The House met at 10 a.m.
The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:
My brothers and sisters, let the words spoken through the prophet Ezekiel stir in your hearts so that the impending days may lead to an even deeper trust in the Lord:
"The nations shall know that I am the Lord, says the Lord God, when in their sight I prove my holiness through you. I will sprinkle clear water upon you to cleanse you from all your impurities and from all your idols I will cleanse you. I will give you a new heart and place a new spirit within you, taking from your bodies your stony hearts and giving you natural hearts."

Lord God of prophets and politicians, through the campaigns surface out fiction and malicious thoughts that Your people may be led to America's common concerns and the truth upon which to build anew. Deepen convictions in all contestants that their hearts may be naturally transformed by the response of the people and Your holy inspirations. We pray for civility in debates and peaceful resolve across the Nation, both now and forever. Amen.

THE JOURNAL
The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.
Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE
The SPEAKER. Will the gentleman from Massachusetts (Mr. McGovern) come forward and lead the House in the Pledge of Allegiance.
Mr. McGovern 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.

MESSAGE FROM THE SENATE
A message from the Senate by Ms. Curtis, one of its clerks, announced that the Senate has passed bills of the following titles in which the concurrence of the House is requested:
S. 2290. An act to award a congressional gold medal to Dr. Norman E. Borlaug.
S. 2491. An act to award a Congressional gold medal to Byron Nelson in recognition of his significant contributions to the game of golf as a player, a teacher, and a commentator.

ANNOUNCEMENT BY THE SPEAKER
The SPEAKER. The Chair will entertain 10 1-minutes on each side.

NIE
(Ms. Foxx asked and was given permission to address the House for 1 minute.)
Ms. Foxx. Mr. Speaker, I have deep concerns over the recent politicizing of the intelligence reports while our country is in the midst of a global war on terror. This is irresponsible when it comes to classified intelligence. Politics should be the last thing involved in the intelligence community. It is not surprising to see a leak come right out before the elections and Democrats using it as a campaign tool.

The New York Times story was based upon selective information and that was distorted and inaccurate when taken out of its full context. Information is classified for a reason, but it is too late, and the damage is done.
Just after the President declassified the information to show that progress in the war on terror was being made through our intelligence service, Al Jazeera's Web site immediately posted a link to the document for their audience, which may include terrorists to review. Now they know sensitive aspects of our intelligence community's assessment of the war on terror.

Releasing this intelligence compromised our success in the war on terror and the safety of our troops. If this inspires one terrorist, and it most certainly will, the cost is far too high.

IRAN
(Mr. Kucinich asked and was given permission to address the House for 1 minute.)
Mr. Kucinich. Iran should not have nuclear weapons; and, along with the United States as a signatory to the Nuclear Nonproliferation Treaty, should work with the community of nations to abolish all nuclear weapons, as is the express intent of the NPT.
However, this administration is trying to create an international crisis by inflating Iran's nuclear development into another Iraq WMD hoax. There they go again.
Today, the House will consider a bill which will give the administration a pass on covert activities it has already undertaken in Iran to attempt to destabilize the government. Additionally, today's bill will enable another Rendon type propaganda machine to feed the U.S. media a steady stream of lies, all to set the stage for a war against Iran.
Think about it; this, without a single hearing on Iran in this Congress. Think about it; this, while the State Department and DOD is ducking even classified briefings.
There is a Chinese proverb that says: Fool me once, shame on you. Fool me twice, shame on me. Will Congress be fooled again into supporting still another war against still another nation, which is not an imminent threat and which has no intention nor capability of attacking the United States?
HIGHLAND FALLS-FORT MONTGOMERY CENTRAL SCHOOL DISTRICT

(Mrs. KELLY asked and was given permission to address the House for 1 minute.)

Mrs. KELLY. Madam Speaker, I rise to urge this House to correct a broken impact aid formula that unfairly limits the federal funding received by local school districts in military communities.

A significant portion of the students I represent in Highland Falls-Fort Montgomery Central School District are children of military families living at West Point. Impact Aid funding complications have Highland Falls struggling to preserve its full curriculum for students. The Impact Aid funding shortfall leaves the local community surrounding West Point facing major property tax increases.

This is not the way the Federal Government should be treating the families of Highland Falls and West Point. Impact aid schools need and deserve consistent Federal support. They are not getting that through the current Impact Aid formula.

I urge this House to pass the Impact Aid Update Act, a bill I introduced to correct the outdated cap that is restricting Impact Aid funding to Highland Falls-Fort Montgomery Central School District and other Impact Aid schools.

I also call on this House to pass H.R. 390, a bill I am cosponsoring to improve the Impact Aid program. This Congress needs to permanently fix Impact Aid funding formulas so that local school districts like Highland Falls throughout the country have the full resources they need to teach our children.

VICTIM-ACTIVATED LANDMINE ABOLITION ACT

(Mr. McGOVERN asked and was given permission to address the House for 1 minute.)

Mr. McGOVERN. Madam Speaker, yesterday, Congressman Phil ENGLISH of Texas introduced H.R. 6178, the Victim-Activated Landmine Abolition Act.

Our Nation is the global leader in funding for landmine clearance, mine risk education, and mine survivors. The U.S. was the first nation to call for a comprehensive ban on antipersonnel landmines in 1994, and we have not exported them since 1992, produced them since 1997, or use them since 1991.

In Iraq, Afghanistan, and elsewhere, victim-activated landmines have killed and maimed U.S. and coalition troops. They indiscriminately threaten lives in more than 80 countries, and they do not distinguish between an enemy combatant and a U.S. soldier, child, farmer, or refugee.

Today, the U.S. has acquired reliable technology that enables all such weapons to be equipped with man-in-the-loop targeting and triggering capabilities.

We no longer need to procure or design landmines that are victim-activated. Let the U.S. set the example for other countries in banning the procurement of victim-activated landmines and weapons. I encourage my colleagues to join me as a cosponsor of H.R. 6178.

BROOKLYN ALLYSON—DAUGHTER OF TEXAS

(Mr. POE asked and was given permission to address the House for 1 minute.)

Mr. POE. Madam Speaker, I have news, good news. A child is born, a girl. Brooklyn Allyson Reaves arrived in the summer heat of Austin, Texas, August 18, 2006, at 7 pounds, 13 ounces. Her parents, Kim and Derek Reaves, and her brother, Barrett Houston, are all proud of this new family member.

Brooklyn is in the sunrise of her life. May her days be long, may she see good days of happiness and health, days of doing service for others, days filled with a passion for liberty and righteous justice, days with a love for her heritage and her country, and days with a commitment to her Maker: so that when she reaches the summit of life, she will have been a good citizen, a good patriot, and a good servant of her Lord.

Every time a child is born, the Almighty is making a bet on the future of humanity. Kids are our greatest of resources.

So, Madam Speaker, the angels in heaven may be singing with joy at the arrival of Brooklyn, but they cannot be as happy or as proud as I am, because Brooklyn is my new granddaughter.

And that’s just the way it is.

SHOCKED AT HOW AWFUL IRAQ IS

(Mr. EMANUEL asked and was given permission to address the House for 1 minute.)

Mr. EMANUEL. Madam Speaker, the Iraq war has gone from shock and awe to shocked at how awful it is.

On the heels of the public disclosure of the NIE estimates, today’s Washington Post reports that the Baghdad Police College was so poorly constructed it might need to be demolished.

Special Inspector for Iraq Reconstruction said, “This is the most essential civil security project in the country. It is a failure. The Baghdad Police Academy is a disaster.”

There are foundation problems, tile floors are warped beyond repair, faucets leak, toilet waste flooding all over the second and third floors.

The Parsons Corporation did such a bad job with the $75 million in U.S. taxpayer money it was awarded to build the new facility, the whole facility may need to be torn down. The Parsons Corporation received a $1 billion contract. $12 billion gone, wasted, unaccounted for in Iraq. But what is $12.5 billion among friends? That wasted money follows a long line of other costly mistakes, including this Congress’s refusal to hold anybody accountable.

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HUGO CHAVEZ AND THE AMERICAN CONSUMER

(Mr. STEARNs asked and was given permission to address the House for 1 minute.)

Mr. ST ERRANS. Madam Speaker, Hugo Chavez, dictator of Venezuela, gave a speech at the United Nations last week in which he lambasted the United States and demagogued President Bush. Chavez is little more than a comical autocrat on an anti-American public relations tour, but it is interesting that the American public has channeled their wrath into their consumer purchasing, moving to boycott Citgo, the Venezuelan national gas company.

Indeed, on Wednesday, 7-Eleven reacted to growing bad publicity by announcing it would not renew a 20-year contract with Citgo. That is about 2,100 gas stations off the books for Citgo. The rest will be targets of an angry American public’s spontaneous boycott of Venezuelan oil.

All of us are working here in Congress to promote America’s oil independence. All of us should do what 7-Eleven is doing by boycotting Citgo gas stations.

DEFENSE AUTHORIZATION BILL AIMS TO BAN INTERNET GAMING

(Ms. BERKLEY asked and was given permission to address the House for 1 minute.)

Ms. BERKLEY. Madam Speaker, Congress is waiting for the Republican leadership to bring the Department of Defense authorization bill to the floor for a vote.

So what’s holding it up? Believe it or not, the Republican leadership wants to add a provision to the defense bill.

To help the troops? No.

To add to their salaries? No.

To help us buy equipment for them so they will have state of the art equipment? No.

It’s a provision to ban Internet gaming. And if you guessed that, you are absolutely right. A ban on Internet gaming in the defense bill. How ridiculous is that? At a time when we have brave American men and women fighting and dying in Iraq and Afghanistan, the Republican leadership is more worried about Americans playing poker on-line than in protecting our troops in the field.

The Republicans talk about patriotism and supporting our fighting men and women, but when it comes to voting for our Nation’s Defense Department, they are more interested in banning Internet gaming than they are in providing what our troops need in the field of battle.

This is a disgrace. Americans should be outraged and we should demand that...
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we pass this Department of Defense authorization without any other additions that have nothing to do with defending our brave men and women.

MATERIAL SUPPORT BILL
(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Madam Speaker, Saturday's New York Times ran an editorial headlined Punishing Refugees Twice, which describes a very real problem that deserves our attention. The PATRIOT Act and the REAL ID Act are important laws to keep out of the U.S. those who provide aid to terrorists. However, an excessively broad interpretation of the law has tied our hands when it comes to admitting harmless refugees into America. No distinction is made for people who have been coerced under duress to provide material support, including under threat of rape or death or at gunpoint.

In addition, the definitions make no exceptions for people or groups that our government supports or that support our government, such as those resisting the dictatorial regime in Burma, or anti-Castro groups in Cuba, or the Montagnards.

H.R. 5918 would fix this problem by allowing us greater ability to distinguish between our friends and our enemies. The many terrorism-related bars on entry would still remain in place. I urge consideration and support of this bill.

IRAQ MAKING OVERALL TERRORISM PROBLEM WORSE—TIME FOR NEW DIRECTION
(Ms. SOLIS asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. SOLIS. Madam Speaker, for 6 months now, President Bush has known that the Iraq war is making our efforts to fight global terrorism more difficult, yet he refuses to change the course. A top secret National Intelligence Estimate concluding that the Iraq war has made the overall terrorism problem worse should have set alarms off in the Bush administration. The document shows that the President's stay-the-course strategy in Iraq is only undermining our prospects for winning the global war against terror.

The Bush administration knew that this was a possibility before it even went into Iraq. Another intelligence estimate that came out in January 2003 stated that the approaching war had the potential to increase support for political Islam worldwide and could increase support for some terrorist objectives. Yet the administration set aside these concerns and chose to attack instead.

Today, our Nation is suffering the consequences. As the intelligence report states, radical Islam has metastasized. It's time for us to stop the growth of Islamic fanaticism by showing the world that we have no plans of occupying Iraq indefinitely.

RECAPPING REPUBLICAN SUCCESSES
(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON. Madam Speaker, as this legislative session draws to a close, it is appropriate to look back at House Republican successes and the accomplishments that have been achieved for the American people.

During the past few months, House Republicans have worked tirelessly to strengthen the economy, protect family values, address the energy crisis, secure our borders, and increase national security.

With the tax reconciliation bill, families are keeping $31 billion of their own money, as clearly promoted by the Lexington County Chronicle. We approved a border security package to secure our borders and restrict the flow of illegal aliens into our country. Just yesterday, we passed the Military Commissions Act providing for the prosecution of suspected terrorists to help us secure victory in the global war on terrorism.

As we leave Washington and prepare to face the voters in November, we will be judged by our merits. I am proud House Republicans have a positive record of achievement on which to stand.

In conclusion, God bless our troops and we will never forget September 11.

ON THE VIETNAM DEMOCRACY MOVEMENT
(Ms. LORETTA SANCHEZ of California asked and was given permission to address the House for 1 minute.)

Ms. LORETTA SANCHEZ of California. Madam Speaker, I rise today in support of the Vietnamese people who continue to work every day for a free and democratic Vietnam.

In April, 118 Vietnamese citizens signed the Manifesto on Democracy and Freedom for Vietnam. Making this public statement puts these Vietnamese citizens and their families at great risk. The signers of the manifesto are part of a movement called the 8406 Democracy Movement, which refers to the date on which they signed the manifesto, the 8th of April of 2006.

On June 10, I personally spoke with the leaders of the 8406 Democracy Movement, Father Ly and Do Nam Hoi, and it is clear to me from my conversations with them that the government of Vietnam continues to violate religious and civil liberties as well as the right to a free and independent media. These violations are unacceptable.

SENIORS ONCE AGAIN VICTIMS OF GOP'S COZY RELATIONSHIP WITH DRUG COMPANIES
(Mr. CARDOZA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CARDOZA. Madam Speaker, American seniors are facing their first full week of the donut hole. This gap in prescription drug coverage for thousands of seniors is the direct result of the Republicans' dedication to increasing drug company profits.

As a clear giveaway to the big pharmaceutical companies, the Republican prescription drug benefit does not require that the Federal Government use its huge purchasing power to bargain for lower cost drugs. On three occasions since 2003, House Republicans had the opportunity to support Democratic amendments to reduce drug prices through bulk purchasing. Passage of our amendments would have provided Congress with the money to fill the gap in coverage and eliminate the donut hole.

I urge President Bush to convey the following message to the government of Vietnam during his travel there in November for the Asia-Pacific Economic Corporation Conference.

The U.S. supports the people of the 8406 Democracy Movement who are working toward a free and democratic Vietnam and strongly objects to any mistreatment of them.

THE GENTLEMAN FROM ILLINOIS
(Mr. PENCE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PENCE. As this session of Congress draws to a close, so draws to a close, also, the storied career of the Lion of the Right, Henry Hyde of Illinois. As the chairman of several major committees at the center of repeated national controversies, Henry Hyde, as Members on both sides of the aisle know, has been a paragon of dignity and civility and commitment to principle. I would add he has been a lion of the right to life and this Chamber will miss his roar.

I will offer legislation today to name the Rayburn International Relations Committee room after this storied legislator, and I urge my colleagues to support this measure.

When I think of Henry Hyde's career, I think of Ulysses by Alfred Lord Tennyson who wrote:

'Tho' much is taken, much abides; and who we are, we are; one equal temper of heroic hearts, made weak by time and fate but strong in will to strive, to seek, to find, and not to yield.'

Let us honor this rare leader and may God bless the golden years of the gentleman from Illinois.
But, no. This would have eaten into drug company profits and threatened the friendship that exists between the Republicans and the drug companies.

Mr. Speaker, we can still correct this injustice visited upon our seniors before we recess. Today, we should give the American people back their Medicare Services the power to bargain those prices down and permanently close the donut hole.

America needs a new direction.

IN HONOR OF SMEAD MANUFACTURING ON THE OCCASION OF ITS 100TH ANNIVERSARY

Mr. KLINE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.

Mr. KLINE. Madam Speaker, there has been much celebration this year in the little town of Hastings, Minnesota. I rise today to recognize a small business icon in the State, a document management company with a rich heritage of innovation and quality.

This year, Smead Manufacturing celebrates its 100th anniversary. A cornerstone of the Hastings community, Smead is the world’s leading provider of filing and organizational products.

For 100 years, Smead has been committed to one purpose, keeping business organized. For the last 51 years, Smead has been a woman-owned company which now employs more than 2,700 workers in 15 plants. I have enjoyed the opportunity to visit the Hastings facility and meet many of the dedicated employees. On the occasion of this milestone achievement, I want to thank the men and women of Smead Manufacturing for their service to the community and the State of Minnesota. I commend the employees and leaders of this great institution and wish them much continued success.

TIME FOR A CHANGE

Mr. ENGEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.

Mr. ENGEL. Madam Speaker, this Republican Congress has failed the American people. Nobody can deny that this is the most do-nothing Congress in our history. On every front, from Medicare to Social Security, Republicans and the drug companies that price gouge.

No to increasing the minimum wage.

No to balancing the budget.

No to fully implementing the 9/11 Commission’s recommendations.

No to filling the donut hole for millions of American seniors struggling with their drugs.

No to tough penalties on big oil companies that price gouge.

No to finding a new strategy for Iraq.

Republican inaction on issues of critical concern to the American people has led to rising drug costs, higher energy prices than a year ago, and billions of taxpayer money being wasted in Iraq.

The American people are fed up with a Congress that refuses to do its job. It’s time for a change.

THE NEED FOR ENERGY INDEPENDENCE

Mr. KINGSTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.

Mr. KINGSTON. Madam Speaker, as my friend Mr. ENGEL from New York knows, gas prices are coming down. I am glad about it. A friend of mine, a son, actually filled up last weekend for $1.89 a gallon.

But Mr. ENGEL and I know that the pressure upon the supply brought about by new drivers in India and China and all over the world means increased demand with a very limited supply of oil. We have got to wean ourselves off of Middle East oil and foreign oil as much as possible.

Mr. ENGEL and I have introduced H.R. 4409, which moves us toward alternative fuels. Ethanol, hydrogen, bio-mass, technologies that are already out there. We just need to invest more money and accelerate our commitment towards fuel independence.

Imagine driving through a rural area, cornfields on both sides of you, with assurance that that is your next tank of gas. Would that not be great?

This is something that we can work on as Democrats and Republicans. Mr. ENGEL and I have put the bill forward. We are glad to have a lot of Democrats and making Americans less safe at home and abroad.

Two, why have security conditions continued to deteriorate in Iraq even though the war in Iraq has reached political milestones and increased the number of trained and equipped security forces?

The American people want to know.

And, three, if existing U.S. political, economic, and security measures are not reducing the violence in Iraq, what measures, if any, does the administration propose to end the violence? The American people want to know.

Is it time that we make Americans safer and fully implement the 9/11 recommendations? It is time for a new direction.

FAILURES OF THE CONGRESS UNDER REPUBLICAN LEADERSHIP

Mr. COOPER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.

Mr. COOPER. Madam Speaker, we are in the final hours of this Congress. How will historians judge our work? Very harshly.

There has probably not been a more incompetent or corrupt Congress in modern times than this one. Don’t take my word for it. Look at the book called The Broken Branch. By Norm Orenstein and Thomas Mann, it chronicles the failures of this institution under its recent Republican leadership.

Another objective measure is the lack of workdays in this body. Norm Orenstein pointed out only yesterday that we will have worked only 60 real months this entire year. Sixty days, 2 months of work, and yet we draw 12 months of pay.

Where are the hearings? Where are the debates? Where is the action on American priorities? Where is the immigration bill? Nowhere. Where is the defense bill? And we are in the middle of two wars. Crucial, vital pieces of legislation for America, and this leadership says it simply does not have the time.

PROVIDING FOR CONSIDERATION OF MOTIONS TO SUSPEND THE RULES

Mr. HASTINGS of Washington. Madam Speaker, by direction of the Committee on Rules, I call up House Resolution 1045 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 1045

Resolved, That it shall be in order at any time through the legislative day of September 29, 2006, for the Speaker to entertain motions that the House suspend the rules. The Speaker or his designee shall consult with the Minority Leader or his designee on the designation of any matter for consideration pursuant to this resolution.
Madam Speaker, this Republican Congress has not made that task easy.

The American people do not need us to tell them why their country is head-
ed in the wrong direction. Every day that Congress fails to implement the critical recommendations of the 9/11 Commission, they feel less safe. Every day they struggle to get by on real wages that continue to decline, they feel less secure. And every day that seniors, children, and working families cannot afford their prescription drugs, that students and their families lie awake worrying about how they are going to be able to afford college tuition payments, and that tens of millions of working families try- ing to afford their drive to work in the morning, every day these problems remain unresolved, and people ask themselves why this Congress doesn’t seem to care about what really matters to them.

They need it to take their troubles and concerns seriously and for us to spend our time passing meaningful bills that will actually help them live their lives and provide for their families.

So today, my fellow Democrats and I are offering one last opportunity to our Republican colleagues to make the 109th Congress really mean something. This rule will give us the ability to consider bills today and tomorrow. In that short amount of time, we can pass legislation that will go a long way towards giving our constituents and fellow citizens the help they need to live safer, more secure lives, to achieve their goals and ensure a brighter future for their children.

I want to briefly mention five goals that we should all pledge to reach before we adjourn. Since 9/11, this administration and Republican Congress have tried to convince us that we are in a war for civilization. They used the urgency of that supposed fight to justify reductions in our fundamental liberties and wars that have cost our citizens dearly.

And yet they have largely failed to implement the overwhelming majority of the 41 security recommendations made by the 9/11 Commission, recommendations designed to prevent another attack here at home. And as was made clear by the response to Hurricane Katrina, this government is not prepared to respond to disasters. Nor has it adequately addressed weaknesses in our security system that could be exploited at any time, weaknesses in our ports, our economy, our communications, and in our intelligence community.

And that is why I call on this Congress to immediately pass legislation putting the commonsense recommendations of the 9/11 Commission into law. We have no reason for inaction, and the American people won’t accept any more excuses.

Threats to the security of our citizens do not come from the outside alone. Madam Speaker: They are threats to that security right here at home. Working families cannot hope to feel secure if they are living paycheck to paycheck and deeply in debt. And if those paychecks are not enough to live on, they do not have much cause for hope left. The real wages of America’s workers have fallen for years, squeezing the middle class and making it harder for our 7 million minimum wage workers to even get by. One way to address this problem would be to increase our minimum wage.

The majority leader bragged a few weeks ago that he has spent his entire career in Congress voting against minimum wage increases. And he isn’t alone. Under Republican control, Congress has refused to raise the minimum wage for 9 years, not even to adjust it for an increased cost of living. On the other hand, that cost-of-living adjustment has been made to the congressional salaries numerous times.

Well, enough is enough. My Democratic colleagues and I pledge here and now we will not support another congressional pay raise until we give America’s minimum wage workers a raise as well. There is no way to do it. We can immediately pass Representative George Miller’s Fair Minimum Wage Act or a similar amendment that Representative Hoyle authored to the Labor, Health and Human Services bill. Doing so would have an immediate and profound effect on millions of lives.

Madam Speaker, the deeply flawed Medicare part D legislation rammed through Congress last year has already come undone to roost. Millions of Americans face prescription drug premiums they cannot afford, a reality that weighs especially heavy on the elderly and the disabled.

This Congress should immediately give the Secretary of Health and Human Services the authority to negotiate for lower prescription drug prices. This would immediately help countless men and women get the lifesaving prescription drugs that they need.

Nor should we focus only on the present. If we hope to secure a strong future for our country, we must make access to higher education a right instead of a privilege. In our increasingly competitive global economy, knowledge is power like never before, and a good education is more priceless than ever. And what a shame it is that so many of our soldiers serving us now have joined the Guard and Reserve simply to be able to get an education.

During this Congress, Republicans responded to this crisis by cutting $12 billion in Federal student aid intended for our Nation’s college students. It was a shortsighted and harmful decision, and it should be immediately reversed.

I hope all my colleagues on the other side of the aisle will join the Democrats in restoring higher-education funding and expanding the size and availability of Pell Grants. We can do it by passing an improved Labor-HHS bill, and Democrats have the legislation to get it done.

Finally, Madam Speaker, while energy costs have compounded the daily
troubles of so many ordinary people. Congress has handed out huge tax breaks to the Nation’s largest oil companies and done it while they have made some of the greatest profits ever earned by American corporations. Since Republicans passed an energy bill in 2001, unnoticed by the administration and those same companies, it has been clear whom the Republicans stand with on this issue. But the Democrats always fault for an energy agenda that works for all Americans, of just for the oil industry. We should immediately begin rolling back tax breaks for big oil and using the savings to invest in alternative fuels that would give us true national energy independence and real relief at the pump and force them to pay the royalties they owe this government for their use of public lands.

Madam Speaker, today and tomorrow we will be presenting bills that will accomplish all these goals. I ask my friends on the other side of the aisle to think about the questions they will be asked when they go home in October. I ask them to think about how they are going to respond to a constituent who asks what they have done to lower tuition prices, to make our ports and mass transit systems more safe, to get prescription drugs into the hands of those who need it, and to increase the quality of life for minimum wage earners. I ask them to no longer ignore these critical questions and these critical needs.

In 2 days, with just a few simple bills, this Congress can improve the lives of tens of millions of people. The only real question left to ask is, why would we let such a precious opportunity pass us by?

Madam Speaker, I reserve the balance of my time.

Mr. HASTINGS of Washington. Madam Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Madam Speaker, I yield 5 minutes to the gentleman from Massachusetts (Mr. McGovern).

