVICE.**

(a) ACCESS TO 911 COMPONENTS.—Within 90 days after the date of enactment of this Act, the Commission shall issue regulations regarding access by IP-enabled voice service providers to 911 components that permit any IP-enabled voice service provider to elect to be treated as a commercial mobile service provider for the purpose of access to any 911 component, except that the regulations issued under this subsection may take into account any technical or network security issues that are specific to IP-enabled voice services.

(b) STATE AUTHORITY OVER FEES.—Nothing in this title, the Communications Act of 1934, or any Commission regulation or order shall prevent the imposition on, or collection from, a provider of IP-enabled voice services of any fee or charge specifically designated by a State, political subdivision thereof, or Indian tribe for the support of 911 or E–911 services if that fee or charge—

(1) does not exceed the amount of any such fee or charge imposed on or collected from a provider of telecommunications services; and

(2) is obligated or expended in support of 911 and E–911 services, or enhancements of such services, or other emergency communications services as specified in the provision of State or local law adopting the fee or charge.

(c) PARITY OF PROTECTION FOR PROVISION OR USE OF IP-ENABLED VOICE SERVICE.—A provider or user of IP-enabled voice services, a PSAP, and the officers, directors, employees, vendors, agents, and authorizing government entity (if any) of such provider, user, or PSAP, shall have the same scope and extent of immunity and other protection from liability under Federal and State law with respect to—

(1) the release of subscriber information related to emergency calls or emergency services,

(2) the use or provision of 911 and E–911 services, and

(3) other matters related to 911 and E–911 services,

as section 4 of the Wireless Communications and Public Safety Act of 1999 (47 U.S.C. 615a) provides to wireless carriers, PSAPs, and users of wireless 9–1–1 service (as defined in paragraphs (4), (3), and (6), respectively, of section 6 of that Act (47 U.S.C. 615b)) with respect to such release, use, and other matters.

(d) LIMITATION ON COMMISSION.—Nothing in this section shall be construed to permit the Commission to issue regulations that require or impose a specific technology or technological standard.

**SEC. —03. ENFORCEMENT.**

The Commission shall enforce this title, and any regulation promulgated under this title, under the Communications Act of 1934 (47 U.S.C. 151 et seq.) as if this title were a part of that Act. For purposes of this section any violation of this title, or any regulation promulgated under this title, is deemed to be a violation of the Communications Act of 1934.

**SEC. —04. MIGRATION TO IP-ENABLED EMERGENCY NETWORK.**

(a) IN GENERAL.—Section 158 of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 942) is amended—

(1) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively;

(2) by inserting after subsection (c) the following:

''(d) MIGRATION PLAN REQUIRED.—

''(1) NATIONAL PLAN REQUIRED.—No more than 18 months after the date of the enactment of the IP-Enabled Voice Communications and Public Safety Act of 2005, the Office shall develop and report to Congress on a national plan for migrating to a national IP-enabled emergency network capable of receiving and responding to all citizen activated emergency communications.

''(2) CONTENTS OF PLAN.—The plan required by paragraph (1) shall—

''(A) outline the potential benefits of such a migration;

''(B) identify barriers that must be overcome and funding mechanisms to address those barriers;

''(C) include a proposed timetable, an outline of costs and potential savings;

''(D) provide specific legislative language, if necessary, for achieving the plan;

''(E) provide recommendations on any legislative changes, including updating definitions, to facilitate a national IP-enabled emergency network; and

''(F) assess, collect, and analyze the experiences of the PSAPs and related public safety authorities who are conducting trial deployments of IP-enabled emergency networks as of the date of enactment of the IP-Enabled Voice Communications and Public Safety Act of 2005.

''(3) CONSULTATION.—In developing the plan required by paragraph (1), the Office shall consult with representatives of the public safety community, technology and telecommunications providers, and others it deems appropriate.''; and

(3) by striking ''services.'' in subsection (b)(1) and inserting ''services, and, upon completion of development of the national plan for migrating to a national IP-enabled emergency network under subsection (d), for migration to an IP-enabled emergency network.''.

(b) REPORT ON PSAPS.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Commission shall—

(A) compile a list of all known public safety answering points, including such contact information regarding public safety answering points as the Commission determines appropriate;

(B) organize such list by county, town, township, parish, village, hamlet, or other general purpose political subdivision of a State; and

(C) make available from such list—

(i) to the public, on the Internet website of the Commission—

(I) the 10 digit telephone number of those public safety answering points appearing on such list; and

(II) a statement explicitly warning the public that such telephone numbers are not intended for emergency purposes and as such may not be answered at all times; and

(ii) to public safety answering points all contact information compiled by the Commission.

(2) CONTINUING DUTY.—The Commission shall continue—

(A) to update the list made available to the public described in paragraph (1)(C); and

(B) to improve for the benefit of the public the accessibility, use, and organization of such list.

(3) PSAPS REQUIRED TO COMPLY.—Each public safety answering point shall provide all requested contact information to the Commission as requested.