Mr. McGovern. Madam Speaker, first let me thank the gentlewoman from New York, the ranking member of the Rules Committee, Ms. Slaughter, for yielding me time. Let me associate myself with her comments.

Normally a rule that would allow us to consider suspension bills today would not be controversial. Suspension bills, after all, are usually bills that if they do not pass unanimously, they pass pretty much close to unanimously. They are naming of post offices, there are things that quite frankly are nice but they are not crucial for this Nation.

And, you know, I come to the floor today, along with others, to object to this because this Congress is about to recess and not do the people’s business. This Republican Congress has failed to make college education more affordable. This Republican Congress has failed on retirement security. This Republican Congress has failed on energy. It has failed on health care. It has failed on jobs and wages. And it has failed on Iraq and national security.

Mr. McGovern. Madam Speaker, today and tomorrow we will be presenting bills that will accomplish all these goals. I ask my friends on the other side of the aisle to think about the questions they will be asked when they go home in October. I ask them to think about how they are going to respond to a constituent who asks what they have done to lower tuition prices, to make our ports and mass transit systems more safe, to get prescription drugs into the hands of those who need it, and to increase the quality of life for minimum wage earners. I ask them to no longer ignore these critical questions and these critical needs.

In 2 days, with just a few simple bills, this Congress can improve the lives of tens of millions of people. The only real question left to ask is, why would we let such a precious opportunity pass us by?

Madam Speaker, I reserve the balance of my time.

Mr. HASTINGS of Washington. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, there have been several references today and in the past few days about the issue of the minimum wage. I think that we need to set the record straight as exactly what this House has done regarding that issue, because the issue has been around some time.

Before we went on our district work period in August, the week before we left at the end of July, this House did pass, did pass and sent over to the Senate, an increase in the minimum wage. It was attacked, or it was attacked on charges, or it was attacked on other issues. That is not anything that is unusual in this body. That goes on all the time. But what were those other issues? Those other issues provided tax relief for certain Americans. One of that was sales tax deductibility, for example, for States that do not have an income tax. My State happens to be one of those. Broad support in both Houses of the Congress.

The other was the, not the elimination of the death tax. That has support in both Houses. It unfortunately does not have the required filibuster-proof support in the other body. But that was part of that tax bill.

There is also a provision for research and development tax credits to keep our economy moving. That has broad support in both Houses. That was part of that tax bill. And then there were some other provisions in that also.

Attached to that, yes, was the minimum wage, I voted for that. I have to say, Madam Speaker, I am not one that is generally in favor of the minimum wage. But I felt coupling that together
with these other important measures to keep our economy going, to take care of those taxpayers in States that do not enjoy broad parity with other States, I thought it was important.

So if the issue then is to pass a minimum wage, it seems to me the message is sent to the other body, because that bill is still waiting over there. All they have to do in the final days of this session is to stop the filibuster and pass that bill over there, and we will have the minimum wage increased that we keep hearing over and over and over.

So, Madam Speaker, I just wanted to set the record straight that this House has acted on that, and I think in a very responsible way.

Madam Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Madam Speaker, let me just point out that the minimum wage bill passed here was buried in a bill that gave billions in tax breaks to some of Mr. Nation’s wealthiest.

Madam Speaker, I yield 6 minutes to the gentleman from Mississippi (Mr. THOMPSON), the ranking member on Homeland Security.

Mr. THOMPSON of Mississippi. Madam Speaker, homeland security is not a red or blue State issue. It is a red, white and blue issue. It is an American issue. When al Qaeda struck us 5 years ago, it did not distinguish its victims. The terrorists did not care if you were red or blue Stakel.

Party distinctions mattered little to terrorists. Mother nature, too, had little use for arbitrary partisan labels as we learned with Hurricane Katrina and Rita. Those terrible storms inflicted suffering on all the people of the gulf coast.

The American people expect that homeland security is one of our top national priorities, and the 9/11 Commission, the bipartisan panel we created, said in suggesting a priority. Congress told that panel to get to the bottom of what happened on 9/11 and give us a road map to guard against future attacks.

They did their part, Madam Speaker. This do-nothing, do-over Congress, squandered time and resources and is now trying to pass off do-little rhetoric as real action.

Where has all of that gotten us? Where in the world has Congress been for 5 years in those 93 days? In those 93 days, the question of what the 9/11 Commission chair and vice-chair asked a few weeks ago on the fifth anniversary of the attacks, as this Congress chose to spend the week leading up to the 9/11 anniversary on a horse slaughter bill and little else.

Mr. Kean and Mr. Hamilton lamented the lack of urgency across the board. Democrats agree with Mr. Kean and Mr. Hamilton; the adoption of the 9/11 Commission recommendations should be a no-brainer. And unless this Congress acts, it will hold do-not-care to its do-nothing label.

When we adjourn in a few days, Madam Speaker, this Congress will have failed, for example, to enact risk-based first responder funding. As a result, Washington and New York, areas we know the terrorists still want to attack, will still be vulnerable.

Congress has done even worse on interoperable communications. Just this week the Republicans have refused to include funding and resources in the FEMA provisions attached to the Homeland Security appropriations bill.

The House spent a day talking about protecting the lives of horses on the floor, but can’t find the time to debate legislation that will protect the lives of our first responders. I don’t know about you, Madam Speaker, but as a former volunteer firefighter, I would trade a horse any day for interoperable communications.

Madam Speaker, Democrats stand united in calling for the enactment of the 9/11 Commission recommendations. We insist that the Congress act immediately to provide first responders with the equipment, training and resources they need.

We call for stronger transportation and critical infrastructure security planning and support. It saddens me that the House in discussing the port security bill with the Senate refuses to provide funding for protecting subways, trains and buses across our Nation.

Did we not learn anything from the attacks in London, Madrid and Munich? Democrats want to secure our border, and we want to do it right.

Five years ago the President announced that as a former volunteer firefighter, I would trade a horse any day for interoperable communications.

Madam Speaker, this Congress refuses to call for an Office of Homeland Security to provide a robust and effective border security program. Half a decade later, Southwest Governors were forced to declare border emergencies, and the National Guard was deployed as the U.S.-Mexican border to assist with the growing border crisis.

Yet despite the urgency of the situation, Madam Speaker, this Congress refuses to call on the Department of Homeland Security to provide a robust and effective border security program. Half a decade later, Southwest Governors were forced to declare border emergencies, and the National Guard was deployed as the U.S.-Mexican border to assist with the growing border crisis.

And that is what the gentleman from Mississippi was talking about.

Let us look at the facts. This do-less-than-the-do-nothing Congress is the do-less-than-the-do-nothing of 1948, is failing to do what the government’s pressing priorities of the American people. That is what the gentleman from Mississippi was talking about.

Today, as ranking member of Homeland Security, I am releasing a report entitled, ‘LEAP’, Law Enforcement and the Protection of Our Communities, that lays out a strategy for doing this.

Democrats absolutely believe we need clear and robust Congressional oversight of homeland security efforts. Too much money has been wasted in our current efforts with few checks in place.

Lastly, Democrats have and will continue to ensure that the war on terrorism does not cost our privacy and civil liberties. As the Gilmore Commission told us a few years ago, counter-terrorism initiatives must not undermine our unalienable rights. These rights are essential to the strength and security of our Nation, life, liberty and the pursuit of happiness.

Madam Speaker, I agree with the Gilmore Commission that there is probably nothing more strategic that our Nation must do than ensure our civil liberties.

Madam Speaker, it is time for this Congress to stand up and do something. This Congress cannot continue to be the Congress that left security behind.

Mr. HASTINGS of Washington. Madam Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Madam Speaker, I yield 6 minutes to the gentleman from Maryland (Mr. HOYER).

Mr. HOYER. Madam Speaker, I thank the gentlewoman from New York for yielding and I thank her for her leadership on the Rules Committee in one of probably the most frustrating lapses in our history, because we have not had open debate.

Dana Milbank wrote about that this morning. Dana Milbank quoted DAVID DREIER. DAVID DREIER criticized Democrats yesterday for not having alternate proposals. DAVID DREIER’s Rules Committee prevented the Democrats from offering any amendments to yesterday’s commission bill. How ironic.

Mr. Speaker, I adopt the comments made by the distinguished gentleman from Mississippi who was right on point, in my opinion. I truly hope the American people are watching today because, if they do, they will see why this Republican Congress is the do-less-than-the-do-nothing Congress of 1948, is failing to do what the pressing priorities of the American people. That is what the gentleman from Mississippi was talking about.

Let us look at the facts. This do-less-than-the-do-nothing Republican Congress is projected to be in session just 93 days prior to leaving for the elections. The do-nothing Congress met 111 days. That is 17 fewer days in session than the do-nothing Congress of 1948, which was famously derided by President Truman. Now, if we had done a lot of work in those 93 days one could say, well, we did not need to meet as much because we did a lot of substantive work. Let us look at the record.

Today on this House floor, we have the time to consider a bill recognizing the 225th anniversary of the American and French victory at Yorktown, Virginia, during the Revolutionary War. That was a critical juncture in our history and deserves recognition.

Yet, we have still failed to enact a budget. We do not have a budget. Now Mr. and Mrs. Prophet. One of the Budget year begins just 4 days from today, but we have not enacted a budget for the American people.
Today on this House floor, we have time to consider a bill congratulating the Columbus Northern Little League Baseball Team from Columbus, Georgia. I think they are world champions. They are deserving of recognition, I do not regret the fact that we are doing that. God bless them. Congratulations.

Yet, this Republican-controlled Congress has failed to enact the recommendations, as was pointed out by the gentleman from Mississippi, of the 9/11 Commission.

One of our most important responsibilities is keeping America and Americans safe. That is what the 9/11 Commission was about. Republicans and Democrats came together. Governor Kean, former Republican governor of New Jersey, and Lee Hamilton, distinguished former Member of this body, a Democrat, came together and made recommendations, said we can make America safer, but they have given us Fs and Ds on our performance.

Today on this House floor, we have time to consider 12 post office renamings. I am sure that every American is concerned about the name of their post office. Me, too. Yet we have failed to enact a long overdue increase in the minimum wage, which has not been raised since 1997. People in America, the richest Nation on the face of the earth, 6.6 million working 40 hours a week and living in poverty, but we can rename 12 post offices.

We need real immigration reform to keep our borders safe, failed to address the fact that 46 million Americans have no health insurance. Yet we rename 12 post offices. And we have failed to enact legislation that moves us toward energy independence, a security issue, an economic issue and an environmental issue.

The truth is, Madam Speaker, this Republican Congress is failing the American people, and the fact that the Republican majority is here today is making us consider noncontroversial bills while key priorities go unaddressed is the clearest evidence of that failure.

I go around this country and Americans tell me they want a change. They want to move in a new direction.

As Tom Mann, a congressional scholar at the Brookings Institution, and Norm Ornstein, one of the most respected congressional scholars in America at the American Enterprise Institute, wrote yesterday in the Los Angeles Times, “This Congress hit the ground stumbling and has not lifted itself into an upright position. The output of the 109th Congress. they went on to say, “is pathetic, measured against its predecessors.” Republican and Democrat.

Mr. Speaker, this Republican rule is nothing less than a mission of failure and ineffectiveness. Even our Republican colleagues have had time donating to let. Let me quote Jack Kingston from Georgia, who has been such a prominent part of the Republican leadership, who said it best earlier this week. I quote Republican Jack Kingston, part of the Republican leadership, “It is disappointing where we are, and I think Republicans need to be up front about this. We have not accomplished what we need to accomplish.” If we were in church, the people would say “Amen.”

It is time, Madam Speaker, for a new direction in America.

Ms. SLAUGHTER. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I will be asking Members to vote “no” on the previous question so that I can amend the rule to provide that the House will immediately consider five important legislative initiatives that will actually do something to help American workers and their families.

Madam Speaker, I ask unanimous consent to insert the text of my amendment and extraneous materials immediately prior to the vote on the previous question.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from New York?

There was no objection.

Ms. SLAUGHTER. Madam Speaker, my amendment would provide for immediate consideration of five bills. The first one would implement the recommendation of the 9/11 Commission, something the House should have done years ago.

The next bill would provide for an increase in the minimum wage to $7.25 per hour. It has been more than 9 years since hardworking Americans have seen a change in the minimum wage, and this increase is long overdue.

The amendment would also allow the House to immediately consider a bill to provide authority to the Secretary of Health and Human Services to negotiate for lower prescription drug prices for senior citizens and persons with disabilities. Last week, megastores like Wal-Mart and Target announced that they will negotiate prescription drug prices due in part to their ability to negotiate with drug companies. Why should the government not be allowed to negotiate as well?

Under my amendment, we will also take up a bill to repeal the massive cuts in college tuition assistance imposed by the Congress and to expand the size and availability of Pell grants.

And finally, a “no” vote on the previous question will provide immediate consideration of a bill to roll back the massive tax breaks for large oil companies and to invest those savings in alternative fuels to achieve energy independence.

Madam Speaker, these are all measures that will actually do something to help improve the quality of life for all Americans, and will make them safer as well. That is what we were sent here to do.

So vote “no” on the previous question so that we can consider these important bills today and show the people of this great Nation that they come first.

Madam Speaker, I yield back the balance of my time.

Mr. HASTINGS of Washington. Madam Speaker, I yield myself as much time as I may consume.

Madam Speaker, I just want to touch on one issue of issues brought up here, and hopefully set the record straight as to what has happened.

There has been talk about Medicare. I just remind my colleagues that the Medicare legislation that had the prescription drug benefit was passed by a prior Congress. To be sure, it was put in place and implemented during this Congress, and that was done because we were really blazing new ground with that Medicare prescription drug reform and the Medicare reform in general. I might add, too, Madam Speaker, for 40 years when the other side controlled this body, there was no prescription drug benefits available at all for anybody on Medicare. So this was new ground, and we put into place, I think, very innovative that, frankly, have proven to have been very well accepted by people across the country.

I think the most important part of this Medicare reform was that we made this a mandatory program. To suggest that people once they turned 65 cannot make decisions, I think, is wholly underestimating senior citizens. In my district, for example, when the Medicare plan was fully implemented there were 20 plans to choose from in my district. Seniors had a number of choices. I had a forum where a number of seniors came up, asked questions and then made their decisions before the sign-up time. They will have another opportunity to sign up, again, of course in November.

While this program is only in place now for less than a year being implemented, by and large, across the country, it is being well accepted because it provides the coverage that was not available before, and I think that point needs to be emphasized. I might add that when we reformed this program there was a lot of criticism about the cost of this program. Sure, anytime you have a Federal program, it is going to cost some money, but their substitute plan cost infinitely more than what our plan was that we put into place.

So I just wanted to set that record straight and I think it is important.

Secondly, I want to talk a bit about border security and the overall war on terror. I just remind ourselves, earlier this month, we passed the 5-year time period when we were brutally attacked by terrorists on 9/11/2001, and let us remind ourselves, we have not been attacked in this country since that time. Other countries have faced international terrorism in London, in Spain, and in Indonesia comes to mind right at the top. Same people are behind this as international terrorist group.

So what we have done is to try to secure our country, and since we are involved in this war on terror, I think it
is clearly in our best interests to try to engage them on their turf. We have been successful thus far, but as President Bush has said, this is going to be a long, long process, but keep in mind, there is no question that the ultimate target in this international war on terrorism is al-Qaeda.

In response to that, we have secured our border. There is absolutely no question about that. In some cases, it was passed with bipartisan support, and in some cases, it was not, but the recognition is there, I think needs to be said, and that is that we are doing things to secure our border and make America safe.

The fact that we have not been attacked I think is credit to those that do that work to secure us on the homeland security, on the border, the first responders. They have all responded. Our intelligence community is much, much more robust than it was before and that has added to our security.

So, Speaker, there has been a lot that has been accomplished in this Congress, and I think that we can go into this break before the elections with a very high head.

The material previously referred to by Mr. LUTCHEN is as follows:

PREVIOUS QUESTION FOR H. RES. 1045 PROVIDING FOR MOTIONS TO SUSPEND THE RULES.

At the end of the resolution add the following new Sections:

Sec. 2. Notwithstanding any other provisions in this resolution and without intervention of any point of order it shall be in order immediately upon adoption of this resolution for the House to consider the bills listed in Sec. 3:

Sec. 3. The bills referred to in Sec. 2. are as follows:

(1) A bill to implement the recommendations of the 911 Commission.

(2) A bill to increase the minimum wage to $7.25 per hour.

(3) A bill to provide authority to the Secretary of Health and Human Services to negotiate for lower prescription drug prices for senior citizens and people with disabilities.

(4) A bill to provide massive increases in college tuition assistance imposed by the Congress and to expand the size and availability of Pell Grants.

(5) A bill to roll back tax breaks for large oil companies and to invest those savings in alternative fuels to achieve energy independence.

THE VOTE ON THE PREVIOUS QUESTION: WHAT IT REALLY MEANS

This vote, the vote on whether to order the previous question, on a special rule, is not merely a procedural vote. A vote against ordering the previous question is a vote against the Republican majority agenda and a vote in support of the opposition, at least for the moment, to offer an alternative plan. It is a vote about what the House should be debating.

Mr. Clarence Cannon’s Precedents of the House of Representatives, (VI, 308-311) describes the vote on the previous question on the rule as “a motion to direct or control the consideration of the subject before the House being made by the Member in charge.” To defeat the previous question is to give the opposition a chance to decide the subject before the House, even if the House, as the Cannon cites the Speaker’s ruling of January 13, 1920, to the effect that “the refusal of the House to sustain the decision for the previous question passes the control of the resolution to the opposition” in order to offer an amendment. On March 15, 1969, a member of the majority party offered a rule none of the House today defeated the previous question and a member of the opposition rose to a parliamentary inquiry, asking who was entitled to recognition. The Speaker, speaking from the rostrum, (4) said: “The previous question having been refused, the gentleman from New York, Mr. Fitzgerald, who had asked the gentleman to yield to him for an amendment, is entitled to the first recognition.”

Because the vote today may look bad for the Republican majority they will say “the vote on the previous question is simply a vote on whether to proceed to an immediate vote on adopting the resolution . . . [and] has no substantive legislative or policy implications whatsoever.” But that is not what they have always said. Listen to the Republican Leadership Manual on the Legislative Process in the United States House of Representatives, (6th edition, page 135). Here’s how the Republicans describe the previous question vote in their own manual: Although it is generally not possible to amend the rule, because the Majority controls the time when the motion for the previous question is defeated, control of the time passes to the Member who led the opposition to ordering the previous question. That Member, because he then controls the time, may offer an amendment to the rule, or yield for the purpose of amendment.”

Deschler’s Procedure in the U.S. House of Representatives, the subchapter titled “Amending Special Rules” states: “a refusal to order the previous question on such a rule [a special rule reported from the Committee on Rules] is a refusal to order the previous question on a resolution reported from the Committee on Rules, control shifts to the Member leading the opposition to the previous question, who may offer a proper amendment or motion and who controls the time for debate thereon.”

Clearly, the vote on the previous question on a rule or resolution often means the difference between an ordinary process that allows those who oppose the Republican majority’s agenda to offer an alternative plan.

Mr. HASTINGS of Washington, Madam Speaker, I yield back the balance of my time and move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Ms. SLAUGHTER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

WAIVING REQUIREMENT OF CLAUSE 6(a) OF RULE XIII WITH RESPECT TO CONSIDERATION OF CERTAIN RESOLUTIONS

Mr. PUTNAM. Madam Speaker, by direction of the Committee on Rules, I call up House Resolution 1046 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 1046
Resolved, That the requirement of clause 6(a) of rule XIII for a two-thirds vote to consider a resolution reported from the House on the same day it is presented to the House is waived with respect to any resolution reported on the legislative day of September 26, 2006, providing for consideration or disposition of any of the following measures:

(1) A bill to authorize trial by military commission for violations of the law of war, and for other purposes.

(2) A bill to update the Foreign Intelligence Surveillance Act of 1978.

A conference report accompanies the bill (H.R. 5441) making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2007, and for other purposes.

S. 2, House Resolutions 654 and 767 are laid upon the table.

The SPEAKER pro tempore. The gentleman from Florida (Mr. PUTNAM) is recognized for 1 hour.

Mr. PUTNAM. Madam Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentlewoman from California (Ms. MATSUI), pending which I may myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

(Mr. PUTNAM asked and was given permission to revise and extend his remarks.)

Mr. PUTNAM. Madam Speaker. House Resolution 1046 is a same-day rule that allows the consideration today of certain legislation that may be reported from the Rules Committee.

Specifically, it allows for the consideration or disposition of a bill to authorize the trial by military commission for violations of the laws of war, a bill to update the Foreign Intelligence Surveillance Act of 1978, and the Homeland Security appropriations conference report for fiscal year 2007: Three very significant pieces of legislation that need to move through this body before we break for the October District Work Period. It is imperative that we pass this same-day rule. This resolution lays the foundation so that the House can complete its business and send outstanding legislation to the Senate and to the President’s desk. We are working to move this process along toward the adjournment of the 109th Congress.

The House Committee on Rules will meet later today to provide the rules for possible consideration of these items, such as the Homeland Security appropriations bill, the legislation to deal with these violations of the laws of war, modernizing our approach to dealing with terrorists and those who plot to blow up airliners over the Atlantic, who fly planes into the symbols of our military power, the symbols of our economic power, those who would blow up our embassies, those who would target innocent civilians in a
way that is unprecedented in the history of modern warfare, as well as legislation to update and modernize the Foreign Intelligence Surveillance Act of 1978.

Obviously, you can tell by the title of the act, the Foreign Intelligence Surveillance Act of 1978, that it is badly in need of reauthorization. Clearly, technology changes, the sophistication of communications, and the diversity of the threats that face this Nation all beg for us to act and modernize that legislation so that law enforcement and intelligence agencies have the tools they need to prevent future attacks on American soil and to protect our forces and our civilians abroad.

I am pleased this same-day rule will facilitate the timely deliberation, discussion, debate of these important issues. I urge my colleagues to support this. This is a procedural motion that allows us to move forward with the meat and potatoes that are important for the safety and security of this country, those legislative items that will be considered later in the day. So this is an important procedural obstacle that we need to clear out of the way to allow for consideration of these bills. I am confident that we can move forward to the remaining agenda items for this Congress.

Madam Speaker, I reserve the balance of my time.

Ms. MATSUI. Madam Speaker, I thank the gentleman from Florida for yielding me the customary 30 minutes, and I yield myself such time as I may consume.

(Ms. MATSUI asked and was given permission to revise and extend her remarks.)

Ms. MATSUI. Madam Speaker. Democrats and Republicans agree in the primacy of national security issues. But Democrats also recognize that middle-class Americans are worried about several other things as well. All of which affect a different type of security: Their economic security. And Democrats are prepared to remain here until the full scope of problems facing our constituents is addressed.

H. Res. 1046 is a bipartisan law rule suspending the rules of the House. It would allow the majority to bring several bills to the floor the same day the Rules Committee meets to report those bills. Two of the three items allowed to come to the floor were made public late last night. The third bill may be passed by the Senate today.

What this means is that, yet again, it will be almost impossible for Members to read the bills before being asked to vote on them. This abbreviated approach to legislating is not new. However, the 109th Congress seems likely to have taken this to a new level. We are on track to set a record for the fewest days spent voting in our lifetimes.

This is beyond being unreasonable to the American people. They sent us all here to do a job, to vote, and to do our part to fix the problems they face each and every day. They pay the price for our inaction at the pharmacy, at school, and in their paychecks. So it is worth taking a look at what remains undone when Congress works so little. We still need to fully implement the 9/11 Commission recommendations here, comprehensive legislation that puts us on the path to energy independence by focusing on alternative and renewable sources of energy. We should allow the Federal Government to negotiate prescription drug prices for seniors, and they need to be fixed until 2009. That is unacceptable.

According to the 9/11 Commission, the Federal Government still does not have a consolidated terror watch list at our airports or anywhere within our borders. The majority has not taken action to make sure that first responders can talk to each other, a key problem on September 11, 2001. According to legislation passed by this majority, the issue will not be fixed until 2009. That is unacceptable.

The majority has defeated multiple Democratic attempts at fixing these problems. Democrats want to fix these holes before we leave.

Let us consider another of the issues that I mentioned. The need to create a forward-thinking energy policy that places us on the path to energy independence. Energy touches the core of our national security during a time of global upheaval, so it affects the economic security of every person across this country and it affects the ability of businesses to compete. We cannot afford to be behind in competitive regions of the world, and it is impractical and unsurprising that we can drill our way out of this problem.

It is long past due for the Federal Government to make an unprecedented commitment to our energy independence. We need to drive the development and deployment of renewable and alternative sources of energy. We also need to encourage the use of energy efficient technologies to help our families and businesses reduce their energy consumption.

Achieving energy independence will not happen overnight. It will require a long-term sustained effort of government, businesses, and families. But America has always been up to challenges like this, and Democrats want that effort to start now, before we go home for the elections.

One other issue we failed to address is the need for the Federal Government to negotiate lower prescription drug prices for seniors. Almost eight out of every 10 seniors who signed up for the new Medicare prescription drug benefit in California and other so-called donut hole states. This means that almost 300,000 seniors and disabled workers will see a gap in coverage. Even though these individuals will receive no help with their prescriptions, they are required to pay premiums to the Federal Government.

And those drug prices are higher than they need to be. Congress already allows the Veterans Administration to negotiate lower prescription drug prices for veterans. As a result, veterans get the prescriptions they need for less. It is a great program. But when Congress passed the Medicare prescription drug bill, it specifically prohibited the Federal Government from the same price negotiation for seniors. That is wrong, and Democrats will fight to fix this problem before we leave town.

Madam Speaker, also as a result of working only 86 days thus far, we have neglected to fix the misguided cuts in student aid that Congress approved earlier this year. In February of this year, the majority voted for the largest cut in student aid in history: $12 billion. Congress took this vote despite the fact that parents and students all across the country are struggling to access this doorway to opportunity.

With the cost of college skyrocketing, the average college student is paying more than $100,000 in debt. Many are paying above-market interest rates in order to finance their education. Madam Speaker, a college education should be an opportunity, not a burden. Democrats are committed to reversing these terrible cuts before we leave town so that every student has the opportunity to succeed.

In closing, Madam Speaker, Democrats are interested in addressing the full range of problems that worry the American people. As I have mentioned, we should start by allowing the Federal Government to negotiate prescription drug prices, we should also reverse the cuts to student aid, and we are prepared to work until we do so.

Madam Speaker, I reserve the balance of my time.

Mr. PUTNAM. Madam Speaker, I appreciate my friend’s comments on the prescription drug debate, the energy debate, and the student aid debate. I would remind my friend that we are here to facilitate action on the Homeland Security appropriations bill, the Foreign Intelligence Surveillance Act modernization, and the military tribunals bill, and with her help we can move this procedure along and continue to act on behalf of the American people to make them safer.
Madam Speaker, we need to get the boots on the ground to secure our borders, the money for 1,200 new Border Patrol agents, new Customs officials, and the modernization and authorization for our intelligence and law enforcement to utilize the best technology and the best communications to prevent and disrupt any potential plans to attack our homeland. Those are the items that are embodied in this bill that we are considering at this time, and, as I said, with her assistance we can move forward and then be able to again address the other issues that she mentioned, on top of the work that we have already done in passing three major energy bills in the past 18 months that deal not only with fossil fuels and the need to reduce our dependence on foreign oil, that deal with the expansion of refining capacity in this country, which was largely blocked by the other side of the aisle, an energy bill that provides the form of monetary grants to those innovative individuals around America who find the next big thing, who can innovate on a hydrogen type of fuel cell or the hybrid and continuing to build on the notions of tax incentives that we passed through this body that encourage people to purchase hybrid vehicles, looking at renewables, solar, and wind.

All of those things, Madam Speaker, are part of the energy bills that we have passed in this House, and now we need to pass these items of important national security. That is what this bill does.

Madam Speaker, I continue to reserve the balance of my time.

Ms. MATSUI. Madam Speaker, I yield 5½ minutes to the gentleman from California (Mr. GEORGE MILLER), my good friend.

Mr. GEORGE MILLER of California. I thank the gentlewoman from California for yielding.

Madam Speaker, here we are, close to adjournment, maybe 48 hours from now the Congress will go home for the elections, and we will leave millions of Americans who work at the minimum wage, who are stuck at a poverty wage, because of the failure of this Congress to address that issue.

What that means is that for those millions of Americans who go to work every day, all year long, at the end of the year they will end up poor. They end up with the inability to provide for their health care, to provide for their transportation and the education of their families.

Why is that so? Because for 10 years, the Republicans in the Congress have successfully blocked any increase in the minimum wage, and they have done it proudly. They believe that these people aren’t entitled to any more money than the minimum wage that they are receiving today. Now, that minimum wage is less purchasing power than at any time in the 50 years we have had the minimum wage. These people are falling behind every day, every month.

We just saw yesterday in the newspapers that health care costs went up 7 percent. We know what has happened to families with energy costs. We know what has happened with utility costs. We know what has happened with educational costs and with the price of groceries. We've gone back up in these people's lives, but what hasn't gone up is the wages they work at.

The Republican Party is apparently perfectly content, even though we have the votes to pass the minimum wage, we have the votes in the Senate to pass the minimum wage, they are completely content to go home without an increase in the minimum wage.

It is shameful, it is sinful, the treatment of these people and the families in which they reside. The Republicans cannot see their way clear to put a clean vote on the minimum wage up or down on the floor of the Congress so that we can increase the financial capabilities of these families.

When you have the testimony of people like the Wal-Mart Corporation, which prides itself in presenting to America everyday low prices, theoretically, the least expensive place you can shop for the goods that they carry, they are now asking for an increase in the minimum wage because they say they are going to continue to their stores simply don't have sufficient money to provide for the necessities of life. They don't have the money to buy the necessities they need, even in their stores. That is an indication of how important an increase in the minimum wage is.

The other terrible tragedy is that the Republicans refuse to roll back the raid on student aid that they engaged in earlier this year, when they took $12 billion out of the student aid accounts. They didn't do that to help students, they wanted to put those dollars in their children's colleges because of the debt, because of the opportunity for hundreds of thousands of students because of the cost.

Because of the actions of the Republicans in this session of the Congress and the refusal to roll it back, students will now be paying their minimum wage up or down on the floor of the Congress so that we can increase the financial capabilities of these families.

That is the investment they made. They took $12 billion that the Congress and the government has been using to finance student aid programs, and they put it over here to pay for the tax cuts to the wealthiest people in this Nation.

That is the investment they made. They took $12 billion that the Congress and the government has been using to finance student aid programs, and they put it over here to pay for the tax cuts to the wealthiest people in this Nation.

The President had pledged to raise the Pell Grant to $5,100. Five years later, that hasn't been done. The President has broken his promise. We have been asking that we increase the Pell Grant to $5,100 to make it easier for the students to take that $12 billion they took out of the student aid account and recycle it into the loan programs for students so that we can continue to try to help students meet the cost of education.

Congresswoman MATSUI talked about the average student today graduating with debt of some $17,500. We are now seeing a significant number of students who are perfectly qualified to go to college, to take advantage of college education, and they are not doing so, or they are postponing it because they are worried about whether or not they will be able to manage the debt when they graduate or whether they will be able to assemble the resources to go to college on a current basis.

That is a tragedy for this country. At a time when we talk about the competitiveness of this Nation, at a time when we talk about the need to have an educated population, to deal with innovation, to deal with discovery, to deal with the future economy, we are foreclosing the higher educational opportunity for hundreds of thousands of students because of the debt, because of the cost.

This is a tragedy. This is the tragedy of the Republicans’ failure to address the needs of middle-income Americans who are struggling with their kids, to pay their energy bills, and minimum wage families who are simply struggling to survive in America today. It is a tragedy and a blight on this session of the Republican leadership in this Congress.

Mr. PUTNAM. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I think the gentleman protests too much because he failed to acknowledge that he had an opportunity to vote on the minimum wage on this floor in this body. He had an opportunity to vote on tax credits for research and development, something that is certainly important to California, his home State, the birthplace of the silicone revolution and which allows us to keep on the cutting edge of the economy.

The research and development tax credits allow us to compete in the global marketplace so that companies can be global leaders and bring in the best talent from around the world, create jobs and build businesses here in this country. Not only did he vote against the minimum wage for the lowest end of the workforce spectrum, but he voted against extending those same incentives to invest in laboratories, to invest in innovation, to invest in intellectual capital in this country at the high end of the workforce spectrum as well.

He also denied the opportunity for 10 States in this country to be able to extend the sales tax deductibility, the
same type of State and local deductibility that other states enjoy on a regular basis in this country. And he denied hundreds of thousands of small businesses around this country and family farms the opportunity to keep what they have built, to allow their businesses to pass from one generation to another.

He has had the opportunity to vote on a minimum wage, and he chose to vote against it. I think he protests too much about the success of the agenda that the House has put forward.

When it comes to education, we have increased student loan limits from $3,500 for first-year students to $3,500 and to $4,500 for second-year students. There are now 1 million more students today receiving Pell grants than there were 5 years ago. That is substantial progress in higher education, investing in the future, investing in the intellectual capital of this country. That is the real story.

And what is it that prevents him from talking about the actual issue at hand? Why can’t we hear from the other side as much eloquence about the need to modernize the Foreign Intelligence Surveillance Act? Why don’t we hear the same eloquence about the need to complete our work on the Homeland Security appropriations bill, which will continue the work of securing our border, add 1,200 new Border Patrol agents, add new Customs agents, make our ports safer, continue to build on the good work that goes on throughout this country by hard-working men and women who are doing their best to prevent future terrorist attacks?

Why can’t he talk with the same eloquence, the same emotion, the same passion, about the need to pass meaningful legislation on tribunals to deal with those terrorists who have already been captured trying to do great harm to this country? Those are the issues before us and that is the debate that is missing from the other side.

Madam Speaker, I reserve the balance of my time.

Ms. MATSUI. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, to correct the record, there has been no clean vote to raise the minimum wage, and it is that important.

Madam Speaker, I yield 3½ minutes to my good friend, the gentleman from Wisconsin (Mr. OBEY).

Mr. OBEY. “Whatever you do for the least of your brothers, you do unto me,” said Jesus, who was fairly important in the history of the world told us a long time ago.

But what has the Congress done for the least of our brothers and sisters? It is an indication of the values of those on the majority side of the aisle when they brag about the fact that they held the minimum wage increase hostage to their determination to give away $289 billion to the wealthiest 7,500 people in this country every year. Their deal was “we ain’t going to do nothing for the little people of this economy unless you first provide even more money in the pockets of the very wealthiest people in this country.”

I defy you to show me two farms in any congressional district in the country that would pay the estate tax under the alternative that the Democrats proposed. You may not remember what the numbers were, but I do.

Mr. PUTNAM. Madam Speaker, will the gentleman yield?

Mr. OBEY. No. You have plenty of time.

Mr. PUTNAM. The gentleman asked me a question. I’m happy to answer. I’ll provide him a list of farms in Central Florida.

Mr. OBEY. Regular order. If you are going to manage a bill, you need to understand the rules of this House.

The SPEAKER pro tempore (Mrs. MILLER of Michigan). The gentleman from Wisconsin has the floor.

Mr. PUTNAM. Would the gentleman yield?

Mr. OBEY. No, I would not. I told you I would not. You have got half-an-hour. I have 3 minutes. Why should I yield to you?

Mr. PUTNAM. Will the gentleman yield?

Mr. OBEY. No, I will not.

The SPEAKER pro tempore. The gentleman from Wisconsin controls the time.

Mr. OBEY. You can answer on your time. I am answering you on my time. You answer on your time. Now, I would appreciate no further interference from the gentleman.

The gentleman wants to brag about the prescription drug proposal in the homeland security bill. The majority party nailed into that prescription drug bill last year a prohibition against the Federal Government negotiating for lower prices. So where did the senators have to go? Wal-Mart finally announced they are going to provide lower drug prices.

I suggested in the conference in the Homeland Security bill that we add language to that bill which says notwithstanding any other provision of law, the Secretary of Health and Human Services shall enter into a contract immediately with Wal-Mart to negotiate on behalf of the United States Government with drug manufacturers and suppliers regarding prices to be charged for prescription drugs under Medicare Part D.

It is a sorry day when the majority party stands shoulder-to-shoulder with the pharmaceutical industry against the recipients under Medicare Part D, labeled “part dumb” by a lot of the seniors in my district. And it is a sorry day, it is a sorry day, when we have to rely on Wal-Mart in order to do what the public representatives of this Congress fought to do, which is to allow our own government to negotiate for lower prices, rather than relying on this Rube Goldberg monument that makes people go to Canada in order to get some mercy in terms of drug prices.

They want to freeze the minimum wage. They freeze the minimum wage. It doesn’t surprise me. The minimum wage is frozen almost as cold as their hearts.

Mr. PUTNAM. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, the gentleman has been on this floor a number of years longer than I have, and certainly he understands the rules. But he also understands it is normal procedure that when one Member asks a question of another Member, that surely it is appropriate for the other Member to rise and ask that that Member yield so they may be given the opportunity to answer.

I regret the personal tone that this debate has taken, because these are important issues, these are important challenges our Nation faces and the simple fact is, the gentleman doesn’t want me to answer those questions, because he knows that we have acted in each and every one of those cases.

Since the beginning of Medicare, the Democratic majority did not take advantage of the opportunity to modernize it so that it actually helped the people it was intended to serve by providing them a prescription drug benefit. It was this majority that provided that. Today, millions of Americans who do not have the same type of State and local deductibility that other states enjoy on a regular basis in this country by hard-working men and women who are doing their best to prevent future terrorist attacks.

Why is there such a bitterness that Wal-Mart and Target and other chain drugstores who will undoubtedly follow have used the marketplace to lower drug costs? Are you so angry that the government didn’t force them to do it? Are you so angry that they responded to market conditions, and today millions of people will be able to get $4 pills without the government having to have intervened?

Does it require a fiat to make you feel fulfilled? The simple fact that they made a good business decision through competitive forces in the marketplace and they lowered prices and people will benefit and consumers will benefit, and they will be healthier and they will live longer lives, does it make you angry that that did not come out of this body, that it didn’t come out of some decree? Is that what the bitterness comes from, that the market worked?

There are good things coming out of this body, but, more importantly, Madam Speaker, good things come from functioning markets, $4 pills by the largest retailer in the world that didn’t come out of legislation, that didn’t come out by fiat, that didn’t come by decree. It came because market forces worked, and consumers benefit and patients are healthier and patients have access to pills at a lower cost than they would have before.

This is a same-day rule to deal with foreign intelligence surveillance, to
Mr. PUTNAM. Reclaiming my time. The SPEAKER pro tempore (Mrs. MILLER of Michigan). The gentleman from Florida has the floor. 

Mr. PUTNAM. Thank you, Madam Speaker. 

Mr. OBEY. You don’t like the answer. 

Mr. PUTNAM. I am reclaiming my time. I offered you the time. I redeclared. That is my understanding of how the situation works. And we heed the gavel. 

Mr. TIAHRT. Madam Speaker, there has been some discussion about prescription drugs and the difference in prices. 

Mr. OBEY. Well, that philosophy has been used in Federal procurement for a very long time. In fact, during the 1980s, there was a lot of controversy during the expansion of our defense capabilities using sole source contracts. And when they reviewed these sole source contracts, the government found that in some cases, a pair of billets was being sold for $750. In other cases, a hammer was sold for $1,200 under, again, a sole source contract. They even had coffee pots that were costing $4,200, again, a sole source contract. 

And there was a big shift in philosophy in the procurement side of the Department of Defense to competition, competitive contracts, having two companies bid against each other to provide the same service or object so that they could cut costs. 

What we have done in Medicare part D is provide a market-based strategy where individual companies are competing for the lowest price out there for the consumer, the person who is receiving the pharmaceuticals. And what we have seen is a significant reduction in price. And the competition has gotten so strong now that the bigger companies in our economy are starting to weigh in, like Wal-Mart. Wal-Mart now has gone to these prescription manufacturers and they have come up with a new method of being more competitive than everyone else.
Now, some people say Wal-Mart is an evil company. It is exactly what is wrong with America. I don’t think Wal-Mart has been significant in contributing to productivity. In fact, they contributed about 20 percent of the productivity growth in the United States. They have raised the standard of living across America. They have 1.3 million employees. They have done an excellent job. And, today, they are moving into the pharmaceutical market where they are bringing competition to the prescription drugs business. They are going to offer prescription drugs at a discount, and you can try to get off track all you want, we are going to stay on track. This is not such a question of less days, which we will be here, this is a question of the less progress more than anything else.

You tell me if it is not irresponsible 5 years after September 11, 2001, that this Republican Congress is set to adjourn without fully implementing the 9/11 Commission recommendations to make our country safer. I am listening. You tell me if it is not irresponsible that this Republican Congress pays lip service to the importance of higher energy costs, but is set to adjourn after making it harder to pay for college by cutting $12 billion over the next several years to student aid.

You tell me if it is not irresponsible that the Republican Congress has been another rubber stamp for the White House’s Big Oil policies, and is set to adjourn without passing an energy plan that decreases dependence on foreign oil. What is our answer? We are addicted to oil. Mr. President, you said in the State of the Union, and that is why we are going to drill off five States in this union. We lost our addiction. I guess, on the way.

It is irresponsible that this Congress is set to adjourn without increasing the minimum wage to $7.25 for up to 15 million hardworking Americans and their families. That is irresponsible. You attached it to another bill. You are good at it. You look back over the last several Congresses, you are good at attaching a business. It is indeed irresponsible that millions of Americans are suffering the economic injustice of working a full-time job and earning a wage that leaves them below the poverty line. You tell me if it is not irresponsible that wages are stagnant, and that we are $1,700 below the median income of 6 years ago. You tell me if that is responsible. The fact is that it takes a minimum wage earner more than 1 day of work just to earn a full tank of gasoline.

The minimum wage is no longer a livable wage. Get it? As health care, grocery, energy and housing costs skyrocket for average Americans, house Republicans would rather help their CEO friends.

Madam Speaker, I urge the defeat of the previous question.

Mr. PUTNAM. Madam Speaker, I remind the gentleman again that the House had an opportunity to pass a minimum wage bill, and we passed it over the objections of the other side of the aisle. We passed it.

Mr. Speaker, I reserve the balance of my time.

Ms. MATSUI. Madam Speaker, I yield 4 minutes to the gentleman from Ohio (Mr. RYAN).

Mr. RYAN of Ohio. Madam Speaker, I want to interject myself in the spirit of decorum that we are having here and want to thank both sides for making this a bit more fun than normal. But we heard a couple of words here today, one of them was “bitterness,” one of them was “market forces,” and one was “business.” If you look at the Republican-controlled Congress and you look at running the government like a business, I think you fail on all accounts. I think when you talk about losing $9 billion in Iraq, you are having here and want to thank both sides for making this a bit more fun than normal. But we heard a couple of words here today, one of them was “bitterness,” one of them was “market forces,” and one was “business.”
We have to invest in these people. You can’t compete with 300 million people against the whole globe and say just a small fraction of our society is going to be able to compete. If you can afford to go to a good private university, if you can afford the tuition, then you are just fine. If you are a trust fund baby, you are going to be just fine.

Let us invest in the American people. We need everybody on the field playing for us. And I think Mr. OBER’s frustrations is that day in and day out the guys go to great lengths to walk the planks for your political donors. That’s the bottom line. You can’t argue away from negotiating down drug prices.

And thank God in your case for Wal-Mart. They saved you with Katrina bringing water down and making sure it got in. Thank God for Wal-Mart. If it was not for them, we would really be in a trick. Their $4 prescriptions are going to be helpful, and down in Katrina, they were the ones getting the water in when FEMA was like a three-ring circus.

That is not running government like a business. So get your actions to match your rhetoric, and we will all be able to get along a lot better.

Mr. Putnam. Mr. Speaker, I appreciate the gentleman’s remarks. I am glad he does not represent the collectivist view of some on the other side of the aisle in that he appreciates that market forces, not government decree or government fiat, are driving down prices. I am glad that he recognizes the role that free enterprise plays in delivering better, faster, cheaper health care to patients in need.

This bill before us, though, Mr. Speaker, is about updating the Foreign Intelligence Surveillance Act, moving forward on homeland security appropriations, and moving forward on a tribunal issue so that we deal with the terrorists who have already waged war on American soil and those who have been collected in the battlefield in the subsequent conflicts. This is the issue before us.

While there has been a great deal of passion and bitterness thrown around this Chamber, this is a same-day rule to move forward on those three items. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. Gohmert).

Mr. Gohmert. Mr. Speaker, I couldn’t agree more with one of the statements from a colleague on the other side of the aisle when he said a lot of contradictions are going on here.

Here we are talking about a bill to bring to the floor now for national security purposes, that is what it is about, but we are hearing all of these other things that we ought to do this and we ought to do that.

I remind my colleagues on the other side of the aisle, it is this body that passed the minimum wage raise and it was the body down the hall that did not. I would encourage them if they could go make these same speeches down at the other end in the offices of the Democrats, then we might could get four out of all of those Democrats who are not Republicans and get that minimum wage bill passed, and we would be in good shape then, if that is what they feel.

The contradiction, though, when we talk about a lot of contradiction going on here, Mr. Ryan, spoke about the other side of the aisle in that all I could think of was the contradiction in complaining about gas prices, what they are doing to people. Yes, they are hurtful. They hurt our country badly. But the contradiction was why they acted so belligerent when prices of gasoline went up. That is what they fought vehemently for all of these last 2 years that I have been here. No, this is exactly what they fought for when they opposed drilling in ANWR. It is exactly what they fought for when they opposed drilling in ANWR. It is exactly what they fought for when they opposed an energy policy bill finally getting through that went basically much on party-line vote.

And then after Katrina and Rita when we were so fearful about all of the refineries being in trouble, we knew we needed more refineries. We knew we needed alternative energy incentives. And what happened, we passed the energy bill in October, again basically on a party-line vote, that would create incentives for independent oil companies to build refineries, including away from the coast, would increase incentives for biofuels, alternative energy sources, and they were fighting over that.

So the contradiction is how you could fight against all of the things that would give us energy independence and then seem upset that the gas prices went higher.

Thank goodness the policies we set in place a year ago are starting to work because that is national security. The rest of national security are some of the things we are taking up for the good of our troops and this country, and I would urge the passing of this rule.

Ms. Matsui. Mr. Speaker, I yield 10 seconds to the gentleman from Ohio (Mr. Ryan) to respond.

Mr. Ryan of Ohio. Just to clarify to the gentleman from Texas, our frustration is as the gas prices were high, you all were putting $12-15 billion in corporate subsidies to the oil companies while they were having record profits. That’s the frustration.

Mr. Putnam. Mr. Speaker, I am pleased to yield 3 minutes to the gentleman from Georgia (Mr. Gingrey).

Mr. Gingrey. Mr. Speaker, I thank the gentleman, my colleague on the Rules Committee for yielding me this time.

As my colleague pointed out in his remarks, this is about a same-day rule. It is very simple and straightforward, as Mr. Putnam explained so clearly. We are asking this body to allow us to debate and pass legislation regarding military commissions so that we can try and bring to justice these terrorists. And by the way, 164 of my colleagues were here on the aisle yesterday voted against that.

Also in this same-day rule is to allow us to address this issue of wiretapping necessary to listen to the conversations, international conversations between Al Qaeda and people in the country who would do us harm, to modernize that 1978 law which needs modernization to protect our American people.

Mr. Speaker, I was in my office and did not intend to speak on this rule, but I heard my colleagues talk about all of these issues and things that we haven’t done, and then they got to the Medicare modernization and the all important prescription drug part D plan that the House of Representatives delivered to our American seniors back in November of 2003 when they were asking for the 40 years that the Democrats controlled this body for relief and got now. And now they are railing against this issue that we finally delivered to the pharmaceutical industry and that we would not allow government price controls. No, we would not because we don’t like price controls. We want the free market to determine the prices; and, indeed, they can’t deny that they finally determined that prices are coming down. This is working, and they can’t stand it.

Mr. Speaker, I want to point out finally that in their version of the bill, and I will mention just one, back in 2000, Congressman Stark of the Ways and Means Committee had a bill that included the very same language in regard to no government price controls, let the free market work, and 204 Democrats voted in favor of that. Mr. Speaker, will the gentleman yield?

Mr. Gingrey. I yield to the gentleman from Ohio.

Mr. Ryan of Ohio. I appreciate the gentleman yielding.

You are talking about letting the free market work. You shut down. You have a closed market with pharmaceuticals. We wanted to allow reimportation from Canada; you didn’t allow that. And if the free market was working, just like Wal-Mart, I am sure they are buying in bulk and using the negotiating power of Wal-Mart, just like they do on everything else to keep the prices down.

You are not allowing the free market to work.

Mr. Gingrey. Reclaiming my time, I know the gentleman knows that in the defense appropriations bill, that we have language in there right now that would allow it to be legal for our soldiers to go across the border either into Canada or Mexico and buy those lower priced drugs.
But the point is this bill, Medicare Modernization and Prescription Drug Act, is lower in prices to the point where all of that is not even necessary.

Ms. MATSUI. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I urge all Members to vote "no" on the previous question. If the previous question is defeated, I will amend the rule so the House can immediately take up five important bills that actually do something to help Americans and make them safer.

Mr. Speaker, I seek unanimous consent to insert the text of my amendment and extraneous materials immediately prior to the vote on the previous question.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from California?

There was no objection.

Ms. MATSUI. Mr. Speaker, my amendment provides for immediate consideration of the following five bills:

One, a bill to implement the recommendations of the 9/11 Commission.

Two, legislation to increase the minimum wage to $7.25.

Three, a bill to give authority to the Secretary of Health and Human Services to negotiate for lower prescription drug prices for senior citizens and people with disabilities.

Four, a bill to repeal the massive cuts in college tuition assistance imposed by the Congress and would expand the size and availability of Pell Grants.

Five, a bill to roll back tax breaks for large oil companies and invest those savings in alternative fuels to achieve energy independence.

Mr. Speaker, every one of these bills will make important changes to help hardworking Americans and their families. These bills should have been enacted a long time ago. But there is still time; there is still opportunity to do something today. All it takes is a "no" vote on the previous question. For once, let's do the right thing and help the people we were sent here to serve.

Again, vote "no" on the previous question.

Mr. Speaker, I yield back the balance of my time.

Mr. PUTNAM. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, in my short 6 years here, I don't think I have ever seen nerves so raw on a same-day rule. It is, I think, a function of the calendar, a function of the end of the session where temperatures run high and passions are certainly in overdrive as we all are watching the clock wind down and wanting to make our points to the American people.