(c) REPORT ON SELECTIVE ROUTERS.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Commission shall—

(A) compile a list of selective routers, including the contact information of the owners of such routers;

(B) organize such list by county, town, township, parish, village, hamlet, or other general purpose political subdivision of a State; and

(C) make such list available to providers of telecommunications service and to providers of IP-enabled voice service who are seeking to provide E-911 service to their subscribers.

**SEC. —05. DEFINITIONS.**

(a) IN GENERAL.—For purposes of this title:

(1) 911.—The term ''911'' means a service that allows a user, by dialing the three-digit code 911, to call a public safety answering point operated by a State, local government, Indian tribe, or authorized entity.

(2) 911 COMPONENT.—The term ''911 component'' means any equipment, network, databases (including automatic location information databases and master street address guides), interface, selective router, trunkline, or other related facility necessary for the delivery and completion of 911 or E–911 calls and information related to such calls to which the Commission requires access pursuant to its rules and regulations.

(3) E–911 SERVICE.—The term ''E–911 service'' means a 911 service that automatically delivers the 911 call to the appropriate public safety answering point, and provides automatic identification data, including the originating number of an emergency call, the physical location of the caller, and the capability for the public safety answering point to call the user back if the call is disconnected.

(4) IP-ENABLED VOICE SERVICE.—The term ''IP-enabled voice service'' means the provision of real-time 2-way voice communications offered to the public, or such classes of users as to be effectively available to the public, transmitted through customer premises equipment using TCP/IP protocol, or a successor protocol, for a fee (whether part of a bundle of services or separately), or without a fee, with 2-way interconnection capability such that the service can originate traffic to, and terminate traffic from, the public switched telephone network.

(5) PSAP.—The term ''public safety answering point'' or ''PSAP'' means a facility that has been designated to receive 911 or E–911 calls.

(b) COMMON TERMINOLOGY.—Except as otherwise provided in subsection (a), terms used in this title have the meanings provided under section 3 of the Communications Act of 1934.

Mr. STEVENS. Mr. President, there may be statements that Senators wish to have printed in the RECORD. I ask unanimous consent that it be in order that they be printed in the RECORD prior to the adoption of any of these amendments I have just presented.

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

## ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. STEVENS. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:39 p.m., adjourned until Thursday, September 14, 2006, at 9:30 a.m.

## NOMINATIONS

Executive nominations received by the Senate September 13, 2006:

### DEPARTMENT OF STATE

FRANK BAXTER, OF CALIFORNIA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE ORIENTAL REPUBLIC OF URUGUAY.

### THE JUDICIARY

THOMAS M. HARDIMAN, OF PENNSYLVANIA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE THIRD CIRCUIT, VICE RICHARD L. NYGAARD, RETIRED.

### IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be lieutenant general*

LT. GEN. STEPHEN G. WOOD, 0000

### IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be vice admiral*

VICE ADM. EVAN M. CHANIK, JR., 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be vice admiral*

REAR ADM. MICHAEL K. LOOSE, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

*To be vice admiral*

VICE ADM. KEVIN J. COSGRIFF, 0000

### IN THE AIR FORCE

THE FOLLOWING NAMED INDIVIDUALS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE AIR FORCE UNDER TITLE 10, U.S.C., SECTION 12203:

*To be colonel*

DENNIS R. HAYSE, 0000
RODNEY PHOENIX, 0000

### IN THE ARMY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY MEDICAL SERVICE CORPS UNDER TITLE 10, U.S.C., SECTIONS 624 AND 3064:

*To be colonel*

JAMES M. CAMP, 0000
CATHY E. LEPPIAHO, 0000

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

*To be colonel*

ROBERT J. ARNELL III, 0000
RUSSELL J. LONG, 0000
MITCHELL K. MEDIGOVICH, 0000
VALMORE G. VIGUE, 0000
WILLIAM J. WALKER, 0000
DAVID A. WHITE, 0000

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

*To be colonel*

JAMES M. FOGLEMILLER, 0000
TIMOTHY E. GOWEN, 0000

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

*To be colonel*

MICHAEL L. JONES, 0000

THE FOLLOWING NAMED INDIVIDUALS IN THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

*To be colonel*

NEELAM CHARAIPOTRA, 0000
DONNIE HOLDEN, 0000
WILLIAM PHILLIPS, 0000
DOUGLAS POSEY, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY MEDICAL SERVICE CORPS AND FOR REGULAR APPOINTMENT UNDER TITLE 10, U.S.C., SECTIONS 624, 531, AND 3064:

*To be major*

SANDRA E. ROPER, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

*To be colonel*

GARY W. ANDREWS, 0000
WILLIAM B. CARTER, 0000
ROBERT R. DAVENPORT, 0000
ALEXANDER D. DEVORKIN, 0000
STEVEN C. FRONIABARGER, 0000
JAMES G. HAY, 0000
JAMES ILKU, 0000
JAMES L. JAWORSKI, 0000
JAMES E. MIDYETTE, JR., 0000
MICHAEL P. MISHOE, 0000
JOSELITO D. OLEGARIO, 0000
ANGEL L. PEREZ, JR., 0000
CHRISTOPHER B. RIVERS, 0000
CURT R. SALVESON, 0000
FREDERICK J. SCHWARZ, 0000
STEPHEN D. TABLEMAN, 0000

THE FOLLOWING NAMED INDIVIDUALS FOR REGULAR APPOINTMENT TO THE GRADES INDICATED IN THE UNITED STATES ARMY MEDICAL CORPS UNDER TITLE 10, U.S.C.,SECTIONS 531 AND 3064:

*To be colonel*

JOSEFINA T. GUERRERO, 0000
HARRY A. SNOWDY, 0000

*To be lieutenant colonel*

WILLIAM BALDINO, 0000
KENDALL R. CLARK, 0000
BILLY H. HAMPTON, 0000
STEPHEN H. KOOPMEINERS, 0000
KERWIN J. LEBEIS, 0000
JOHN E. MANOS, 0000
DAVID F. MCKEE, 0000
WILLIAM A. OMOHUNDRO, 0000
JOHN S. PETERS, 0000
GEORGE J. SMITH, 0000
ROBERT W. STEWART, 0000
JOHN W. WATSON, 0000

*To be major*

JOON H. CHONG, 0000
ANDREW CHONTOS, 0000
JOSEPH A. DELUCIA, 0000
KEVIN DOWNES, 0000
BRETT J. HAMPTON, 0000
ROBERT E. JESCHKE, 0000
WILLIAM LEFKOWITZ, 0000
KENNETH M. LIEUW, 0000
JEFFREY J. LUNN, 0000
RICHARD V. MAZZAFERRO, 0000
ROBERT J. MCMILLAN, 0000
SUZIE T. NEMMERS, 0000
ROBERT J. OCONNELL, 0000
RAPHAEL SEMIDIE, 0000
WILLIAM P. SMITH, 0000
EDWARD L. STAMARIA, 0000
ROBERT D. SWIFT, 0000
MARY ZACHARIAKURIAN, 0000

### IN THE NAVY

THE FOLLOWING NAMED OFFICERS FOR REGULAR APPOINTMENT IN THE GRADES INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 531:

*To be captain*

WANG S. OHM, 0000

*To be commander*

JAMES F. DORAN, 0000
ROBERT T. GERSTNER, 0000
FERDINAND G. HAFNER, 0000
JONATHAN C. HOLSINGER, 0000
ALEXANDER C. LEVY, 0000
TOM G. MURRAY, 0000
MARCOR B. PLATT, 0000
DANIEL E. SCANGO, 0000
MICHAEL R. TROVATO, 0000

*To be lieutenant commander*

STEVEN D. GOVER, 0000
DANIEL T. HENNING, 0000
DANIEL R. JUBA, 0000
HAI T. NGUYEN, 0000
CHATCHAVAL PONGSUGREE, 0000
CHARLES F. PRATT, 0000
MARGARET A. ROBERTSON, 0000
CYNTHIA J. RODRIGUES, 0000
VIKTORIA J. ROLFF, 0000

## CONFIRMATIONS

Executive nominations confirmed by the Senate Wednesday, September 13, 2006:

### EXECUTIVE OFFICE OF THE PRESIDENT

BERTHA K. MADRAS, OF MASSACHUSETTS, TO BE DEPUTY DIRECTOR FOR DEMAND REDUCTION, OFFICE OF NATIONAL DRUG CONTROL POLICY.

### PEACE CORPS

RONALD A. TSCHETTER, OF MINNESOTA, TO BE DIRECTOR OF THE PEACE CORPS.

DEPARTMENT OF STATE

JOHN C. ROOD, OF ARIZONA, TO BE AN ASSISTANT SECRETARY OF STATE (INTERNATIONAL SECURITY AND NON-PROLIFERATION).

CESAR BENITO CABRERA, OF PUERTO RICO, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF MAURITIUS, AND TO SERVE CONCURRENTLY AND WITHOUT ADDITIONAL COMPENSATION AS AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF SEYCHELLES.

MARY MARTIN OURISMAN, OF FLORIDA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO BARBADOS, AND TO SERVE CONCURRENTLY AND WITHOUT ADDITIONAL COMPENSATION AS AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO ST. KITTS AND NEVIS, SAINT LUCIA, ANTIGUA AND BARBUDA, THE COMMONWEALTH OF DOMINICA, GRENADA, AND SAINT VINCENT AND THE GRENADINES.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

DEPARTMENT OF JUSTICE

GEORGE E.B. HOLDING, OF NORTH CAROLINA, TO BE UNITED STATES ATTORNEY FOR THE EASTERN DISTRICT OF NORTH CAROLINA FOR THE TERM OF FOUR YEARS.