The points that are embodied in this legislation before us at this moment are keeping America secure. Most of the debate on this same-day rule has not been on that hand.

We have successfully passed Medicare modernization, something that was not accomplished in the previous 40 years.

It was this majority that accomplished that and gave seniors the modern access to prescription drugs that they did not have previously.

It was this Congress that delivered the moment, to offer an alternative plan. It it was this Congress that passed those items in three different vehicles, including a passage that would have fixed the Clinton administration's billion dollar giveaway to Big Oil in the Gulf. That was this Congress that passed that legislation, over the objections of the minority.

The issue at hand is homeland security appropriation funds that are necessary to put boots on the ground on the border; to hire 1,200 new Border Patrol agents; to expand the Customs capabilities; to use the technology and communications capacity that this great country possesses to break up, disrupt, and arrest terrorists who are plotting to do us harm. That is in this bill.

To update the Foreign Intelligence Surveillance Act of 1978. Surely, surely, there must be agreement that this Foreign Intelligence Surveillance Act of 1978 should be modernized to reflect things like the cell phone, multiple access to the Internet, all the tools the terrorists use to plot against innocent women and children and civilians and our military personnel at home and abroad. This is the vehicle to accomplish that. This is the vehicle that allows us to move those items that are so important to this agenda.

We have already moved the energy items they were talking about. Passed. We have already passed out of this body a minimum wage that they were so eloquent and so passionate about. Many voted against it, but it passed this body under this majority. We have passed the prescription drug plan. We have increased the number of students benefiting from Pell Grants.

But this piece of legislation that nobody wanted to talk about deals with national security, protecting our people, our plow Nation braving to bear to break up, disrupt, and arrest terrorists that are plotting to do us harm.

Let us move this same-day resolution. Let us move this agenda to keep America safe, secure, and prosperous. Let us continue to have a free society, capitalism that creates capitalism so that companies can choose to do things like lower drug prices on their own, not by government decree. Let us foster that type of environment. Let us foster the type of research and development and the investments that are required for research and development that were opposed by the other side when we moved the minimum wage bill.

Mr. Speaker, I will move, with that agenda in mind, to pass the America agenda, the economic prosperity agenda, and embrace the free enterprise and entrepreneurs. That is the agenda that we are moving forward in this same day.

The material previously referred to by Ms. Matsui is as follows:

PREVIOUS QUESTION FOR H. RES. 1046, MARTIAL LAW RULE-WAIVING CLAUSE 6(a), RULE XIII

At the end of the resolution add the following new Sections:

Sec. 3. Notwithstanding any other provisions in this resolution and without intervention of any point of order it shall be in order immediately upon adoption of this resolution for the House to consider the bills listed in Sec. 4.

Sec. 4. The bills referred to in Sec. 3 are as follows:

(1) a bill to implement the recommendations of the 9/11 Commission.
(2) a bill to increase the minimum wage to $7.25 per hour.
(3) a bill to provide authority to the Secretary of Health and Human Services to negotiate for lower prescription drug prices for senior citizens and people with disabilities.
(4) a bill to repeal the massive cuts in college tuition assistance imposed by the Congress and to expand the size and availability of Pell Grants.

The VOTE on the PREVIOUS QUESTION: What It Really Means

This vote, the vote on whether to order the previous question on a special rule, is not merely a procedural vote. A vote against ordering the previous question is a vote against the Republican majority agenda and a vote to allow the opposition, at least for the moment, to offer an alternative plan. It is a vote about what the House should be debating.

Mr. Clarence Cannon's Precedents of the House of Representatives, (VI, 308-311) describes the vote on the previous question on the rule as "a motion to direct or control the consideration of the subject before the House being made by the Member in charge." To defeat the previous question is to give the opposition a chance to decide the subject before the House. Cannon cites the Speaker's ruling of January 13, 1929, to the effect that the refusal of the House to sustain the demand for the previous question passes the control of the resolution to the opposition" in order to offer an amendment. On March 15, 1935, a member of the majority party offered a rule resolution. The House defeated the previous question and a member of the opposition rose to a parliamentary inquiry, who was overruled. Speaker Joseph G. Cannon (R-Illinois) said: "The previous question having been refused, the gentleman from New York, Mr. Fitzpatrick, who had asked me to yield to him for an amendment, is entitled to the first recognition."

Because the vote today may look bad for the Republican majority, "the vote on the previous question is simply a vote on whether to proceed to an immediate
vote on adopting the resolution * * * [and] has no substantive legislative or policy implications whatsoever." But that is not what they have always said. Listen to the Republican Leadership Manual on the Legislative Process in the United States House of Representatives, (6th edition, page 135). Here’s how the Republicans describe the previous question vote in their own manual. Although it is generally not possible to amend the rule because the majority Member controlling the time will not yield for the purpose of offering an amendment, the same result may be achieved by voting down the previous question on the rule * * * When the motion for the previous question is defeated, control of the debate passes to the Member who led the opposition to ordering the previous question. That Member, because he then controls the time, may offer an amendment to the rule, or yield for the purpose of amendment. * * *

Deschler’s Procedure in the U.S. House of Representatives, the subchapter titled “Amending Special Rules” states: “a refusal to order the previous question on such a rule [a special rule reported from the Committee on Rules] opens the resolution to amendment and further debate.” (Chapter 21, section 21.2) Section 21.3 continues: Upon rejection of the motion for the previous question on a resolution reported from the Committee on Rules, control shifts to the Member leading the opposition to the previous question, who may offer a proper amendment or motion and who controls the time for debate thereon.

Clearly, the vote on the previous question on a rule does have substantive policy implications. It is one of the only available tools for those who oppose the Republican majority’s agenda to offer an alternative plan.

Mr. PUTNAM. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LATOURETTE). As we close this debate, the Chair would make a brief statement.

Members should hear in mind that heed to the gavel that sounds at the expiration of their time is one of the most essential ingredients of the decorum that properly dignifies the proceedings of the House.

In addition, proper courtesy in the process of yielding and reclaiming time in debate, and especially in asking another to yield, helps to foster the spirit of mutual comity that elevates the deliberations here above mere arguments.

The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mrs. MATULI. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, proceedings will resume on questions previously postponed.
Ohio changed their vote from "yea" to "nay.

Messrs. OTTER, GARY G. MILLER of California, and Ms. PRYCE of Ohio changed their vote from "nay" to "yea.

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Ms. MATSU, Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—aye 227, noes 191, not voting 14, as follows:

[Roll No. 497]

YEAS—227

Aderholt
Akin
Alexander
Bacchus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bauer (FL)
Beauprez
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bono
Boozman
Boozman
Bradley (NH)
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CONGRESSIONAL RECORD—HOUSE

September 28, 2006

H7695

IRAN FREEDOM SUPPORT ACT

Ms. ROS-LEHTINEN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6198) to hold the current regime in Iran accountable for its threatening behavior and to support a transition to democracy in Iran, as amended.

The Clerk read as follows:

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 “Iran Freedom Support Act”.

SECTION 2. TABLES OF CONTENTS. The table of contents for this Act is as follows:

1. Short title.
2. Table of contents.

TITLE I—CODIFICATION OF SANCTIONS AGAINST IRAN

SEC. 101. CODIFICATION OF SANCTIONS. Is amended in the heading, by striking:

"The President shall impose two or more of the sanctions described in such section and shall notify the appropriate congressional committees of the United States of the specific reasons for imposing such sanctions.

SEC. 201. MULTILATERAL REGIME.

SEC. 202. IMPOSITION OF SANCTIONS.

SEC. 203. TERMINATION OF SANCTIONS.

SEC. 204. SUNSET.

SEC. 205. TECHNICAL AND CONFORMING AMENDMENTS.

TITLE II—AMENDMENTS TO THE IRAN AND LIBYA SANCTIONS ACT OF 1996 AND OTHER PROVISIONS RELATED TO INVESTMENT IN IRAN

SECTION 201. MULTILATERAL REGIME.

SECTION 202. IMPOSITION OF SANCTIONS.

SECTION 203. TERMINATION OF SANCTIONS.

SECTION 204. SUNSET.

SECTION 205. TECHNICAL AND CONFORMING AMENDMENTS.

TITLE III—PROMOTION OF DEMOCRACY FOR IRAN

SECTION 301. DECLARATION OF POLICY.

SECTION 302. ASSISTANCE TO SUPPORT DEMOCRACY FOR IRAN.

TITLE IV—POLICY OF THE UNITED STATES TO FACILITATE THE NONPROLIFERATION OF IRAN

SECTION 401. SENSE OF CONGRESS.

TITLE V—PREVENTION OF MONEY LAUNDERING FOR WEAPONS OF MASS DESTRUCTION

SECTION 501. PREVENTION OF MONEY LAUNDERING FOR WEAPONS OF MASS DESTRUCTION.

TITLE I—CODIFICATION OF SANCTIONS AGAINST IRAN

SEC. 101. CODIFICATION OF SANCTIONS—Act.

(a) CODIFICATION OF SANCTIONS.—Except as otherwise provided in this Act, the United States sanctions with respect to Iran imposed pursuant to sections 1 and 3 of Executive Order No. 12859, and sections 2, 3, and 5 of Executive Order No. 13059 (relating to Iran) shall not be suspended or terminated by the President.

(b) MANDATORY SANCTIONS WITH RESPECT TO IRAN AND LIBYA SANCTIONS ACT OF 1996 AND OTHER PROVISIONS RELATED TO INVESTMENT IN IRAQ

SECTION 201. MULTILATERAL REGIME.

SECTION 202. IMPOSITION OF SANCTIONS.

SECTION 203. TERMINATION OF SANCTIONS.

SECTION 204. SUNSET.

SECTION 205. TECHNICAL AND CONFORMING AMENDMENTS.

TITLE II—AMENDMENTS TO THE IRAN AND LIBYA SANCTIONS ACT OF 1996 AND OTHER PROVISIONS RELATED TO INVESTMENT IN IRAQ

SECTION 201. MULTILATERAL REGIME.

SECTION 202. IMPOSITION OF SANCTIONS.

SECTION 203. TERMINATION OF SANCTIONS.

SECTION 204. SUNSET.

SECTION 205. TECHNICAL AND CONFORMING AMENDMENTS.

TITLE III—PROMOTION OF DEMOCRACY FOR IRAQ

SECTION 301. DECLARATION OF POLICY.

SECTION 302. ASSISTANCE TO SUPPORT DEMOCRACY FOR IRAQ.

TITLE IV—POLICY OF THE UNITED STATES TO FACILITATE THE NONPROLIFERATION OF IRAQ

SECTION 401. SENSE OF CONGRESS.

TITLE V—PREVENTION OF MONEY LAUNDERING FOR WEAPONS OF MASS DESTRUCTION

SECTION 501. PREVENTION OF MONEY LAUNDERING FOR WEAPONS OF MASS DESTRUCTION.

TITLE I—CODIFICATION OF SANCTIONS AGAINST IRAQ

SEC. 101. CODIFICATION OF SANCTIONS—Act.

(a) CODIFICATION OF SANCTIONS.—Except as otherwise provided in this Act, the United States sanctions with respect to Iraq imposed pursuant to sections 1 and 3 of Executive Order No. 12869, and sections 2, 3, and 5 of Executive Order No. 13059 (relating to Iraq) shall not be suspended or terminated by the President.

(b) MANDATORY SANCTIONS WITH RESPECT TO WEAPONS OF MASS DESTRUCTION OR OTHER MILITARY CAPABILITIES.

SECTION 201. MULTILATERAL REGIME.

SECTION 202. IMPOSITION OF SANCTIONS.

SECTION 203. TERMINATION OF SANCTIONS.

SECTION 204. SUNSET.

SECTION 205. TECHNICAL AND CONFORMING AMENDMENTS.

TITLE II—AMENDMENTS TO THE IRAN AND LIBYA SANCTIONS ACT OF 1996 AND OTHER PROVISIONS RELATED TO WEAPONS OF MASS DESTRUCTION OR OTHER MILITARY CAPABILITIES.

SECTION 201. MULTILATERAL REGIME.

SECTION 202. IMPOSITION OF SANCTIONS.

SECTION 203. TERMINATION OF SANCTIONS.

SECTION 204. SUNSET.

SECTION 205. TECHNICAL AND CONFORMING AMENDMENTS.
“(2) acquire or develop destabilizing numbers and types of advanced conventional weapons.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to actions taken on or after June 6, 2006.

SEC. 293. TERMINATION OF SANCTIONS.

Section 8(a) of the Iran and Libya Sanctions Act of 1996 (50 U.S.C. 1701 note) is amended—

(1) in paragraph (1)(C), by striking “and” at the end;

(2) in paragraph (2), by striking the period at the end and inserting “; and”;

and (3) by adding at the end the following new paragraph:

“(3) no significant threat to United States national security, interests, or allies.”.

SEC. 294. SUNSET.


SEC. 295. TECHNICAL AND CONFORMING AMENDMENTS.

(a) FINDINGS.—Section 2 of the Iran and Libya Sanctions Act of 1996 (50 U.S.C. 1701 note) is amended by striking paragraph (4).

(b) DECLARATION OF POLICY.—Section 3 of the Iran and Libya Sanctions Act of 1996 (50 U.S.C. 1701 note) is amended—

(1) in subparagraph (a) by striking “a Policy With Respect to Iran;”;

and

(2) by striking subsection (b).

(c) TERMINATION OF SANCTIONS.—Section 8 of the Iran and Libya Sanctions Act of 1996 (50 U.S.C. 1701 note) is amended—

(1) in subsection (a), by striking “(a)”;

and

(2) by striking subsection (b).

(d) DURATION OF SANCTIONS; PRESIDENTIAL WAIVER.—Section 9(c)(2)(C) of the Iran and Libya Sanctions Act of 1996 (50 U.S.C. 1701 note) is amended as follows:

“(C) an estimate of the significance of the provision of the items described in section 8(a) or section 8(b) to Iran’s ability to, respectively, develop its petroleum resources or its weapons of mass destruction or other military capabilities; and

“(e) REPORTS REQUIRED.—Section 10(b)(1) of the Iran and Libya Sanctions Act of 1996 (50 U.S.C. 1701 note) is amended by striking “and Libya” each place it appears.

(f) DELETED.—Section 14 of the Iran and Libya Sanctions Act of 1996 (50 U.S.C. 1701 note) is amended—

(1) in paragraph (9)—

(A) in the matter preceding subparagraph (A), by—

(i) striking “, or with the Government of Libya or a nongovernmental entity in Libya,”;

(ii) by striking “nongovernmental” and inserting “nongovernmental”; and

(iii) by striking “or the case to which the special rule in subsection (d) applies”;

and

(B) in subparagraph (A), by striking “or Libya (‘Libya’)”;

(2) by striking paragraph (12);

and

(3) by redesigning paragraphs (13), (14), (15), (16), and (17) as paragraphs (12), (13), (14), (15), and (16), respectively.

(g) SHORT TITLE.—

(1) IN GENERAL.—Section 1 of the Iran and Libya Sanctions Act of 1996 (50 U.S.C. 1701 note) is amended by striking “and Libya”.

(2) REFERENCES.—Any reference in any other provision of law, regulation, document, or other record of the United States to the “Iran and Libya Sanctions Act of 1996” shall be deemed to be a reference to the “Iran Sanctions Act of 1996”.

TITLE III—PROMOTION OF DEMOCRACY IN IRAN

SEC. 301. DECLARATION OF POLICY.

(a) IN GENERAL.—Congress declares that it should be the policy of the United States—

(1) to support efforts by the people of Iran to exercise self-determination over the form of government of their country; and

(2) to support independent human rights and pro-democracy forces in Iran.

(b) RULE OF CONSTRUCTION.—Nothing in this Act shall be construed as authorizing the use of force against Iran.

SEC. 302. ASSISTANCE TO SUPPORT DEMOCRACY FOR IRAN.

(a) AUTHORIZATION.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the President is authorized to provide financial and political assistance under this section for the purpose of supporting and promoting democracy for Iran.

(b) ELIGIBILITY FOR ASSISTANCE.—Financial and political assistance under this section shall be provided only to an individual, organization, or entity that—

(1) officially opposes the use of violence and terrorism and has not been designated as a foreign terrorist organization under section 219 of the Immigration and Nationality Act (8 U.S.C. 1189) at any time during the preceding four years;

(2) advocates the adherence by Iran to non-proliferation regimes for nuclear, chemical, and biological weapons and material;

(3) is democratic values and supports the adoption of a democratic form of government in Iran;

(4) is dedicated to respect for human rights, including the fundamental equality of women;

(5) works to establish equality of opportunity for people; and

(6) supports freedom of the press, freedom of speech, freedom of association, and freedom of religion.

(c) FUNDING.—The President may provide assistance for the promotion of democracy for Iran in an amount not to exceed $150,000,000 for fiscal year 2007 and $250,000,000 for each of the fiscal years 2008 through 2011.

(d) LIMITATION ON ASSISTANCE.—In accordance with the rule of construction described in subsection (b) of section 301, none of the funds authorized under this section shall be used to support the use of force against Iran.

SEC. 303. UNAUTHORIZATION OF THE USE OF FORCE AGAINST IRAN.

(a) IN GENERAL.—Nothing in this Act shall be construed as authorizing the use of force against Iran, pending a decision by Iran to implement measures that would permit the President to make the determination described in paragraph (1); and

(b) COMMITMENTS.—It should be the policy of the United States not to bring into force an agreement for cooperation with the government of any country that is assisting the nuclear program of Iran or transferring advanced conventional weapons or missiles to Iran unless the United States has determined that—

(1) Iran has suspended all enrichment-related and reprocessing-related activity (including uranium conversion and research and development, manufacturing, testing, and assembly relating to enrichment and reprocessing), has completely refrained permanently from such activity in the future (except potentially the conversion of uranium exclusively for export to foreign nuclear proliferation regimes), and has committed to be bound by the international agreements and subject to strict international safeguards, and is abiding by that commitment; or

(2) the government of such country—

(A) has, either on its own initiative or pursuant to a binding decision of the United Nations Security Council, suspended all nuclear assistance to Iran and all transfers of advanced conventional weapons and missiles to Iran, pending a decision by Iran to implement measures that would permit the President to make the determination described in paragraph (1); and

(B) is committed to maintaining that suspension until Iran has implemented measures that would permit the President to make such determination.

(b) DEFINITIONS.—In this section:

(1) AGREEMENT FOR COOPERATION.—The term “agreement for cooperation” has the meaning given to that term in section 11 b. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(b)).

(2) ASSISTING THE NUCLEAR PROGRAM OF IRAN.—The term “assisting the nuclear program of Iran” means the intentional transfer to Iran by a government, or by a person subject to the jurisdiction of a government, of any equipment or material, including the services of a government, of goods, services, or technology listed on the Nuclear Suppliers Group Guidelines for the Export of Nuclear Materials, Equipment and Technology (published by the International Atomic Energy Agency as Information Circular INFCIRC/245/Rev. 3 Part 1, and subsequent revisions) or Guide- lines for Transfers of Nuclear-Related Dual-Use Equipment, Material and Related Technology (published by the International Atomic Energy Agency as Information Circular INFCIRC/254/Rev. 3 Part 2 and subsequent revisions).

(3) TRANSFERRING ADVANCED CONVENTIONAL WEAPONS OR MISSILES TO IRAN.—The term “transferring advanced conventional weapons or missiles to Iran” means the intentional transfer to Iran by a government, or by a person subject to the jurisdiction of a government, of any equipment or material, including the services of a government, of goods, services, or technology listed on the Missile Technology Control Regime Equipment and Technology Annex of June 11, 1996, and subsequent revisions.

TITLE IV—POLICY OF THE UNITED STATES TO FACILITATE THE NUCLEAR NONPROLIFERATION OF IRAN

SEC. 401. SENSE OF CONGRESS.

(a) SENSE OF CONGRESS.—It should be the policy of the United States not to bring into force an agreement for cooperation with the government of any country that is assisting the nuclear program of Iran or transferring advanced conventional weapons or missiles to Iran unless the United States has determined that—

(1) Iran has suspended all enrichment-related and reprocessing-related activity (including uranium conversion and research and development, manufacturing, testing, and assembly relating to enrichment and reprocessing), has completely refrained permanently from such activity in the future (except potentially the conversion of uranium exclusively for export to foreign nuclear proliferation regimes), and has committed to be bound by the international agreements and subject to strict international safeguards, and is abiding by that commitment; or

(2) the government of such country—

(A) has, either on its own initiative or pursuant to a binding decision of the United Nations Security Council, suspended all nuclear assistance to Iran and all transfers of advanced conventional weapons and missiles to Iran, pending a decision by Iran to implement measures that would permit the President to make the determination described in paragraph (1); and

(B) is committed to maintaining that suspension until Iran has implemented measures that would permit the President to make such determination.

(b) DEFINITIONS.—In this section:

(1) AGREEMENT FOR COOPERATION.—The term “agreement for cooperation” has the meaning given to that term in section 11 b. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(b)).

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(3) TRANSFERRING ADVANCED CONVENTIONAL WEAPONS OR MISSILES TO IRAN.—The term “transferring advanced conventional weapons or missiles to Iran” means the intentional transfer to Iran by a government, or by a person subject to the jurisdiction of a government, of any equipment or material, including the services of a government, of goods, services, or technology listed on the Missile Technology Control Regime Equipment and Technology Annex of June 11, 1996, and subsequent revisions.
TITLE V—PREVENTION OF MONEY LAUNDERING FOR WEAPONS OF MASS DESTRUCTION

SEC. 501. PREVENTION OF MONEY LAUNDERING FOR WEAPONS OF MASS DESTRUCTION.

Section 5318A(c)(2) of title 31, United States Code, is amended—
(1) by inserting “and” at the end of paragraph (a)(1), and striking “or both,” and inserting “or entities involved in the proliferation of weapons of mass destruction or missiles;” and
(2) in subparagraph (b)(1), by inserting “, including any money laundering activity by organized criminal groups, international terrorists, or entities involved in the proliferation of weapons of mass destruction or missiles” before the semicolon at the end.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida (Ms. ROS-LEHTINEN) and the gentleman from Oregon (Mr. BLUMENAUER) each will control 20 minutes.

The Chair recognizes the gentleman from Florida.

GENERAL LEAVE

Ms. ROS-LEHTINEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous material on the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Ms. ROS-LEHTINEN. Mr. Speaker, I yield myself such time as I may consume.

For decades, the Iranian regime, one of the world’s most dangerous political entities, has been pursuing a covert nuclear program. According to multiple reports of the International Atomic Energy Agency, the IAEA, Iran has been deceiving the world for two decades about its nuclear ambitions and has engaged in international obligations dealing with the most sensitive aspects of the nuclear cycle.

Iran’s violation of the IAEA safeguards, the safe reporting to the International Atomic Energy Agency, the denial of the agency’s request for access to individuals and locations, the involvement of its military in parts of its nuclear program, as well as the Iranian regime’s continued support of terrorist activities around the globe contradict any assertion of the peaceful intent of the program.

It would be a critical mistake to allow a regime with a track record as bloody and as dangerous as Iran’s to obtain nuclear weapons. Iran drives Hezbollah extremist ideology and provides it with weapons and funding, estimated by some at more than $80 million per year. In turn, Hezbollah has helped advance Iranian interests through continued terrorist attacks against the United States and our allies in the region.

This bill before us, Mr. Speaker, H.R. 6198, as amended, will help prevent Iran from acquiring the technical assistance, the financial resources, and the political legitimacy to develop nuclear weapons and to support terrorism. This bill requires the imposition of sanctions on any entity that has exported, transferred, or otherwise provided to Iran any goods, services, technology, or other items that would materially contribute to Iran’s ability to acquire or develop unconventional weapons. This bill codifies U.S. sanctions imposed on Iran by Executive Order.

The bill also amends the Iran-Libya Sanctions Act by extending the authority in the bill until December 31, 2011. It also requires the President to certify to Congress that waiving the imposition of sanctions is vital to the national security interests of the United States.

Furthermore, the bill authorizes the provision of democracy assistance to eligible human rights and pro-democracy groups and broadcasting entities. Moreover, this legislation will allow the United States to use the necessary tools to maintain institutions which are involved in the proliferation of weapons of mass destruction or missiles.

This bill provides a comprehensive approach, providing U.S. officials with strong leverage to secure cooperation from our allies in order to counter the Iranian threat. The sanctions under title II of this bill seek to target the Iranian regime where it is most vulnerable: its energy sector. Knowledgeable experts agree that for Iran, a fuel importer, sanctions could be crippling.

Thus, Mr. Speaker, this bill is not an alternative to diplomacy, but rather complementary to our multilateral efforts. We cannot afford to wait any longer as the potential consequences of further inaction could be catastrophic. I urge my colleagues to lend their support to this legislation.

Mr. Speaker, I am attaching an exchange of letters between Chairman HYDE and Chairman THOMAS concerning the bill H.R. 6198 “The Iran Freedom Support Act” for printing in the Record.

H. R. 6198, the “Iran Freedom Support Act,” which is scheduled for floor action on September 28.

As per the agreement between our Committees, the bill would not codify the import sanctions contained in Executive Order 13059. However, Sections 202(a) and 202(b) of the bill would give the President the statutory authority to ban imports against Iran and would terminate that authority with respect to Libya.

Because each of these provisions, as well as provisions related to the waiver, termination, and sunset, have the effect of modifying and altering the application of an import ban and fall within the Rule X jurisdiction of the Committee on Ways and Means, I appreciate your willingness to forgo action on this bill. I also agree that your forging formal committee action does not in any way prejudice the Ways and Means Committee with respect to the appointment of conferees or its jurisdictional prerogatives on this or similar legislation.

As you have requested, I will insert a copy of our exchange of letters on this bill into the Congressional Record.

Sincerely,

HENRY J. HYDE,
Chairman.

Chairman, Committee on International Relations, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your letter concerning H.R. 6198, the Iran Freedom Support Act. As indicated by the referral of the bill to both of our committees, I concur that the bill contains language which falls within the Rule X jurisdiction of the Committee on Financial Services. This language is contained in portions of title II and in title V of the bill.

I agree that ordinarily the Committee on Financial Services would act on the bill. However, I thank you for your support in moving this important legislation forward by agreeing that it is not necessary for your Committee to act further on the bill. Given the importance and timeliness of the Iran Freedom Support Act, I appreciate your willingness to work with us regarding these issues and to permit the legislation to proceed. I understand that by doing so, it should not be construed to prejudice the jurisdictional interest of the Committee on Financial Services. I also urge the consideration of any other similar legislation and will not be considered as precedent for consideration of matters of jurisdictional interest to your Committee in the future. Otherwise, I believe that these or similar provisions be considered in a conference with the Senate, I will...
Mr. Speaker, I am writing to confirm our mutual understanding with respect to the consideration of H.R. 6198, the Iran Freedom Support Act. This bill was introduced on September 27, 2006, and was referred to the Committee on International Relations as well as the Committee on Financial Services. I understand that the bill will be considered by the House in the near future.

Ordinarily, the Committee on Financial Services would be entitled to consider matters within its jurisdiction, Title V and portions of title II. However, given the importance and timeliness of the Iran Freedom Support Act, and your willingness to work with us regarding the issues within this Committee’s jurisdiction, further action in this Committee will not be necessary. I do so only with the understanding that this procedural route should not be construed to prejudice the jurisdictional interest of the Committee on Financial Services on these provisions. Similar legislation will not be considered as precedent for consideration of matters of jurisdictional interest to my committee in the future. Furthermore, should these or similar provisions be considered in a conference with the Senate, I would expect members of the Committee on Financial Services be appointed to the conference committee on these provisions.

Finally, I would ask that you include a copy of our exchange of letters in the Committee Report on H.R. 6198 and in the Congressional Record during the consideration of this bill. If you have any questions regarding this matter, please do not hesitate to call me. I thank you for your consideration.

Sincerely,

Henry J. Hyde,
Chairman.

HOUSE OF REPRESENTATIVES,
Committee on International Relations,

Hon. Henry J. Hyde,
Committee on International Relations, House of Representatives.

DEAR MR. CHAIRMAN: I am writing to confirm our mutual understanding with respect to the consideration of H.R. 6198, the Iran Freedom Support Act. This bill was introduced on September 27, 2006, and was referred to the Committee on International Relations as well as the Committee on Financial Services. I understand that the bill will be considered by the House in the near future.

Ordinarily, the Committee on Financial Services would be entitled to consider matters within its jurisdiction, Title V and portions of title II. However, given the importance and timeliness of the Iran Freedom Support Act, and your willingness to work with us regarding the issues within this Committee’s jurisdiction, further action in this Committee will not be necessary. I do so only with the understanding that this procedural route should not be construed to prejudice the jurisdictional interest of the Committee on Financial Services on these provisions. Similar legislation will not be considered as precedent for consideration of matters of jurisdictional interest to my committee in the future. Furthermore, should these or similar provisions be considered in a conference with the Senate, I would expect members of the Committee on Financial Services be appointed to the conference committee on these provisions.

Finally, I would ask that you include a copy of our exchange of letters in the Committee Report on H.R. 6198 and in the Congressional Record during the consideration of this bill. If you have any questions regarding this matter, please do not hesitate to call me. I thank you for your consideration.

Yours truly,

Michael G. Oxley,
Chairman.

Mr. Speaker, I reserve the balance of my time.

Mr. BLUMENAUER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in the years since we enacted our attack against Iraq, the threat has only grown more difficult, and our capacity to meet that threat actually has diminished. It is one of the reasons many of us opposed that action against Iraq.

There is no question Iran’s President is a dangerous man. He exploits Iranian national grievances to consolidate power and has openly expressed his desire to wipe Israel off the map. Well, our troops are bogged down in Iraq, placing them at risk should Iran launch a wave of terror attacks that will not only prolong our national dependency on oil, the control of which gives Iran its greatest ability to blackmail other countries.

Now, I appreciate the good will and passion of the sponsors of this bill, bringing a critical issue before us. I rise in opposition, however. We have been at this point before. We passed an earlier version of this bill. The Senate referred to the Judiciary Committee, and it did not have a defense authorization. I appreciate that there have been some positive changes that have been made to this legislation. One is a sunset. The earlier bill would have made it permanent.

And I applaud the fact that it contains a provision that I authored that would prohibit assistance to groups who had appeared on the State Department’s list of terrorist groups in the last 4 years. However, the problem with this legislation points us in the direction of a solution. It is, if you will, a cruise missile aimed at a difficult diplomatic effort just as they are reaching their most sensitive point. The timeliness for this legislation could not be worse.

While the United States has largely been missing in action from the diplomatic game, the European Union and Iran have been making progress at developing a framework that could lead to the suspension of Iran’s nuclear enrichment program and the start of serious negotiations. This bill specifically targets Russia, which may have some influence with Iran and which is critical to a unified front.

This bill has another fundamental flaw besides sanctioning people whose help we need to reach a diplomatic solution. It gives equal weight to overthrowing the regime as it does to nonproliferation. These two goals work against each other.

Yes, the regime’s human rights record is atrocious, but preventing them from developing nuclear weapons should be our first priority. By not prioritizing behavior change over regime change, we pull the rug out from anyone in the Iranian leadership who values survival over the nuclear program and eliminates incentives for diplomatic solutions.

Now, in my opinion, Iran holds, if not the key, a key to many of the issues that confound us in the Middle East. Their cooperation ultimately is going to be critical if we are going to be able to deal with the mess that our policies have created in Iraq, the problems that we are facing in Afghanistan with a resurgence of the Taliban, and it is going to play a key role on issues that deal with Israel and the Arab states. They are like a puzzle. And, sadly, Iran is one of the missing pieces.

After September 11, when the United States took action to overthrow the Taliban, our interest, and Iran’s interest, was aligned to be able to coordinate quietly but effectively. They were partners with us at some tough sessions in Bonn when we were having the negotiations that set up the Afghanistan government. And in the midst of this tentative effort at cooperation, Mr. President, Mr. Bush decided to declare Iran part of the axis of evil and most hope for progress disappeared.

Mr. Speaker, the irony is that Iran is one of the few nations in the world where the majority of the people still have a positive view of the United States.

This is difficult. It is not easy. But to simply sanction potential partners and couple that with what our administration says, I am sad to say, is going to be a step backward. We ought to make clear to Iran that they need to stop their support for terrorism, end development of nuclear capacity, and begin the process of free, fair, and open elections. But I am sorry to say that this legislation in front of us ignores the opportunities that we have incorporating the lessons we learned in our success with Libya.

I respectfully suggest that this is legislation that we ought to reject, and that we ought to instead prioritize what our goals are with Iran, and we are going to do. By all means, have our sanctions but not be reckless in terms of the pressure we try to exert against the very people who are going to be necessary to help us with a diplomatic solution to prevent nuclear proliferation.

Mr. Speaker, I reserve the balance of my time.

Ms. ROS-LEHTINEN. Mr. Speaker, I ask unanimous consent to yield 10 minutes of my time to the gentleman from California (Mr. LANTOS) and that he may be permitted to control that time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Ms. ROS-LEHTINEN. Mr. Speaker, I am proud to yield 3 minutes to the gentleman from Missouri (Mr. BLUNT), our distinguished majority whip, without whom we would not be here today considering a bill with strong bipartisan support as well as administration support. Thank you, Mr. BLUNT.

Mr. BLUNT. Thank you, Chairman ROS-LEHTINEN, for yielding. I am pleased to join you and join our friend Mr. LANTOS in support of this bill.

I think that Iran has more potential than any other country to destabilize the world today. President Bush should be given the tools necessary to work toward a diplomatic solution in the crisis that we now face with Iran and that Iran, frankly, presents to the world.

I believe the solution to this problem is in this legislation. I think this does point us in a direction that can work. The mandatory sanctions for any entity that is assisting Iran to have the potential for weapons of mass destruction are important. They don’t have to be targeted at a country, but those countries who are helping make that happen need to get the attention of this Congress and this government.

This declares that we also intend as a Congress to avoid implementing agreements with Iran that do not provide for a diplomatic solution to prevent nuclear proliferation.

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provide Iran and other dangerous countries with weapons that endanger our people.

Passage of this bill today sends a powerful message to Iran and to those who would support that country's weapons development, a program that we need to be sure that we punish that behavior.

I hope the President fully utilizes the new authority provided to him in this bill. I also urge not only that we approve that our allies and our partners around the world work along with us to implement similar measures and convince Iran to peacefully abandon its efforts to destabilize the world. We encourage the President in this bill to work with those groups that have been mentioned that do support openness and democracy in Iran.

I thank ILEANA ROS-LEHTINEN for her great leadership in this effort and TOM LANTOS for his leadership in this effort.

Mr. Speaker, I rise in strong support of this legislation. I first want to thank my good friends ILEANA ROS-LEHTINEN and GARY ACKERMAN for their tireless work on this critical legislation.

Mr. Speaker, the Iran Freedom Support Act will dramatically increase the economic pressure on the regime in Tehran to abandon its headlong pursuit of nuclear weapons. If we fail to use the economic and diplomatic tools available to us, the world will face a nightmare that knows no end, a despotic fundamentalist regime, wedded both to terrorism and to the most terrifying weapons known to man.

Iran's desire, Iran's determination to acquire nuclear weapons, is beyond dispute. For years it lied to the International Atomic Energy Agency, and even today it continues to deny access for IAEA inspectors to sensitive nuclear sites.

Mr. Speaker, a short while ago I had an extensive visit to IAEA headquarters in Vienna where I had discussions with some of the leaders of countries that are interested in this issue. They have no doubt that Iran is determined to pursue a military nuclear program.

Tehran has also defied the United Nations Security Council, which has demanded that it cease its enrichment of uranium. And now that Iran has been offered an incredibly generous package of benefits by the United States and our European allies in exchange for suspending uranium enrichment, the regime in Tehran is playing its usual cynical game, stalling for time.

Mr. Speaker, I meet with some frequency with Middle Eastern leaders, and there is not one who isn't deeply worried by the prospect of Iran's going nuclear. A nuclear Iran will touch off a bone-chilling arms race in the Middle East. But long before that happens, before Iran threatens to fire a shot, as it were, virtually every nation within reach of Iranian missiles will recall its foreign policies to make certain that it doesn't offend the region's new nuclear power, Iran, and that, Mr. Speaker, would be a disaster for U.S. foreign policy interests, for the Middle East and for the entire civilized world.

Some argue that our legislation will undermine the efforts of European allies who invest in Iran. But that argument, Mr. Speaker, is simply wrong-headed. Our legislation is intended to reinforce diplomacy with economics. We ask our allies to do what the United States and our allies have not done, divest from Iran's energy sector, the cash cow of the ayatollah's nuclear aspirations.

Nor is this legislation, Mr. Speaker, all stick and no carrot. By removing Libya from the list of the sanctioned, this legislation is an implicit invitation to Iran: mend your ways and your support of terrorism and your quest for weapons of mass destruction, and you will be welcomed back into the family of nations. Refuse to do so, and you will unfortunately not have the opportunity to be reinstated.

The legislation before us will extend the Iran Sanctions Act for 5 years. It will boost congressional oversight over its implementation. The clear message of this legislation is that the administration now has to enforce the law fully.

Mr. Speaker, I would be delighted if our legislation were rendered redundant by serious Security Council action to impose international sanctions on Iran, but the attitudes shown by Russia and China thus far strongly suggest that meaningful U.N.-imposed sanctions are a most unlikely development.

In the meantime, we cannot shirk our responsibility to employ every peaceful means possible to defeat Iran's reckless nuclear military ambitions. That, in essence, is the reason for the urgency of passing H.R. 6198 today.

Mr. Speaker, I strongly support this bill, and for the sake of foiling a looming, long-term nuclear terrorist threat, I urge my colleagues to do so as well. Mr. Speaker, I reserve the balance of my time.

Mr. BLUMENAUER. Mr. Speaker, I yield 1 minute to the gentleman from Maryland (Mr. GILCHREST).

Mr. GILCHREST. Mr. Speaker, I thank the gentleman for yielding, and I thank the gentlewoman from Florida for allowing us to have this debate today.

The human condition on the planet requires that there be strong military power under certain circumstances, strong intelligence under certain circumstances, strong sanctions under certain circumstances, and strong dialogue.

The President recently spoke to the Iranian people through The Washington Post. Here is what he said: 'I would like to pay to the Iranian people, we respect your history. We respect your culture. I recognize the importance of your sovereignty, that you are a proud nation. I understand that you believe it is in your interest, your sovereign interest, to have nuclear power for energy. I would work for a solution to meeting your rightful desires to have civilian nuclear power. I will tell the Iranian people that we have no desire for conflict.'

If we hope to convince our allies and the international community that we are serious about resolving this matter diplomatically, the U.S. must open direct diplomatic channels with Tehran.

Mr. BLUMENAUER. Mr. Speaker, I yield 5 minutes to the gentleman from Ohio (Mr. KUCINICH).

Mr. KUCINICH. Mr. Speaker, I thank the gentleman.

Mr. Speaker, it is important to go back a little bit in history here. The Iraq Accountability Act of 1998 was about funding a media propaganda machine which was, unfortunately, used to lay the groundwork for a war against Iraq. That act was about encouraging and funding opposition inside Iraq, unfortunately, to destabilize Iraq prior to a war.

You could call this bill the "Iran Accountability Act." This act funds media propaganda machines to lay the groundwork for a war against Iran. It encourages and funnels opposition inside Iran for that same purpose.

Notwithstanding what the words are in this bill, we have been here before. This administration is trying to create an international crisis by inflating Iran's nuclear capabilities, development into an Iraq-type WMD hoax. "Iran is not an imminent threat," this from Dr. Hans Blitz, former Chief U.N. Weapons Inspector, speaking to our congressional oversight subcommittee the other day.

The International Atomic Energy Agency points out that Iran has an enrichment level of about 3.6 percent. You have to go to 90 percent to have weapons quality enrichment. Iran is not an imminent threat. Iran does not have nuclear weapons.

This is a time for us to engage Iran with direct talks, our President to their President. This is the time to give assurance to Iran that we are not going to attack them.

Unfortunately, this administration has chosen to conduct covert ops in Iran. This administration has chosen to select 1,500 bombing targets with the Strategic Air Command. This administration has chosen plans for a naval blockade of the Strait of Hormuz. This administration looked the other way when a congressional staff report basically claimed that Iran was trying to engage in nuclear escalation.

We don't need war, we need to talk, and that is what we ought to stand for here, not nuclear Iran.

THE END OF THE "SUMMER OF DIPLOMACY": ASSESSING U.S. MILITARY OPTIONS ON IRAN A CENTURY FOUNDATION REPORT

(By Sam Gardiner, Colonel, USAF (Ret.))

This report is part of a series commissioned by The Century Foundation to inform the policy debate about Iran-related issues. The views expressed in this paper are those of the author. Nothing written here is to be
construed as necessarily reflecting the views of The Century Foundation or as an attempt to aid or hinder the passage of any bill before Congress.

The doctrine of preemption remains sound and must remain an integral part of our national security strategy. We do not rule out the use of force before the enemy strikes.” — Stephen Hadley, March 16, 2006

Introduction

The summer of diplomacy began with a dramatic announcement: on May 31, 2006, Secretary of State Condoleezza Rice declared that the United States and European governments agreed to halt Iran’s nuclear enrichment program, the United States would talk directly with Tehran, Secretary Rice crafted the statement at home, she met President Bush and received his approval. The Bush administration announced it as a significant initiative; it appeared to reflect a major change in policy.

This shift was not uncontroversial within the administration; Vice President Dick Cheney had opposed the announcement. But the rationale that prevailed seems to have been that if the United States were going to confront Iran, the diplomacy box had to be checked. The secretary of state was given the summer to try it.

Well, the summer is over. Diplomacy was given a chance, and it now seems that the diplomatic activity of the past several months was just a prequel for the military option.

Unfortunately, the military option does not make sense. When I discuss the “possibility” of an American military strike on Iran with my European friends, they invariably point out that an armed confrontation does not make sense; it would be unlikely to yield any of the results that American policymakers want, and that it would be highly likely to yield results that they do not. I tell them they cannot understand U.S. policy if they insist on passing options through that filter. The “making sense” filter was not applied over the past four years for Iraq, and it is unlikely to be applied in evaluating whether to attack Iran.

In order to understand the position of those within the U.S. government who will make the decision to execute the military option against Iran, you must first consider the seven key truths that they believe: Iran is developing weapons of mass destruction—that is, not just for defensive purposes, but for offensive purposes; Iran is increasingly inserting itself in Iraq and throughout the Middle East; The people of Iran want a regime change—most likely an exacerbation. Sanctions are not going to work—most likely true. You cannot negotiate with these people—not proven.

If you understand these seven points as truth, you can see why the administration is very confident with only one military option. Administration officials say that they want to give diplomacy a chance. But when they say that, we need to remind ourselves that the American military strike on Iran will leave Iran with significant retaliatory options. That is a serious problem. U.S. forces and interests in the region would be likely targets of Iranian retaliation, so even an apparent if not effective Israeli operation would have critical consequences for the United States.

Part of the problem is that the two countries—Israel and the United States—would have critical consequences for the United States.

Part of the problem is that the two countries—Israel and the United States—would have critical consequences for the United States.

The new National Security Strategy identified thirteen nuclear-related targets in Iran. I identified thirteen nuclear-related targets in Iran. I still do this kind of gaming. My most recent chart reflects twenty-four potential nuclear-related facilities. In the past few years we have seen Iran’s Natanz uranium enrichment facility buried under more than fifteen meters of re-inforced concrete and soil. There is evidence that similar protecting place at other facilities, and there is some evidence of facilities being placed inside populated areas. The longer the United States waits, the harder the targets—and the harder the targeting.

Another major issue that affects timing is the conspicuous absence of reliable intelligence about Iran. A report by the House Intelligence Committee found that we have serious gaps in our knowledge of the Iranian nuclear program. Paradoxically, those gaps in intelligence produce not caution, but further pressure to attack. U.S. intelligence agencies do not know the locations of all of Iran’s facilities; they are not certain how far Iran has gone; they know that Iran’s nuclear program bears a striking resemblance to the Pakistani program, but they do not know whether Iran has acquired nuclear technology that might put it ahead of current estimates.

Some U.S. officials say that Iran is ten years from a weapon. The Pentagon, we are told, has a statement of intent that Iran could have a weapon in five years. Some Israeli estimates say that Iran could have a weapon in three years. John Negroponte, the U.S. director of national intelligence, recently reported that Iran could not develop a nuclear weapon until some time in the next decade. But the next day, Secretary of Defense Donald Rumsfeld dashed those estimates. The people of Iran want a regime change—most likely an exacerbation. Sanctions are not going to work—most likely true. You cannot negotiate with these people—not proven.

The apparent ease of the operation is an element of this pressure to go now: if the Iranian nuclear program is stopped, why should the United States wait?

The other issue is Iran’s nuclear capability, while it might be the stated aim for the United States, is only part of the objective. While the Iranian regime’s weapons program is a genuine concern, American policymakers are also troubled by Iran’s interference in Iraq. Despite U.S. warnings, the Revolutionary Guard continues to supply weapons, money, and training to insurgents inside Iraq. Some proponents of attacking Iran feel that Tehran should be punished for supporting militias and terrorists in Iraq.

In addition to Iran’s role as an aspiring nuclear rogue and a supporter of the insurgency in Iraq, the country has been repeatedly portrayed as a key adversary in the war on terrorism. The United States has put Iran into a separate and new terrorism category, dubbing it the “Central Banker of Terrorism.” The new National Security Strategy says, “Any government that chooses to be an ally of terror, such as Syria or Iran, has chosen to be an enemy of freedom, justice, and the West. U.S. policymakers are creating pressure to bring Iran to account.” Unnamed intelligence officials,” citing evidence from satellite coverage and electronic eavesdropping, have described the Iranian interference in Iraq as “...granting senior operatives freedom to communicate and plan terrorist operations.

of the Natzan facility. They say that the attack would resemble the kind of operation they used against Egypt in 1967. They say that the plant involves more than just air power. The Israelis have their own fighter aircraft, the F-16, that they often use to attack nuclear facilities. Israel recently appointed an airman to be in charge of the Iranian theater of operations. It was announced that Iranian President Ahmadinejad is planning for Iran. Israeli military planners have U.S. penetrating weapons and a replica
Indeed, the case against the regime is so forceful, and so multifaceted, that it becomes clear that the goal is not simply to do away with the regime's enrichment program. The goal is to do away with the regime itself.

And on top of all of those pressures—pressure from Israel, pressure from those worried about a nuclear Iran, Iran in Iraq, and Iran in the war on terrorism—is another, decisive piece of the puzzle: President George W. Bush. The argument takes several forms: the president is said to see himself as being like Winston Churchill, and to believe that the world will only appreciate him after he leaves office; he talks about the Middle East in messianic terms; he is said to have told those close to him that he has got to attack Iran because even if a Republican succeeds him in the White House, he will not have the same freedom of action that Bush enjoys. Most recently, someone high in the administration told a reporter that the president believes that he is the only one who can “do the right thing” with respect to Iran. One thing is clear: a major source of the pressure for a military strike emanates from the very man who will ultimately make the decision over whether to authorize such a strike—the president. And these various accounts of his motivations and rationales have in common that the president will not allow does-not-make-sense arguments to stand in the way of a good idea.

Below the CNN Line

Stay below the “CNN line.” That was the guidance given to the Air Component Commander, General Mike Mosley, as the secret air strikes began against Iran in operation SOUTHERN FOCUS. It was July 2002. This classified bombing campaign would involve strikes on almost 400 targets. It was initiated just after the president visited Europe where he announced numerous times, “I have no war plans on my desk.”

There was no UN resolution. The congressional authorization was not to come for four months. But the United States was starting the war.

All of the pressures described above are pushing for war with Iran, and increasingly, a public case for such a war is being made. But behind the scenes, military operations are already under way. (See Figure 1.) Most likely, the same guidance has been given to military commanders. The pattern is repeating.

When U.S. commandos began entering Iran—probably in the summer of 2004—their mission appears to have been limited. The objective was to find and characterize the Iranian nuclear program. From press reports, we know that the task force doing these operations was implanting sensors to detect radioactivity. Intelligence for these early operations inside Iran was coming from information provided by A.Q. Khan, the Pakistani dealer in black market nuclear material. The incursions were focused in the northeast, where the Iranian nuclear facilities are concentrated. The base of these incursions was most likely Camp War Horse in Iraq.

Israel also was conducting operations inside Iran in late 2003 or early 2004. The Israeli commandos reportedly were operating from a base in Iraq. These commandos also were implanting sensors. I would expect the U.S. and Israeli operations to have been coordinated. At about this time the United States began operating remotely piloted vehicles inside Iran over nuclear facilities. (Also, there is another report that the Iranians, for example, using a Chinese spy plane, have the flights numerous times in their press.)

In 2005, the U.S. and U.S. government shifted in favor of those who were pushing for regime change in Iran. This was to result in the eventual creation of the Iran/ Syria Operations Group inside the State Department, a request to Congress for $75 million, and the creation of a robust “democracy promotion” program. Meanwhile the United States moved from intelligence collection inside Iran, to establishing contact with ethnic minorities, to being involved in—and likely conducting—direct action missions. Reports suggest that the United States is supporting militant groups in the Baluchestan region of Iran. There have been killings in this region. The Iranian Revolutionary Guard convoys have been attacked. In a New Yorker article, Seymour Hersh confirmed that this region was one of the areas where air strikes were occurring.

The Iranian press also has accused the United States of operating there. In addition, press reports suggest that the United States may be sponsoring former members of the Iraqi-based MEK (Mojahedin-e Khalq) in Baluchestan.

I recently attended a Middle East security conference in Berlin. At dinner one night, I sat next to the Iranian ambassador to the International Atomic Energy Agency, Ali-Aghar Soltanieh. I told him I had read that the Iranians were accusing the United States of supporting elements in Baluchestan. I asked him: “Do they?” He said yes. Without any hesitation, Soltanieh told me that they have captured militants who confessed that they were working with the Americans.

The United States is also directly involved in supporting groups inside the Kurdish area of Iran. According to both Western and Iranian press reports, the Iranian Party of Free Life of Kurdistan (PJAK) has been allowed to operate from Iraq into Iran and has killed Revolutionary Guard soldiers. The Iranians have also accused the United States of being involved in shooting down two of their aircraft, an old C-130 and a Falcon jet, carrying Revolutionary Guard leaders.

NEXT STEPS: Above the CNN Line

How do we get above the CNN line to the next step? The path is fairly clear. The United Nations Security Council will fall short of imposing serious sanctions on Iran. The United States, then, will look for a coalition of the willing to implement smart sanctions, focused on the Iranian leadership.

But the sanctions will be designed less to ensure compliance from the Iranians than to generate domestic and international support for the American position. I do not know an Iranian specialist who trusts who believes that the sanctions would cause the Iranians to abandon their nuclear program, any more than did the sanctions on India and Pakistan that were part of the nuclear tests in 1998. The sanctions will be used to raise the collective conscience that Iran is a threat, and to convince the world that the United States has tried diplomatic solutions.

If the experience of 1979 and other sanctions scenarios is a guide, sanctions will actually empower the conservative leadership in Iran. There is an irony here. It is a pattern that seems to be playing out in the selection of the military option. From diplomacy to sanctions, the administration is not making good-faith efforts to avert a war so much as going through the motions, eliminating other possible strategies of engagement, until the only option left on the table is the military one.

When imposing the sanctions fails to alter Tehran’s position, policymakers will revert to a strike on Iran’s nuclear facilities. One can imagine the words of a planner in the meeting: “If we are going to do this, let’s make certain we get everything they have.” I have done some rough “targeting” of nuclear facilities for which I can find satellite photos on the Web. By my calculation, an attack on a relatively high certainty on nuclear targets would require 400 aim points. (An aim point is the specific location where an individual weapon is directed. Most targets would have multiple aim points.) I estimate seventy-five of these aim points would require penetrating weapons. (See Table 1, page 12.)

But it is unlikely that a U.S. military planner would want to stop there. Iran probably has two chemical weapons production plants. He would want to hit those. He would want to hit Iran’s medium-range ballistic missiles that have just recently been moved closer to Israel. There are fourteen airfields with sheltered aircraft. Although the Iranian Air Force is not much of a threat, some of these airfields are less than fifteen minutes flying time from Baghdad. Military planners would want to eliminate that potential threat. The Pentagon would want to hit the assets that could be used to threaten Gulf shipping. That would mean targeting cruise missile sites, Iranian diesel submarines, and Iranian naval assets.

TABLE 1. TARGETS IN IRAN

<table>
<thead>
<tr>
<th>Nuclear facilities</th>
<th>Air defense command and control</th>
<th>Chemical facilities</th>
<th>Medium-range ballistic missiles</th>
<th>Gulf threatening assets</th>
<th>Anti-ship missiles</th>
<th>Naval ships</th>
<th>Small boats</th>
</tr>
</thead>
<tbody>
<tr>
<td>Initial strikes</td>
<td>Follow-on strikes</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

After going through the analysis, I believe that the United States can and will conduct the operation by itself. There may be low-visibility support from Israel and the U.K., and France may be consulted. But it will be an American operation.

What about casualties? Although the United States would suffer casualties in the Iranian retaliation, the honest answer to the president if he asks about losses during the strike itself is that there probably will not be any. The only aircraft penetrating deep
into Iranian airspace will be the B-2s at night. B-52s will stand off, firing cruise mis-
siles. Other missile attacks will come from
Navy ships firing at a safe distance.

Targeted Program or the Regime?

Air-target planners orchestrate strikes on
the basis of desired target destruction cri-
terion. In the case of an attack on Iran, after
five nights of bombing, we can be relatively
certain of regime destruction. It is possible
to project the degree to which parts of the
Iranian nuclear program would be set
back. For example, using Web pictures of the
Natanz facility, it is possible to see three years
worth of construction. An at-
tack on that construction might appear to
set the program back three years. But it is
doubtful that the sort of U.S. weapons
inspector, observed during our
discussions that there is the program we see,
but there is also the program we do not see.
Because of the gaps in U.S. intelligence on
Iran, and specifically on Iran’s nuclear pro-
gram. American military leaders are grow-
ing increasingly uneasy about the reliability
and comprehensiveness of target selection.
In other words, after the five-night military
attack we would not be able with any degree
of certainty to say how we had impacted the
Iranian missile program.

If this uncertainty does not appear to
worry the proponents of air strikes in Iran it is
in part because the real U.S. policy
objective is not merely to eliminate the
nuclear program, but to overthrow the re-
gime. It is hard to believe, after the mis-
guided talk prior to Iraq of how American
troops would be greeted with flowers and
welcomed as liberators, but those inside
and close to the administration who are arguing
for an air strike against Iran actually sound
as if they believe the regime in Tehran can be
eliminated by air attacks.

In this case, the concept is not a ground
force Thunder Run into Tehran of the sort
used in Baghdad. It is a decapitation-based
concept. Kill the leadership and enable the
people of Iran to take over their government.

More reasonable leadership will emerge.

Under this concept, the air operation
would take longer than the five nights. The
targets would be expanded. The Revolutio-
nal Guard’s missile units would be attacked
according to the argument they are the pri-
mary force that keeps the current regime in
power. That regime is the Revolutionary
Guard command in Tehran. Most important, the U.S.
operation would move into targeted killing,
seeking to eliminate the leadership of Iran.

It sounds similar to the plan planners always tell
a good story. By the same token, they al-
most always fail short of their promises,
even in strictly military terms. That was true
in World War II. It was true in Korea. It
would make sense to policymakers. This is the
one lesson the administration seems to have
learned. And that realization brings us back to
when does it all come together? When
that option will make sense to policymakers. This is
the lesson the administration seems to have
learned from Iraq—occupation does not work.
And that realization brings us back to
why the air strike option has been so attrac-
tive to the administration from the begin-
ing.

When Is the Strike?

When does it all come together? When
could the United States pull the trigger on
the military option? The most important
point in understanding the window for an at-
tack is that the military option was not
the determining factor. This operation
will not resemble the six months of

### Table 2. Consequences of an Attack

<table>
<thead>
<tr>
<th>Type of Operation</th>
<th>Short Strike</th>
<th>Regime Change</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hezbollah attacks on Israeli civilians</td>
<td>Possible</td>
<td>High probability</td>
</tr>
<tr>
<td>Attack on Iranian oil facilities</td>
<td>High probability</td>
<td>High probability</td>
</tr>
<tr>
<td>Sabotage pipelines in Iraq</td>
<td>High probability</td>
<td>Possible</td>
</tr>
<tr>
<td>Shelling on U.S. bases in Iraq</td>
<td>Possible</td>
<td>High probability</td>
</tr>
<tr>
<td>High probability of regime collapse</td>
<td>High probability</td>
<td>Possible</td>
</tr>
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As an obvious consequence of the instab-
ility resulting from a U.S. strike, the price
of oil almost certainly will spike. The im-
 pact will depend on how high and how long.
This longer the consequences worse the
price. A former Kuwaiti oil minister pri-
vately suggested a price of $112 per barrel.
Confidential analysis by a major European
bank estimates a price of $90, and a more
conservative estimate would be over
$200.

With prices surging to this level, third
order consequences become apparent. The
most obvious would be a global, syn-
chronized recession, intensified by the exist-
ing U.S. trade and fiscal imbalances. An-
other possible, likely consequence would be
that oil exporting countries outside the region
would enjoy significant surge in revenue from
higher prices. As a result, countries such as
Venezuela and Russia would enjoy expanded
influence while the West would be reeling
from recession.

I would note that in the preceding discus-
sion of the cycle of action and reaction, I
have not mentioned large U.S. ground unit
formations. That is because I do not believe
it is likely to play a significant role in the
military plan. The military aspects of the
regime, to attack facilities of other oil pro-
viders in the region.

It would be stronger for Iran and Hezbollah
to attack UN forces in Lebanon. If the UN
forces were to become too aggressive in re-
response to Hezbollah attacks against Israel,
they would most likely become targets. In
that regard, the UN role is to prevent some of the
intended target, to attack facilities of other oil pro-
viders in the region.

It is possible that Iran and Hezbollah
might try the UN. However, we have seen some
indications of the inten-
terest in obtaining the oil across the regi-
one of the things that would make sense to
policymakers. This is
the lesson the administration seems to have
learned from Iraq—occupation does not work.
And that realization brings us back to
why the air strike option has been so attrac-
tive to the administration from the begin-
ing.

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preparations for Operation Desert Shield in 1990. The preparations will be much less visible than the movements to the region in early 2003. We will not read about discussions with the President having permission. It will not be a major CNN event.

Instead, preparations will involve the quiet deployment of Air Force tankers to staging bases. A few special forces like the Naval SEALs and Delta Team have moved to the region. The more significant indications will come from strategic influence efforts to establish domestic political support. The most significant Washington indication is that both presidential speeches on terrorism is a beginning, but I expect more. An emerging theme for the final marketing push seems to be that Iran threatens Israel more. An emerging theme for the final marketing push seems to be that Iran threatens Israel more. Will it lead to a change in Iran in all probability it will. Will the United States have weakened its position in the Middle East? Yes. Will the United States have reduced its influence in the world? Yes.

When I finished the 2004 Iran war game exercise, I summarized what I had learned in a series of slides that I will not see with two simple sentences for policymakers. You have no military solution for the issues of Iran. You have to make diplomacy work. I am left with that conclusion made sense then. It still makes sense today.

Mr. LANTOS. Mr. Speaker, I am delighted to yield to 1-1/2 minutes to my dear friend and distinguished colleague in the International Relations Committee, the Congresswoman from Nevada (Ms. BERKLEY).

Ms. BERKLEY. Mr. Speaker, I thank my good friend Mr. LANTOS for yielding to me.

Mr. Speaker, I rise in strong support of this legislation. Each day brings something new from Iran, a new boast, a new rant, a new threat. Yet we have made little progress in convincing our allies that the United States has changed its business, and that business is funding and supplying terrorist organizations like Hezbollah, wiping Israel off the face of the map and denying the Holocaust.

We must not allow them to acquire the means to carry out their ambitions. It would be difficult to overstress the danger Iran represents. Unchecked Iranian nuclear proliferation, combined with increasing support for international terrorism, poses a greater threat to United States forces in the Middle East, moderate Islamic Arab countries in the region, the State of Israel. And a nuclear Iran poses just as much of a threat to Europe as it does to the countries in the Middle East. Congressmen, many of our allies seem oblivious to these dangers. Their strategy of negotiations, incentives, and concessions are not working. Stronger measures are necessary. This bill will ramp up the pressure on Iran to give up its nuclear ambitions and cooperate with the international community.

Iran is a radical fundamentalist country headed by a President who believes that time is on his side. In the context of the 21st century as Hitler was in the 20th century. Every time this man opens his mouth, he proves it. We must deny Iran the technology and financial resources that will enable this regime to carry out its threats.

I urge support of this bill.

Mr. BLUMENAUER. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. PAUL).

(Mr. PAUL asked and was given permission to revise and extend his remarks.)

Mr. PAUL. Mr. Speaker, I rise in strong opposition to this bill, and let me give you a few reasons why.

In the introduction to the bill, it says that its purpose is to hold the current regime in Iran accountable for its threatening behavior and to support a transition of its government; and I would just ask one question: Could it be possible that others around the world and those in Iran see us as participating in "threatening behavior"? I submit that this is the number one reason why we are doing things from other people's view as well.

I want to give you three quick reasons why I think we should not be going at it this way:

First, this is a confrontational manner of dealing with a problem. A country that is powerful and self-confident should never need to resort to confrontation. If one is confident, one should be willing to use diplomacy whether dealing with our friends or our enemies; I think the lack of confidence motivates resolutions of this type.

The second reason that I will give you for opposing this is that this is clearly seeking regime change in Iran. We are taking it upon ourselves that we don't like the current regime, we don't like Almadinyad, but do we have the responsibility and the authority to orchestrate regime change? We approach this by doing two things: Sanctions to penalize, at the same time giving those groups the support to undermine the government. Do you know if somebody came into this country and paid groups to undermine our government, that is illegal? Yet here we are casually paying money, millions of dollars, unlimited sums of money to undermine that government. This is illegal.

The third point. This bill rejects the notion of the nonproliferation treaty. The Iranians have never been proven to be in violation of the nonproliferation treaty; and this explicitly says that they cannot enrich, uranium even for the peaceful purposes; and this explicitly says that the nonproliferation treaty is legal.

For these three reasons we obviously should reconsider and not use this national international legal authority to try diplomacy? Oppose this resolution.

Mr. LANTOS. Mr. Speaker, I am pleased to yield 1-1/2 minutes to Mr. SHERMAN.

Mr. SHERMAN. Mr. Speaker, I rise in reluctant support of this bill and in strong support of its authors—who got what they could from a President who has a veto pen, and is determined to continue our ineffectual policy toward Iran.

As America has been blinded by the flash of this President’s overly aggressive response to Iraq's tiny "weapons of mass destruction" program. So, as a result, we have settled for a loud but pitifully ineffectual effort, both toward North Korea's nuclear program and toward Iran's.

In this bill, I had an amendment that would have prohibited U.S. corporations from doing business with Iran through their foreign subsidiaries. That amendment was stripped in conference. So Halibut, locally protected; the American people are not.

This bill extends the Iran-Libya Sanctions Act, which was so effective,
along with other measures, in getting Khadafi to change his policies. However, as toward Iran, the last administration and this administration has a policy of ignoring widely reported investments in the Iran oil sector. The bill says that supposed to national oil company that invest even $40 million in Iran’s oil sector. When tens of billions of dollars of investments are announced in the Wall Street Journal, the President’s response is, he didn’t get that copy.

We have to pass this bill, but we have got to do a lot more. And we have got to make sure that, in our policy toward Russia and China about Moldova, Abkhazia, and currency controls, that we make it clear that support on Iran will lead to our change on those issues that are so important to Russia and China. We need linkage, and we need an effective policy.

Mr. BLUMENAUER. I yield 2 minutes to the gentleman from Washington (Mr. McDermott).

Mr. McDermott. Mr. Speaker, the American people need to know the Republican majority today has created the House Failed Diplomacy Caucus.

The Republicans need another press release so how about, so we have 20 minutes to offer our thoughts on a bad bill sent to the floor by Republicans to show how tough they are.

Showing how smart we are would be a far better idea for dealing with nations that are causing problems. But when the House diplomacy isn’t the stuff of press releases; rhetoric is. So the Republicans have shut down debate by bringing legislation to the floor under a closed rule. They don’t want ideas or improvements for making the world a safer place. They want leaflets to drop during the campaign, and they are being printed in mass right now. It is the Republican Iran strategy all over again.

Different nation, same flawed approach.

Republicans have given us H.R. 6198, the We Run the World Act. There is no need for other nations to actually have governments, actually. We will send our press releases. Just follow along, Russia, Iraq, Iran, Pakistan, Lebanon, and anywhere else where we think we run them.

Republicans want Americans to point the finger and send along instructions.

They are staging a campaign event right now on the floor. You watch it, unfortunately, it is the stuff of ads of television.

This is not, not, going to help America chart a path to deal with what is wrong with the Iranian government.

No one disagrees with the fact that it is not a government we want in control of that country. It will only entrenched and bolster those who are wrong.

The press release won’t protect anybody. But, in fact, the Iranian dissidents are the money. Do you know why? Just like many Republicans today don’t want Bush to come into their district and put his arm around them in the midst of this campaign, the Iranian dissidents know that, if it becomes American money, they are done. They will not be able to do what they need to. We need to vote “no” on this initiative.

Ms. ROS-LEHTINEN. Mr. Speaker, I am proud to yield time to my colleague from Florida (Mr. Shaw).

Mr. SHAW. Mr. Speaker, I thank the gentlewoman for yielding this time to me and congratulate the committee on both sides of the aisle.

I yield 2 minutes to the gentleman from Florida (Mr. Shaw).

Mr. SHAW. Mr. Speaker, I thank the gentlewoman for yielding this time to me and congratulate the committee on both sides of the aisle.

I think, however, when we look around and see some of the rhetoric that is going on, let’s take a look at what is happening.

We have probably one of the most dangerous countries in the world run by fanatics that is in the process of producing weapons of mass destruction. We have the Iranians financing the terrorists in Iraq killing American soldiers. We have the Iranians in Iraq killing innocent Iraqis. We have the Iranians in Iraq killing innocent Lebanese with the Hezbollah. And we are standing here today trying to people talk about press releases.

Come on, guys. Isn’t there something that can draw this Congress together?

It already has brought together responsible Democrats and Republicans. But unfortunately, unfortunately, this stuff, this legislation isn’t good for anybody. It does not help us in our country, and we should stop it now. We need to put up a unified force in this country.

We are aiding and abetting the enemy when we stress our division. Of course we are going to disagree. That is healthy. That is what democracy is all about. But on some of these items, such as what we are talking about here today, when American soldiers are spilled blood, and that blood is being split with Iranian money, can’t we start talking about America and quit talking about politics?

Mr. BLUMENAUER. I yield 2 minutes to the gentleman from New York.

Mr. HINCHEY. Mr. Speaker, I thank my distinguished friend from California for yielding to me, and I rise in strong support of this bill.

Mr. LANTOS. Mr. Speaker, I am pleased to yield the balance of our time to the distinguished member of the International Relations Committee, Mr. E evolution, from New York.

Mr. ENGEL. I thank my distinguished friend from California for yielding to me, and I rise in strong support of this bill.

My colleagues, we have to deal with things as they are, not as what we wish them to be. I wish there was reasonableness among the government of Iran today. I wish there were people that we could talk to on a friendly basis and reason with them and come to some kind of a compromise.

But that is not what we have here. We have a belligerent regime that is pursuing nuclear weapons, that is hostile towards the United States, that is hostile towards the American people, who are good friends of the American people, but they are trapped by a repressive government and a government that doesn’t have their best interests at heart, let alone anybody else’s best interest.

So this is sort of a carrot-and-stick approach. We slap sanctions when sanctions are needed. We amend, also we expand it. It is expiring if we don’t amend it, and it does what we know needs to be done.

Iran needs to be challenged. It cannot be allowed to have nuclear weapons.
This is the same policy, it is a centrist policy, it makes a lot of sense, and I urge strong bipartisan support for this bill.

Mr. BLUMENAUER. I yield 3 minutes to the gentleman from Iowa.

Mr. LEACH. I thank the gentleman for yielding to me.

First, let me stress, this bill has strong bipartisan support. It also has significant bipartisan opposition. And so it should be considered in the category of individual judgment, not politics.

On the plus side of the bill, let me note it does stress sanctions, not military action, and it quite properly gives the executive discretion to lift these sanctions.

On the minus side, and this is the compelling point, it represents an escalation of tension, policy, and attitudinal friction with Iran.

It is an escalation that is guaranteed to fail. You might ask, why is it guaranteed to fail? It is because unilateral sanctions don’t work, and there is no evidence that the other principal parties that are engaging with Iran will follow this example.

We can pour our chest all we want to suggest that a Russia or a China should follow our lead, but these kinds of suggestions from Congress simply carry no weight.

Secondly, no one should doubt that this complicates problems for our troops in Iraq today. That is an absolute utter circumstance that has to be dealt with, and we have to think it thorough.

Thirdly, this step implicitly underscores and advances a diplomacy-less strategy. That is, the United States of America has advanced a no-talk-with-Iran strategy for more than this administration, for quite a number of years, and the question is does it work, is it as hapless as our strategy towards certain other countries in the world, including Cuba.

In the backdrop is the issue of force, and also the issue of dominoes, dominoes in the sense of decisionmaking. Often policies that don’t work implicitly are followed by other policies that we hope will work. If this particular policy doesn’t work, do we then have to go to the force option?

There is a neocon desire, as has been written about extensively, to consider the idea of a preemptive strike. All I would say is there is a “3-3-100” set of principles that we have to think through.

The first “three” is there are three ways of obtaining nuclear weapons: one is to develop them; another is to steal them; and another is to buy them.

If we bomb Iran, there is no doubt whatsoever we will put back their capacity to develop. But it might also accelerate the capacity to steal or purchase.

The second “three” principle is that there are three weapons of mass destruction. We not only have nuclear; we have chemical and biological. And knocking back their nuclear certainly will accelerate the other two.

The third issue is the issue of a “hundred.” We have the idea that we can do a preemptive strike quickly and it will be over. But this means the other side will respond. They might respond for 100 years.

I think it is time we talk about from the people’s House the issue of developing a机制 where if we are going to move to non-escalation, we ought to move in the direction of realists instead of taking ideological steps that don’t fit the times.

Mr. BLUMENAUER. Mr. Speaker, I yield myself the balance of my time to close.

Mr. Speaker, I appreciate the gentlewoman’s work because the bill that we have before us, as I mentioned earlier, is, a substantial improvement over the one that was approved by the House earlier this year. We would come back to the House because I think these issues are worthy of further discussion, and there is more fine-tuning we could do.

In fact, dealing with the provisions for termination of the promotion of democracy, reading the language that is in this bill, the Ayatollah Khomeini, in exile in France, would have qualified for U.S. assistance. We could have had a debacle like we had with Chalabi. I don’t think it is as tight and precise as we would like.

But most important, it fails to deal with the fundamental choice we need to make between whether we want regime change or whether we want to stop nuclear proliferation.

I deeply appreciate the points raised by the gentleman from Iowa (Mr. LEACH). We could end up actually making the situation worse.

I am deeply troubled that we are going to ratchet up the pressure on the very people who we most need for a diplomatic solution, the people like China and Russia who are going to be key to ultimately resolving it.

Mr. Speaker, part of the problem that we have great difficulty with is that some of the most disagreeable people, some of the most dangerous people, are people that we ignore at our peril. We should not do that. We should consider them directly, diplomatically, and find out what is the best way to solve this problem, which I hope that the House will reject.

Ms. ROS-LEHTINEN. Mr. Speaker, as recently as last month, Iran bluntly refused to respond to the August 31 deadline as set forth by the United Nations Security Council to stop enriching its uranium in exchange for a very generous incentives package.

We have tried to coax. We have tried to induce. We have tried to talk the Iranians into cooperating. Enough with the carrots; it is time for the stick.

We hope that all freedom-loving nations are allies in this struggle for non-proliferation efforts and would, out of their own volition, take the necessary steps to hold Iran accountable for its own behavior. However, sometimes even friends need a little prodding.

Writer Charles Krauthammer points out the chilling reality of the opportunity costs of not dealing effectively with this crisis. He said, “If we fail to prevent an Iranian regime run by apocalyptic fanatics from going nuclear, we will have reached the point of no return. It is not just Iran that might be the source of great concern, but also all of the many countries in the Middle East. They have, again and again and again, defied the clear will of the international community that has demanded that they freeze their efforts to enrich uranium. Iran has been, and remains today, the most active state sponsor of terrorism in the world. Iran provides hundreds of millions of dollars to Hezbollah, Hamas and other radical, violent Islamist groups in the Middle East. Their most senior officials continue to call for the annihilation of Israel, a sovereign member of the international community.

In Iran, we have exactly what we thought we had in Iraq: a state with enormous wealth in natural resources; significant WMD capabilities and the means to deliver them; and the use of terrorist organizations as an instrument of state policy. But what will amaze the historians who look back on this period will be the stunning lack of urgency with which the Bush Administration and this Congress has approached this problem. I will be the first to admit that our policy options toward Iran are unapetizing at best. We have little diplomatic leverage, since we don’t talk with Iran directly, except in very limited circumstances. Any military operation beyond pinpoint air strikes is quite simply beyond our capacity at the moment, given our situation in Iraq. And we should honestly acknowledge that even a robust campaign of air strikes targeted at Iran’s nuclear facilities might have only a marginal effect on Iran’s nuclear program. We don’t know where all of it is hidden. And we don’t know how much of it can be effectively attacked from the air. Further, since our intelligence is so incomplete, we would have a very limited ability to assess
how much damage our strikes had actually done to the Iranian program. In addition to questions about the direct affects, a decision to strike Iran, would have enormous diplomatic consequences for the United States, and would likely lead to Iranian retaliation against our already overstretched troops in Iraq, and probably against Israel.

So without a viable military option, we are left with making multi-lateral diplomacy effective. This is the right course, but it is one that the Bush administration has been extremely loathe to pursue, and one at which they have shown no progress in the past.

If a nuclear-armed Iran is “very de-stabilizing,” as the President has said it is—and I do believe it is—then we need to make that view, and the implications of that view, clear to Russia and China and even to our partners in Europe. Fortunately, this legislation provides the administration with new and useful tools that can be applied to help make that case. Our message must be that this urgent problem can be addressed if the will is there to do so.

In short, Iran needs to become urgent for the administration if the will becomes urgent for anyone else. Only concerted, sustained multi-lateral pressure has any chance of convincing Iran to change course. And if Iran chooses not to change course, then the international community must be prepared to pursue economic and financial sanctions against the regime. Unfortunately, while the EU–3 shares our view that an Iran with nuclear weapons is not an acceptable outcome, it seems that Russia and China do not. If the administration can’t convince those nations that it is in their interest to prevent Iran from having nuclear weapons, then we need to start considering what options remain to us unilaterally, what the cost of the options would be and how we could go about containing a nuclear-armed Iran.

One last point Mr. Speaker, I am disappointed that the bill we are considering today does not contain the language regarding pension plans and mutual funds that would require the managers of such funds to notify investors if any of the assets of a particular fund are invested in an entity which has invested in Iran and subject to sanctions under ILSA. I think such notifications are consistent with the fiduciary responsibilities of fund managers and would have prevented Americans from unwittingly fueling Iran’s drive to acquire nuclear weapons, simply by contributing to their 401(k)s. Nevertheless, I strongly urge my colleagues to support this bill.

Mr. STARK. Mr. Speaker, I rise to oppose the march to war with Iran. I am as concerned as the authors and supporters of this bill about Iran’s nuclear weapons program. But I do not believe that levying additional sanctions and encouraging regime change is the correct course. Instead, we should work with our allies to negotiate a diplomatic solution.

The “Iran Freedom Support Act”, H.R. 6198, will antagonize Iran’s government. Provisions calling for democracy promotion and “the export of freedom” will be interpreted as a direct assault on Iran’s sovereignty and may prompt Iran to discontinue ongoing negotiations. Unilateral sanctions may also discourage France, Germany, Italy, and Spain from working to broker an international agreement. Our allies do not appreciate it when we “go it alone.”

Dissidents will also be hurt by our offer of financial and political assistance. As in Iraq, individuals and groups that ally with America will see their integrity questioned and their reputations for independence undermined.

Iranian families will be hurt by sanctions that prohibit foreign investment in the country’s petroleum industries. Sanctions already in place have not impacted Iran’s behavior. Why would new prohibitions succeed where old sanctions have failed?

Finally, the American people will be less secure. Antagonizing Iran will not stop or even slow nuclear weapons development. Instead, sanctions will prompt Iran to redouble its efforts as a means of securing domestic and international face.

The Bush administration and Republicans in Congress have already made a mess of Iraq and allowed warlords to gain control of much of Afghanistan’s countryside. This legislation takes us a step closer to similar results in Iran. I urge my colleagues to vote “no”.

Mr. CROWLEY. Mr. Speaker, I rise in strong support of H.R. 6198, introduced by my colleagues on the House International Relations Committee.

The international community continues to look the other way as Iran claims they will move forward in the process of enriching uranium. The leaders of Iran decided the IAEA deadline did not apply to them and I strongly believe they have no interest in negotiating with the West.

The President of Iran was clear about his intentions to enrich uranium at the United Nations General Assembly a few weeks ago. His performance in New York and at the Council of Foreign Relations was a display of insanity. He continues to proudly defend his comments about the Holocaust being a myth and how Iran is not trying to acquire nuclear weapons even as more and more information comes out about their covert nuclear program that was helped along by AQ Khan’s black market network.

This is a man who was basically appointed by the Mullahs in Tehran. I say this because any reform minded candidates were removed from the ballots. Iran is not a democracy; the government of Iran is run by zealots using terrorism to meet their goals.

We need to support the people of Iran as they continue to be repressed by the Mullahs. The people of Iran deserve freedom and democracy.

I strongly support this bill and I urge all of my colleagues to support this important piece of legislation.

Mr. MARKEY. Mr. Speaker, I rise in opposition to H.R. 6198, the Iran Freedom Support Act, because this bill could very well derail the diplomatic efforts currently underway that are our best hope for ending the possibility of an Iranian nuclear weapon.

Let me be clear that I agree with the great majority of which this bill would do. I believe that we should extend the Iran Libya Sanctions Act. I believe that we should support human rights in Iran.

But as with so many things in life, Mr. Speaker, timing is everything. And this is the wrong time to pass this bill.

Culprits negotiations between Iran and the European Union in Berlin are reportedly closing in on a deal that would suspend Iran’s uranium enrichment program while multilateral talks commence. The Bush administration has so botched the issue of containing Iran’s nuclear ambitions that we have few choices left. These negotiations were just suspended for a week, and it would surprise no one if Iran did not return to the table. But make no mistake: as bad as the negotiation option may turn out to be, it remains our best chance of stopping Iran from ever building a nuclear weapon.

We need to support these negotiations, not undermine them. For the Congress to pass language which essentially makes regime change in Iran the official policy of the United States, and would cause the current negotiations in Berlin remain promising. I could support this bill at another time, but not now, not when its passage could kill the ongoing negotiations.

Mr. ROS-LEHTINEN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, H.R. 6198, as amended, was passed.

A motion to reconsider was laid on the table.

SECURE BORDER INITIATIVE FINANCIAL ACCOUNTABILITY ACT OF 2006

Mr. ROGERS of Alabama. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6162) to require financial accountability with respect to certain contract actions related to the Secure Border Initiative of the Department of Homeland Security.

The Clerk read as follows:

H.R. 6162 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 “Secure Border Initiative Financial Accountability Act of 2006.”

SEC. 2. SECURE BORDER INITIATIVE FINANCIAL ACCOUNTABILITY.

(a) IN GENERAL.—The Inspector General of the Department of Homeland Security shall review each contract action related to the Department’s Secure Border Initiative having a value greater than $25,000,000, to determine whether each such action fully complies with applicable cost requirements, performance objectives, program milestones, the development of small, minority, and woman-owned business, and timelines. The Inspector General shall complete a review under this subsection with respect to a 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 obligations of the contract.

(b) REPORT BY INSPECTOR GENERAL.—Upon completion of each review described in subsection (a), the Inspector General shall submit to the Secretary of Homeland Security a report containing the findings of the review, including findings regarding any cost overruns, significant delays in contract execution, the lack of rigorous contract management, insufficient departmental financial oversight, bundling that limits the
Mr. Speaker, I want to thank Mr. ROGERS for his commitment to stem- ming waste, fraud and abuse in the De- partment of Homeland Security. This bill, H.R. 6162, would require the Department of Homeland Security Inspector General to immediately review any Secure Border Initiative contract valued at $20 million or more. By requiring a review of this amount has been triggered, the Inspector General can immediately review the cost re- quirement, performance objectives and timelines for the SBI project.

This trigger builds accountability into every contract made for the Secure Border Initiative and will provide the American public with some certainty about where their money is going. This bill also will allow the Inspec- tor General to express its concerns if they find unsatisfactory practices early on.

They will not have to wait until all the money is out the door and excuses are being made before they get in- volved in the oversight of this multi- billion dollar project.

Mr. Speaker, I also want to empha- size that this bill reviews in the assessment of the inclusion of small, minority, and women-owned businesses in any subcontracting plans, an area of constant challenge for the Department.


The Secretary of Homeland Security is then required to notify the Congress and take immediate steps to rectify the problems within 30 days. To carry out this rigorous oversight, the bill includes a provision by Mr. THOMPSON that would authorize additional funds. SBI\textsuperscript{net} will involve nu- merous large and small Federal con- tractors to implement the technology required to successfully secure our Na- tion's borders.

We look forward to working with the chairman of the Committee on Government Reform, Mr. TOM DAVIS, in the coming months to ensure that we have the best possible place to ensure SBI\textsuperscript{net} is cost effective.

A "yes" vote on this legislation will send a strong message to the con- tractor and to the Department that Congress intends to "hold their feet to the fire" in fulfilling these contract re- quirements.

Mr. Speaker, I reserve the balance of my time.

Mr. MEEK of Florida. Mr. Speaker, I yield such time as he may consume to Mr. THOMPSON of Mississippi, the ranking member of the Committee on Homeland Security.

Mr. THOMPSON of Mississippi. Mr. Speaker, I thank the ranking member of the subcommittee for allowing me to speak on this bill.

Mr. Speaker, I want to thank Mr. ROGERS for his commitment to stem- ming waste, fraud and abuse in the De- partment of Homeland Security. This bill, H.R. 6162, would require the Department of Homeland Security Inspector General to immediately review any Secure Border Initiative contract valued at $20 million or more. By requiring a review of this amount has been triggered, the Inspector General can immediately review the cost re- quirement, performance objectives and timelines for the SBI project.

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Mr. Speaker, I also want to empha- size that this bill reviews in the assessment of the inclusion of small, minority, and women-owned businesses in any subcontracting plans, an area of constant challenge for the Department.
I rise to support the Secure Border Initiative Financial Accountability Act and offer that there is an overall vision that this is a very important component of, and I hope that as we move this legislation along we still may have a window of opportunity to improve the Secure Border Initiative. Secretary Chertoff speaks of, that this is a major component of, is in place.

And I just want to thank both gentlemen for their leadership and acknowledge, that even with this Financial Accountability Act, we are still missing and need to move forward on: More agents to patrol our borders, secure our ports of entry and enforce immigration laws; expanded detention and removal capabilities to eliminate “catch and release” once and for all; a comprehensive and systematic upgrading of the technology used in controlling the border, including increased manned aerial assets, expanded use of U.A.V.s, next-generation technology; increased investment in infrastructure improvements at the border, providing additional physical security to sharply reduce illegal border crossings; and greatly increased interior enforcement of immigration laws, in our immigrant communities, through more robust work site enforcement; and, of course, an earned access to legalization.

We must not frighten America. Let them know that we are doing the job. But we can account for everyone that is inside our borders, and we can work to protect and secure our northern and southern border. This initiative, the Financial Accountability, is crucial because it gives the Inspector General oversight and we, as the Management Subcommittee of the Homeland Security Committee, have seen the fractures in the oversight of spending money. This is an important way to provide the Department of Homeland Security’s Inspector General to immediately review any Secure Border Initiative contract valued at $20 million or more.

Let me thank the two gentlemen, Mr. Rogers and Mr. MEEK, who spent hours and hours reviewing some of the mishaps that have occurred with contracts that have not fulfilled the responsibility of securing America, contracts that have violated our trust. They have not had the right equipment, the technology. It hasn’t worked. They haven’t had the right staff, the right equipment.

This way, the Inspector General can make findings, including cost overruns, delays in contract execution, lack of rigorous contract management, insufficient Department oversight, and limitations on small business participation, which now will be able to be reported under this particular bill. Within 30 days of receiving the Inspector General’s report, the Secretary must submit a corrective action plan to Congress. And as well we must ensure open management.

Let me congratulate the ranking member, Mr. Thompson, and I joined him on these amendments that will highlight small businesses, automatically triggers oversight based on the award of contracts once a certain monetary amount has been reached, requires that the Inspector General conduct a review during the pendency of the project and find that the Inspector General assess the inclusion of small, minority, and women-owned businesses in the SBI subcontracting plans as a factor in its review.

If that is not one of the larger pieces, everywhere we go, as this Department grows larger and larger, Homeland Security spends more and more money, the question is, why can’t the homegrown people do the job, the small businesses, the women-owned businesses, the minority-owned businesses? And the answer is a blank. We don’t have an answer.

This committee has been in the leadership realm, this Subcommittee with Chairman Rogers and Ranking Member MEEK. You have been in the driver’s seat on pushing the Homeland Security Department and our subcommittee in ensuring that the little guys get the work.

We are now suffering in Louisiana and the Gulf Region because the little guys have been ignored, and the jurisdictions down there say we have got the little guys willing to work but the bigger guys have the door and not allowed us to be able to do an efficient, cost-efficient, good job. It has been the layered contracts with multinationals, and it never gets down to small businesses.

So I rise to support this initiative, the Secure Border Initiative Financial Accountability Act, and I want to thank Cherri Branson and Rosaline Cohen for their leadership of staff.

I thank the ranking member for yielding to me, and I ask my colleagues to support it. But our work is yet undone until we finish comprehensive immigration reform.

Mr. Speaker, I rise today in support of H.R. 6162, requiring financial accountability with respect to certain contract actions related to the Secure Border Initiative (SBI) of the Department of Homeland Security.

The Secure Border Initiative, SBI, is a comprehensive multi-year plan to secure America’s borders and reduce illegal migration.

Homeland Security Secretary Michael Chertoff has announced an overall vision for the SBI which includes: more agents to patrol our borders, secure our ports of entry and enforce immigration laws; expanded detention and removal capabilities to eliminate “catch and release” once and for all; comprehensive and systemic upgrading of the technology used in controlling the border, including increased manned aerial assets, expanded use of U.A.V.s, and next-generation detection technology; increased investment in infrastructure improvements at the border—providing additional physical security to sharply reduce illegal border crossings; and greatly increased interior enforcement of our immigration laws—including more robust work site enforcement.
Mr. Speaker, an earlier version of this important bill passed the House as part of a border security measure in December 2005. Furthermore, the language of this bill also appears in fiscal year 2007 DHS authorization measure that passed the Committee on Homeland Security in July 2006.

This bill requires the DHS’s Inspector General to immediately and automatically review any Secure Border Initiative contract valued at more than $20 million. This review necessarily entails examining the cost requirements, performance objectives, and program timelines set by the Department for the SBI project and requires an assessment of the inclusion of small, minority and women-owned businesses in any subcontracting plans.

The Inspector General’s review must be completed within 60 days after its initiation and reported to the Secretary of DHS. Within 30 days of receiving the Inspector General’s report, the Secretary of DHS must submit to the Committee on Homeland Security a report on the Inspector General’s findings and the corrective action plan the Secretary has taken and propose.

This automatic triggering of oversight by the Inspector General for contracts greater than $20 million is critical to minimize the waste, abuse, and fraud, which unfortunately has plagued many of DHS’s contracts. In addition, this requires ensuring the pending fate of the project rather than at its termination to minimize waste and ensure redemptive steps are taken expeditiously. The Inspector General’s findings will include cost overruns, delays in contract execution, lack of rigorous Department contract management, insufficient Department financial oversight, limitations on small business participation, and other high risk business practices.

Moreover, this bill requires that the Inspector General assess the inclusion of small, minority and women-owned businesses in the SBI subcontracting plans as a factor in its review. Historically, small, minority and women-owned businesses have been disadvantaged in seeking and winning these types of contracts. There may be inherent disadvantages for these businesses, but it is clear that potential is tremendous. It is critical that DHS ensures that these businesses have the ability to compete fairly for these lucrative opportunities.

I am very proud that my district, Harris County and Houston ranks sixth and Texas ranks fifth in the country for the largest number of African-American owned firms, following New York, California, Florida, and Georgia. Minority and women-owned businesses across the country will appreciate the effort to preserve their opportunity to compete for these contracts and my colleagues to remember that there are a great many barriers to minority and women business professionals, and provisions such as these preserve equal access and open opportunities.

In the aftermath of Hurricanes Katrina, Rita and Wilma, small, minority and disadvantaged businesses from the region were shut out of disaster-related contracts because goals and preferences were not in place. Since the late 1960s, it has been the policy of the Federal Government to assist small businesses owned by minorities and women to become fully competitive. A recent concern, however, the Small Business Administration has set forth government-wide goals to level the playing field for small and minority businesses seeking Federal Government contracts. Leveling the playing field continues to be a central concern for me and should continue to be a central concern for this Congress.

The oversight required in this bill is integral because SBI is expected to be a $2.5 billion initiative and the contracts allocated through SBI will be substantial. For example, last week, DHS awarded a contract valued at $50 million to a team led by Boeing under the SBI program. Furthermore, the predecessors to SBI—ISIS and American Shield—fell far short of expectations. The Department spent over $423 million and protected 4 percent of the border, which is about $100 million for every 1 percent of the border.

Similarly, the Inspector General has found that the Department’s failure in these past programs has been due to poor planning, lax program management, inappropriate equipment purchases and spotty implementation.

This bill is the first step in requiring effective oversight. Realistically, effective oversight cannot be the sole province of Inspectors General. It is Congress’ constitutional duty to conduct oversight of the programs and activities of the executive branch. Just as the Department cannot contract out its responsibilities, neither can we.

Consequently, I urge my colleagues to support this important bill.

Mr. MEEK of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I think we have identified the true essence of this bill; and I think also that it is very, very important. I want to take from not only Ms. JACKSON-LEE but also Mr. ROGERS and Ranking Member BENNIE THOMPSON in saying in this area, when we look at management and oversight of one of the fastest-growing Departments and the largest Department in the history of the world, that we have to put these parameters in place because we have the responsibility of article I, section 1 of the U.S. Constitution to make sure that we have the level of oversight that is needed.

I think the record reflects for itself that when oversight is not paramount the taxpayers lose; and I hope, like Mr. THOMPSON said, that we can expand this kind of theme throughout other programs in the Department of Homeland Security.

Now, the people that are happy today are members on this committee and, hopefully, the Members when they vote for this piece of legislation. But the Inspector General, especially in the Department of Homeland Security, writes the reports, submits them to Congress, and then there is a foot-dragging process at the Department of Homeland Security.

Within this piece of legislation within 30 days they have to respond as it relates to corrective action. And it would hopefully bring about the kind of accountability not only that we look for on the economic side, Mr. Speaker, but also look for as it relates to protecting our borders. Two programs before this program, well over $400 million, $429 million, was spent. We are going back again with a contract with a different company that would take us $2.5 billion. We had the Secretary before the full committee just yesterday, or the day before last, and this was the line of my questioning. Because we do not want to be after the fact; we want to be before it.

So, Mr. Speaker, I encourage the Members to vote an affirmative on this very good piece of legislation; and hopefully, just hopefully, Mr. Speaker, we could head further into other contracting matters not only within the Department of Homeland Security but I would also add the Department of Defense and other departments like it so we can do away with waste and having individuals watching over the shoulders of individuals that may not hold the taxpayers’ dollars as high as we do as it relates to accountability.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. ROGERS of Alabama. Mr. Speaker, I yield myself the balance of my time.

I would like to sum up by emphasizing that it is critically important for the Members to recognize that we need to put these kinds of accountability measures in place so that we can ensure that as we go forward with the massive expenditures we are going to make to secure our borders that we don’t have a repeat of the waste, fraud, and abuse that we have seen in the past.

With that, Mr. Speaker, I urge an “aye” vote for H.R. 6162.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Alabama (Mr. Rogers) that the House suspend the rules and pass the bill, H.R. 6162.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

CHILDREN’S HOSPITAL GME SUPPORT REAUTHORIZATION ACT OF 2006

Mr. DEAL of Georgia. Mr. Speaker, I move to suspend the rules and concur in the Senate amendment to the bill (H.R. 5574) to amend the Public Health Service Act to reauthorize support for graduate medical education programs in children’s hospitals.

The Clerk read as follows:

Senate amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Children’s Hospital GME Support Reauthorization Act of 2006”.

SEC. 2. PROGRAM OF PAYMENTS TO CHILDREN’S HOSPITALS THAT OPERATE GRADUATE MEDICAL EDUCATION PROGRAMS.

(a) IN GENERAL.—Section 340B of the Public Health Service Act (42 U.S.C. 256e) is amended—
(1) in subsection (a), by inserting “and each of fiscal years 2007 through 2011” after “for each of fiscal years 2000 through 2005”;
(2) in subsection (e)(1), by striking “26” and inserting “11”;
(3) in subsection (f)(1)(A)—
   (A) in clause (ii), by striking “and” at the end;
   (B) in clause (iii), by striking the period at the end and inserting “;”;
   (C) by adding at the end the following:
      “(iv) for each of fiscal years 2007 through
   2011, $110,000,000.”;
and
(4) in subsection (f)(2)—
   (A) in the matter before subparagraph (A), by striking “paragraph (f)(1)(A)” and inserting “paragraph (f)(1)(B)”;
   (B) in subparagraph (B), by striking “and” at the end;
   (C) in subparagraph (C), by striking the period at the end and inserting “;”;
   (D) by adding at the end the following:
      “(D) for each of fiscal years 2007 through
   2011, $220,000,000.”.

(b) REDUCTION IN PAYMENTS FOR FAILURE TO FILE ANNUAL REPORT.—Subsection (b) of section 340E of the Public Health Service Act (42 U.S.C. 256e) is amended by—

(1) in paragraph (1), in the matter before subparagraph (A), by striking “paragraph (2)” and inserting “paragraphs (2) and (3)”;
and
(2) by adding at the end the following:

“(3) ANNUAL REPORTING REQUIRED.—
   (A) REDUCTION IN PAYMENT FOR FAILURE TO REPORT.
      “(i) IN GENERAL.—The amount payable under this section to a children’s hospital for a fiscal year (beginning with fiscal year 2008 and after taking into account paragraph (2)) shall be reduced by 25 percent if the Secretary determines that—
         (I) the hospital has failed to provide the Secretary, as an addendum to the hospital’s application under this section for such fiscal year, the report required under subparagraph (B) for the previous fiscal year; or
         (II) such report fails to provide the information required under any clause of such subparagraph.
      “(ii) NOTICE AND OPPORTUNITY TO PROVIDE MISSING INFORMATION.—Before imposing a reduction under clause (i) on the basis of a hospital’s failure to provide information described in clause (i)(II), the Secretary shall provide notice to the hospital that failure and the Secretary’s intention to impose such reduction and shall provide the hospital with the opportunity to provide the required information within a period of 30 days from the date of such notice. If the hospital provides such information within such period, no reduction shall be made under clause (i) on the basis of the previous failure to provide such information.
      “(B) ANNUAL REPORT.—The report required under this subparagraph for a children’s hospital for a fiscal year is a report that includes in (a form and manner specified by the Secretary) the following information for the residency academic year completed immediately prior to such fiscal year:
         (i) The types of resident training programs that the hospital provided for residents described in subparagraph (C), such as general pediatrics, internal medicine/pediatrics, and pediatric subspecialties, including both medical subspecialties certified by the American Board of Pediatrics (such as pediatric gastroenterology) and non-medical subspecialties approved by other medical certification boards (such as pediatric surgery).
         (ii) The number of training positions for residents described in subparagraph (C), the number of such positions recruited to fill, and the number of such positions filled.
         (iii) The types of training that the hospital provided for residents described in subparagraph (C) related to the health care needs of different populations, such as children who are underserved for reasons of family income or geographic location, including rural and urban areas.
         (iv) The changes in residency training for residents described in subparagraph (C) which the hospital has made since the most recent academic year (except that the first report submitted by the hospital under this subparagraph shall be for changes since the first year in which the hospital received payment under this section), including—
            (I) changes in curricula, training experiences, and types of training programs, and benefits that have resulted from such changes; and
            (II) changes for purposes of training the residents in the measurement and improvement of the quality and Value of services.
      “(C) RESIDENTS.—The residents described in this subparagraph are those who—
         (i) are in full-time equivalent resident training positions in any training program sponsored by the hospital;
         (ii) are in a training program sponsored by an entity other than the hospital, but who spend more than 75 percent of their training time at the hospital;
      “(D) REPORT TO CONGRESS.—Not later than the end of fiscal year 2011, the Secretary, acting through the Administrator of the Health Resources and Services Administration, shall submit a report to the Congress—
         (i) summarizing the information submitted in reports to the Secretary under subparagraph (B);
         (ii) describing the results of the program carried out under this section; and
         (iii) making recommendations for improvements to the program.”;
   (c) TECHNICAL AMENDMENTS.—Section 340E of the Public Health Service Act (42 U.S.C. 256e) is further amended—
      (1) in subsection (c)(2)(E)(ii), by striking “described in subparagraph (C)f)” and inserting “applied under section 1886(d)(3)(E) of the Social Security Act”;
      (2) in subsection (e)(2), by striking the first sentence; and
      (3) in subsection (e)(3), by striking “made to pay” and inserting “made and pay”.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Georgia (Mr. DEAL) and the gentleman from New Jersey (Mr. PALLONE) each will control 20 minutes.

The Chair recognizes the gentleman from Georgia.

Mr. DEAL of Georgia. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the record and to insert extraneous material on the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. DEAL of Georgia. Mr. Speaker, I yield myself such time as may consume.

Today, I rise in support of H.R. 5574, the Children’s Hospital Graduate Medical Education Support Reauthorization Act of 2006, which is legislation to reauthorize the Children’s Hospital Graduate Medical Education Payment Program for another 5 years.

Without question, Children’s Hospitals are an integral part of our nation’s health care system. They improve health outcomes by providing a unique set of specialized health care services and treatment options for children. The Children’s Hospital Graduate Medical Education Payment Program is designed to provide fiscal assistance to children’s teaching hospitals, which do not receive significant Federal support for their resident and intern training programs through Medicare because of their low Medicare patient volume.

By reauthorizing this important but relatively young program, we are able to help ensure that the mission of these teaching hospitals is continued.

Mr. Speaker, I am proud to say that this legislation makes improvements to the program by strongly encouraging the participating hospitals to report important new data measures to the Department of Health and Human Services.

As my colleagues are aware, we originally considered this bill under suspension of the rules on June 21, and the legislation passed by a strong bipartisan vote of 421-4. We are here today to reconsider this legislation because the Senate passed this bill with an amendment by unanimous consent on Tuesday.

This legislation will keep the important reporting requirement reforms embodied in the House bill. I encourage my colleagues to support this bill today so that we can send this important legislation to the President for his signature.

I would like to thank the chairman of the Senate Health, Education, Labor and Pensions Committee, Senator ENZI of Wyoming, for his leadership and hard work in moving this bill through the Senate. I would like to thank the 20 members of the Energy and Commerce Committee who joined me as original cosponsors of the bill.

Mr. Speaker, I would also like to specifically commend Chairman DEBORAH PRICE of Ohio and Chairman NANCY PLUMMER of Connecticut for their strong and continued leadership on this important issue.

I encourage my colleagues to support the legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. PALLONE. Mr. Speaker, I yield myself such time as I may consume.

I also rise in support of H.R. 5574, the Children’s Hospital GME Support Reauthorization Act of 2006. I do want to thank the ranking member of our subcommittee, Mr. STUTZ, and Mr. BERZINS, Mr. SCHUMER, Mr. BROWN, for his support on our side of the aisle. He was the person who really took the lead on this legislation.
The legislation, as you know, reauthorize the Children’s Hospital Graduate Medical Education program until 2011 to fund residency programs in Children’s Hospitals. This program is designed to help Children’s teaching hospitals that do not receive significant Medicare payments, but prior to the enactment of this program, independent Children’s teaching hospitals did not have a similar program to fund their resident training programs for physicians.

Thankfully, Congress recognized this inequity and the financial disadvantage it placed on Children’s Hospital. Now, Mr. Speaker, money from this program helps to support the broad teaching goals of Children’s teaching hospitals, including training health care professionals, providing rare and specialized clinical services, and innovative clinical care, providing care to the poor and underserved, and conducting biomedical research.

Teaching hospitals have higher costs than other hospitals because of the special services they provide. This legislation seeks to alleviate that burden. On June 21, 2005, the House overwhelmingly passed legislation authorizing $130 million a year for fiscal years 2007 through 2011. This offset direct medical education costs of graduate medical education in Children’s Hospitals.

The Senate amended this legislation and increased that authorization for direct costs to $110 million a year for fiscal years 2007 through 2011. The Senate also increased the funds authorized for the indirect medical education costs of graduate medical by $20 million, providing $220 million for fiscal years 2007 through 2011.

These commendable changes will provide needed funds to the Children’s Hospital Graduate Medical Education program. Again, I want to thank the chairman who is here on the floor, our Republican chairman, Mr. DEAL, because this did end up being a bipartisan effort. I know you played a major role in making it a consensus bill. I urge all of my colleagues to support the legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. DEAL of Georgia. Mr. Speaker, I yield 4 minutes to the gentlewoman from Connecticut (Mrs. JOHNSON), a long-time supporter of this program.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I thank the gentleman from Georgia for yielding me time.

I rise in enthusiastic support of H.R. 5574, legislation that reauthorizes the Children’s Hospital Graduate Medical Education program.

It is a little recognized fact that we support medical education through Medicare payments. And since there are not a lot of Medicare patients in Children’s Hospitals, we found that we were providing inadequate support for the training of pediatricians, and especially as pediatrics became a specialty with the same spectrum of subspecialties as are common in the rest of medicine.

So in 1998, Congresswoman PRYCE from Ohio and I authored this program, and I really appreciate the good work of Chairman NATHAN DEAL from Georgia in bringing it to the floor with bipartisan support to reauthorize it for another 5 years.

When we first started this program, Federal GME support for Children’s Hospitals was at 5 percent of what Medicare was providing for other teaching hospitals. Thanks to the legislation and the support over the years that Congress has given it, today Federal GME supports 80 percent of the cost of residencies in Children’s Hospitals.

That is a wonderful thing, because as a result of that, Children’s Hospitals have been able to increase the number of residents they train, including both general pediatricians and pediatric specialists, increase the number of training programs, improve the quality of the training programs, and strengthen the caliber of the residents they train.

The program works. It is improving the care available to our children across the country. The Children’s GME Hospitals accounted for more than 22 percent of the growth in pediatric subspecialty training programs in the country, and more than 65 percent of the growth in the number of pediatric subspecialists trained. That has been critical at the time when many regions of the country, including major metropolitan areas, have experienced shortages of pediatric subspecialists: pediatric cardiologists, pediatric oncologists, and so it goes.

In Connecticut, the pediatric residency program at the University of Connecticut School of Medicine is currently training 57 residents at Connecticut’s Children’s Medical Center. These residents provide care to children in all hospital settings, including primary care, emergency care, inpatient care, critical care and subspecialty clinics.

Mr. Speaker, I want to thank my colleagues for authorizing this program for the full 5 years and recognize my colleague from Ohio, Congresswoman Prayce, for her leadership in this work over the last 7 years. It has been a huge success for children across America, and we salute those hospitals that specialize in the complex care of children with very serious illnesses as we pass this legislation today.

Mr. PALLONE. Mr. Speaker, I have no additional speakers and yield back the balance of my time.

Mr. DEAL of Georgia. Mr. Speaker, I have no other speakers to yield.

In closing, I would like to express my appreciation to Mr. PALLONE, who was an original cosponsor of this legislation. And it is true that we have made a bipartisan effort. I think that is the way we should do more things around here. I appreciate the cooperative spirit with which this bill has now moved through both bodies.

Ms. PRYCE of Ohio. Mr. Speaker, I rise today in support of H.R. 5574, legislation that I co-authored and was originally sponsored by Mr. DEAL. I want to thank Chairman BARTON and Mr. DEAL for their commitment to prioritizing this important measure this year—it’s been a great team effort and I appreciate the gentlewoman’s support of children’s health.

I also want to extend a special thanks to Congresswoman NANCY JOHNSON of Connecticut. We’ve been strong partners over the years on children’s health issues—enactment of Children’s Hospital GME back in 1999 is one of my proudest moments working together.

We’ve had great success increasing the Federal investment in this program ever since—from Members on both sides of the aisle.

The Ohio delegation has helped lead the charge—in no small part thanks to the efforts of our esteemed Chairman of the Labor HHS Appropriations Subcommittee, RALPH REGULA.

I am extremely fortunate to have an extraordinary children’s hospital in my hometown of Columbus, OH. Strong leadership, a clear vision, and a compassionate team of medical professionals has made Columbus Children’s one of the best hospitals in the nation caring for sick children.

The CHGME program has helped the hospital—and hospitals all across America—do what they do best—provide the best training to doctors to deliver the best patient care possible. And we can all agree that our children deserve nothing short of the very best.

A vote in favor of H.R. 5574 will send it to the President’s desk and reauthorize this important program for another 5 years. I urge my colleagues to support this measure.

Mr. DEAL of Georgia. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Georgia (Mr. DEAL) that the House suspend the rules and concur in the Senate amendment to the bill, H.R. 5574.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate amendment was concurred in.

A motion to reconsider was laid on the table.
SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the “Ryan White HIV/AIDS Treatment Modernization Act of 2006”.

(b) Table of Contents.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—EMERGENCY RELIEF FOR ELIGIBLE AREAS

Sec. 101. Establishment of program; general eligibility for grants.

Sec. 102. Type and distribution of grants; formula grants.

Sec. 103. Type and distribution of grants; transitional grants.

Sec. 104. Timeframe for obligation and expenditure of grant funds.

Sec. 105. Use of amounts.

Sec. 106. Additional amendments to part A; transition grants for certain areas ineligible under section 2601.

Sec. 108. Authorization of appropriations for part A.

TITLE II—CARE GRANTS

Sec. 201. General use of grants.

Sec. 202. AIDS Drug Assistance Program.

Sec. 203. Distribution of funds.

Sec. 204. Additional amendments to subpart I of part B.

Sec. 205. Supplemental grants on basis of demonstrated need.

Sec. 206. Emerging communities.

Sec. 207. Timeframe for obligation and expenditure of grant funds.

Sec. 208. Authorization of appropriations for subpart I of part B.

Sec. 209. Early diagnosis grant program.

Sec. 210. Certain partner notification programs; authorization of appropriations.

TITLE III—EARLY INTERVENTION SERVICES

Sec. 301. Establishment of program; core medical services.

Sec. 302. Eligible entities; preferences; planning and development grants.

Sec. 303. Authorization of appropriations.

Sec. 304. Confidentiality and informed consent.

Sec. 305. Provision of certain counseling services.

Sec. 306. General provisions.

TITLE IV—WOMEN, INFANTS, CHILDREN, AND YOUTH

Sec. 401. Women, infants, children, and youth.

Sec. 402. GAO Report.

TITLE V—GENERAL PROVISIONS

Sec. 501. General provisions.

Sec. 502. Title VI—DEMONSTRATION AND TRAINING

Sec. 601. Demonstration and training.

Sec. 602. AIDS education and training centers.

Sec. 603. Codification of minority AIDS initiative.

TITLE VII—MISCELLANEOUS PROVISIONS

Sec. 701. Hepatitis; use of funds.

Sec. 702. Certain references.

TITLE I—EMERGENCY RELIEF FOR ELIGIBLE AREAS

Sec. 101. Establishment of program; general eligibility for grants.

(a) In General.—Section 2601 of the Public Health Service Act (42 U.S.C. 300ff-11) is amended by striking subsections (b) through (d) and inserting the following:

(b) Continued Status as Eligible Area.—Notwithstanding any other provision of this section, a metropolitan area that is an eligible area for a fiscal year continues to be an eligible area until the metropolitan area fails, for three consecutive fiscal years—

(I) to meet the requirements of subsection (a); or

(II) to have a cumulative total of 3,000 or more living cases of AIDS reported to and confirmed by the Director of the Centers for Disease Control and Prevention of December 31 of the most recent calendar year for which such data is available.

(c) Boundaries.—For purposes of determining eligibility for part I—

(I) with respect to a metropolitan area that received funding under this part in fiscal year 1996, the boundaries of such metropolitan area shall be the boundaries that were in effect for such area for fiscal year 1994; or

(II) with respect to a metropolitan area that becomes eligible to receive funding under this part in any fiscal year after fiscal year 1996, the boundaries of such metropolitan area shall be the boundaries that are in effect for such area when such area initially receives funding under this part.

(b) Technical and Conforming Amendments.—Section 2601(a) of the Public Health Service Act (42 U.S.C. 300ff-11(a)) is amended—

(1) by striking “through (d)” and inserting “through (e)”; and

(2) by inserting “and confirmed by after reported to”.

(c) Definition of Metropolitan Area.—Section 2601(2) of the Public Health Service Act (42 U.S.C. 300ff-13(a)(3)) is amended—

(1) by striking “area referred” and inserting “area that is referred”;

and

(2) by inserting before the period the following: “and that have a population of 50,000 or more individuals”.

SEC. 102. TYPE AND DISTRIBUTION OF GRANTS; FORMULA GRANTS.

(a) Distributing Grants.—Section 2603(a)(2) of the Public Health Service Act (42 U.S.C. 300ff-17(a)(2)) is amended—

(I) IN GENERAL.—

(A) by striking “50 percent of the amount appropriated under section 2607 and inserting “66 percent of the amount made available under section 2610(b) for carrying out this subpart”;

and

(B) by striking paragraph (3) and inserting paragraphs (3) and (4).

(II) ADJUSTMENT RATE.

(1) by striking the last sentence.

(b) Distribution of Granting Cases of HIV/AIDS.—Section 2603(a)(3) of the Public Health Service Act (42 U.S.C. 300ff-17(a)(3)) is amended—

(I) in subparagraph (B), by striking “estimated living cases of acquired immune deficiency syndrome” and inserting “living cases of HIV/AIDS (reported to and confirmed by the Director of the Centers for Disease Control and Prevention)”;

and

(II) by striking subparagraphs (C) through (E) and inserting the following:

(C) Living Cases of HIV/AIDS. —

(1) Requirement of Names-Based Reporting.—Except as provided in clause (ii), the number determined under this subparagraph for an eligible area for a fiscal year for purposes of subparagraph (B) is the number of living names-based cases of HIV/AIDS that, as of December 31 of the most recent calendar year for which such data is available, have been reported to and confirmed by the Director of the Centers for Disease Control and Prevention.

(II) Transition Period; Exemption Regarding Non-AIDS Cases.—For each of the fiscal years 2007 through 2010, an eligible area is subject to clauses (iii) through (v), except from the requirement under clause (I) that living names-based non-AIDS cases of HIV be reported unless—

(1) a system was in operation as of December 31, 2005, that provides sufficiently accurate and reliable names-based reporting of such cases throughout the State in which the area is located, subject to clause (vii) or (viii).

(II) no later than the beginning of fiscal year 2008, 2009, or 2010, the Secretary, in consultation with the chief executive of the State in which the area is located, determines that a system has become operational in the State that provides sufficiently accurate and reliable names-based reporting of such cases throughout the State.

(III) Requirements for Exemption for Fiscal Year 2007.—For fiscal year 2007, an exemption under clause (i) of an eligible area applies only if, by October 1, 2006—

(I)(aa) the State in which the area is located has submitted to the Secretary a plan for making the transition to sufficiently accurate and reliable names-based reporting of living non-AIDS cases of HIV; or

(bb) all statutory changes necessary to provide for sufficiently accurate and reliable reporting of such cases had been made; and

(II) the State had agreed that, by April 1, 2008, the State will begin accurate and reliable names-based reporting of such cases except that such agreement is not required to provide that, as of such date, the system for such reporting be sufficiently reliable for reporting any such cases.

(IV) Requirement for Exemption as of Fiscal Year 2008.—For each of the fiscal years 2008 through 2010, an exemption under clause (i) for an eligible area applies only if, as of April 1, 2008, the State in which the area is located is substantially in compliance with the agreement under clause (iii)(II).

(V) Progress Toward Names-Based Reporting.—For fiscal year 2009 and 2010, the Secretary may terminate an exemption under clause (ii) for an eligible area if the State in which the area is located submitted a plan under clause (iii)(I)(aa) and the Secretary determines that the State is not substantially following the plan.

(VI) Counting of Cases in Areas with Exemptions.—

(I) in General.—With respect to an eligible area that is under a reporting system for living non-AIDS cases of HIV that is not names-based (as referred to in this subparagraph as ‘‘code-based reporting’’), the Secretary shall, for purposes of this subpart, modify the number of cases reported for the eligible area in order to adjust for duplicative reporting in and among systems that use code-based reporting.

(II) Adjustment for underreporting.—The adjustment rate under subclause (I) for an eligible area shall be a reduction of 5 percent in the number of living non-AIDS cases of HIV reported for the area.

(VII) Multiple Political Jurisdictions.—With respect to living non-AIDS cases of HIV, if an eligible area is not entirely within a political jurisdiction and as a result is subject to more than one reporting system for purposes of this subparagraph:

(1) Names-based reporting under clause (i) applies in a jurisdictional portion of the area, or an exemption under clause (ii) applies in such portion (subject to applicable provisions of this subparagraph), according to whether names-based reporting or code-based reporting is used in such portion.

(II) If under subclause (I) both names-based and code-based reporting is used in the area, the number of living non-AIDS cases shall be reduced under clause (vi).

(VIII) List of Eligible Areas Meeting Standard Respecting December 31, 2006.—If a portion thereof is in a State specified in subclause (II), the eligible area or portion shall
be considered to meet the standard described in clause (ii)(D). No other eligible area or portion thereof may be considered to meet such standard.

(2) RELIEVING STATES.—For purposes of subclause (I), the States specified in this subclause are the following: Alaska, Alabama, Arkansas, Arizona, Colorado, Florida, Indiana, Iowa, Kansas, Louisiana, Michigan, Minnesota, Mississippi, North Carolina, North Dakota, Nebraska, New Jersey, New Mexico, New York, Nevada, Ohio, Oklahoma, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia, Wisconsin, West Virginia, Wyoming, Guam, and the Virgin Islands.

(III) RULES OF CONSTRUCTION REGARDING ACCEPTANCE OF REPORTS.—

(1) CASES OF AIDS.—With respect to an eligible area, it is subject to the requirement under clause (I) and is not in compliance with the requirement for names-based reporting of living non-AIDS cases of HIV, the Secretary shall, notwithstanding such noncompliance, accept reports of living cases of AIDS that are in accordance with such clause.

(II) APPLICABILITY OF EXEMPTION REQUIREMENTS.—The provisions of clauses (I) through (vi) may not be construed as having any legal effect for fiscal year 2011 or any subsequent fiscal year, and accordingly, the status of a State for purposes of such clauses may not be considered after fiscal year 2010.

(x) PROGRAM FOR DETECTING INACCURATE OR FRAUDULENT COUNTING.—The Secretary shall carry out a program to monitor the reporting of names-based cases for purposes of this subparagraph and to detect instances of inaccurate reporting, including fraudulent reporting.

(c) CODE-BASED AREAS: LIMITATION ON INCREASE IN GRANT.—Section 2609(d)(3) of the Public Health Service Act (42 U.S.C. 300ff-13(a)), as amended by subsection (b)(2) of this section, is amended by adding at the end the following subparagraph:

“(D) CODE-BASED AREAS: LIMITATION ON INCREASE IN GRANT.—

(1) IN GENERAL.—For each of the fiscal years 2007 through 2010, if code-based reporting (within the meaning of subparagraph (C)(vi)) applies in an eligible area or any portion thereof as of the beginning of the fiscal year involved and if the Secretary determines under any other provision of this paragraph, the amount of the grant pursuant to this paragraph for such area for such fiscal year may not—

“(I) for fiscal year 2007, exceed by more than 5 percent the amount of the grant that would have been made pursuant to this paragraph and paragraph (4) for fiscal year 2006 (as such paragraphs were in effect for such fiscal year) if paragraph (2) (as so in effect) had been applied by substituting ‘50 percent’ for ‘30 percent’.

“(II) for each of the fiscal years 2008 and 2009, exceed by more than 5 percent the amount of the grant pursuant to this paragraph for such area for the precede

(II) USE OF AMOUNTS INVOLVED.—For each of the fiscal years 2007 through 2010, amounts available as a result of the limitation under clause (I) shall be made available by the Secretary as additional amounts for grants pursuant to subsection (b) for the fiscal year involved, subject to paragraph (4) and section 2610(d)(2).

(III) HOLD HARMLESS.—Section 2603(a) of the Public Health Service Act (42 U.S.C. 300ff-13(a)) is amended—

(1) in paragraph (3)(A)—

(A) in clause (i), by striking the period at the end and inserting ‘‘and’’;

(B) by inserting after and below clause (i) the following:

“which product shall then, as applicable, be increased under paragraph (4).’’;

(2) by amending paragraph (4) to read as follows:

“(4) INCREASES IN GRANT.—

“(A) IN GENERAL.—For each eligible area that received a grant pursuant to this subsection for fiscal year 2006, the Secretary shall, pursuant to subsection (a) or (b) for fiscal years 2007 through 2009, increase the amount of the grant made pursuant to paragraph (3) for the area to ensure that the amount of the grant for the area for such fiscal year is less than the following amount, as applicable to such fiscal year:

“(I) For fiscal year 2007, an amount equal to 95 percent of the amount of the grant that would have been made pursuant to paragraph (3) and this paragraph for fiscal year 2006 (as such paragraphs were in effect for such fiscal year) if paragraph (2) (as so in effect) had been applied by substituting ‘66 2/3 percent’ for ‘30 percent’.

“(II) For each of the fiscal years 2008 and 2009, an amount equal to 95 percent of the amount of the grant made pursuant to paragraph (3) and this paragraph for the preceding fiscal year.

“(B) SOURCE OF FUNDS FOR INCREASE.—

“(i) IN GENERAL.—From the amounts available for carrying out the single program referred to in paragraph (3)(B)(x) for a fiscal year (relating to supplemental grants), the Secretary shall make available such amounts as may be necessary to comply with subparagraph (A) subject to section 2610(d)(2).

“(ii) PRO RATA REDUCTION.—If the amounts referred to in clause (i) for a fiscal year are insufficient to fully comply with subparagraph (A) for the year, the Secretary, in order to provide the additional funds necessary to comply with subparagraph (A), shall reduce on a pro rata basis the amount of each grant pursuant to this subsection for the fiscal year, other than grants for eligible areas for which increases under subparagraph (A) apply. A reduction under the preceding sentence may not be made in an amount that would result in the eligible area involved becoming eligible for such an increase.

“(C) LIMITATION.—This paragraph may not be construed as having any applicability after fiscal year 2009.

SEC. 103. TYPE AND DISTRIBUTION OF GRANTS: SUPPLEMENTAL GRANTS.

Section 2603(b) of the Public Health Service Act (42 U.S.C. 300ff-13(b)) is amended—

(1) in paragraph (1)—

(A) in the matter preceding subparagraph (A), by striking ‘‘Not later than’’ and all that follows through the end of the sentence and inserting the following: ‘‘Subject to subsection (a)(4)(B)(i) and section 2610(d), the Secretary shall’’;

(B) in subparagraph (B), by striking ‘‘demonstrates the severe need in such area’’ and inserting ‘‘demonstrates the need in such area, on an objective and quantified basis,’’;

(C) by striking subparagraph (F) and inserting the following:

‘‘(F) demonstrates the inclusiveness of affected communities and individuals with HIV/AIDS;’’;

(D) in subparagraph (G), by striking the period and inserting ‘‘and’’;

(E) by adding at the end the following:

‘‘(A) the ability of the applicant to expend funds efficiently by not having had, for the most recent grant year under subsection (a) for which data is available, more than 2 percent of grant funds under any such subsection canceled or covered by any waivers under subsection (c)(3);’’;

(2) in paragraph (2)—

(A) in clause (i), by striking ‘‘serves need’’ and inserting ‘‘demonstrated need’’;

(B) by striking subparagraph (B) and inserting the following:

“(B) DEMONSTRATED NEED.—The factors considered by the Secretary in determining whether an eligible area has a demonstrated need for purposes of paragraph (1)(B) may include any or all of the following:

“(i) The unmet need for such services, as determined under section 2609(d)(1)(A).

“(ii) An increasing need for HIV/AIDS-related services, including relative rates of increase in the number of cases of HIV/AIDS.

“(iii) The relative rates of increase in the number of cases of HIV/AIDS within new or emerging subpopulations.

“(iv) The current prevalence of HIV/AIDS.

“(v) Relevant factors related to the cost and complexity of delivering health care to individuals with HIV/AIDS in the eligible area.

“(vi) The impact of co-morbid factors, including co-occurring conditions, determined relevant by the Secretary.

“(vii) The prevalence of homelessness.

“(viii) The prevalence of individuals described under section 2620(b)(2)(M).

“(xii) The relevant factors that limit access to health care, including geographic variation, adequacy of health insurance coverage, and language barriers.

“(D) CODE-BASED AREAS: LIMITATION ON INCREASE IN GRANT.—

(1) IN GENERAL.—For each of the fiscal years 2007 through 2010, if code-based reporting (within the meaning of subparagraph (C)(vi)) applies in an eligible area or any portion thereof as of the beginning of the fiscal year involved and if the Secretary determines under any other provision of this paragraph, the amount of the grant pursuant to this paragraph for such area for such fiscal year may not—

“(I) for fiscal year 2007, exceed by more than 5 percent the amount of the grant that would have been made pursuant to this paragraph and paragraph (4) for fiscal year 2006 (as such paragraphs were in effect for such fiscal year) if paragraph (2) (as so in effect) had been applied by substituting ‘50 percent’ for ‘30 percent’.

“(II) for each of the fiscal years 2008 and 2009, exceed by more than 5 percent the amount of the grant pursuant to this paragraph for such area for the preceding fiscal year.

(II) USE OF AMOUNTS INVOLVED.—For each of the fiscal years 2007 through 2010, amounts available as a result of the limitation under clause (I) shall be made available by the Secretary as additional amounts for grants pursuant to subsection (b) for the fiscal year involved, subject to paragraph (4) and section 2610(d)(2).

(III) HOLD HARMLESS.—Section 2603(a) of the Public Health Service Act (42 U.S.C. 300ff-13(a)) is amended—

(1) in paragraph (3)(A)—

(A) in clause (i), by striking the period at the end and inserting ‘‘and’’;

(B) by inserting after and below clause (i) the following:

(2) in paragraph (4)
the fiscal year in which the Secretary obtains the information necessary for determining that the balance is required under subparagraph (A) to be canceled, except that the amount of the funds for such grants is subject to subsection (a)(4) and section 2610(d)(2) as applied for such year.

(3) FORMULA GRANTS; CANCELLATION OF UNOBLIGATED PORTION GRANT AWARD; WAIVER PERMITTING CARRYOVER.—

(A) IN GENERAL.—Effective for fiscal year 2007 and subsequent fiscal years, if a grant awarded to an eligible area for a fiscal year has an unobligated balance as of the end of the grant year for the award, the Secretary shall cancel that portion of the grant that is required under this subsection (a) to be canceled, and shall require the eligible area to return any amounts from such balance that have been disbursed to the area, unless—

(i) before the end of the grant year, the chief elected official of the area submits, in accordance with section 2604, a written application for a waiver of the cancellation, which application includes a description of the purposes for which the area intends to expend the funds involved; and

(ii) the Secretary approves the waiver.

(3)(B) EXPIRY END OF CARRYOVER YEAR.—With respect to a waiver under subparagraph (A) that is approved for a balance that is unobligated as of the end of a grant year for an award—

(i) The unobligated funds are available for expenditure by the eligible area involved for the one-year period beginning upon the expiration of the grant year referred to in this subsection as the ‘carryover year’.

(ii) If the funds are not expended by the end of the carryover year, the Secretary shall cancel that unexpended balance of the award, and shall require the eligible area to return any amounts from such balance that have been disbursed to the area.

(3)(C) UNOBLIGATED BALANCES.—In the case of any balance of a grant award that is cancelled under subparagraph (A) or (B)(ii), the grant funds involved shall be made available by the Secretary as additional amounts for grants pursuant to subsection (b) for the first fiscal year beginning after the fiscal year in which the Secretary obtains the information necessary for determining that the balance is required under such subparagraph to be canceled, except that the availability of the funds for such grants is subject to subsection (a)(4) and section 2610(d)(2) as applied for such year.

(4) CORRESPONDING REDUCTION IN FUTURE GRANTS.—

(A) IN GENERAL.—In the case of an eligible area for which a balance from a grant award under subsection (a) is unobligated as of the end of the grant year for the award—

(i) the Secretary shall reduce, by the same amount as such unobligated balance, the amount of the grant under such subsection for the first fiscal year beginning after the fiscal year in which the Secretary obtains the information necessary for determining that such balance was unobligated as of the end of the grant year (which requirement for a reduction applies without regard to whether a waiver under subparagraph (A) has been approved with respect to such balance); and

(ii) the grant funds involved in such reduction shall be made available by the Secretary as additional amounts for grants pursuant to subsection (b) for the fiscal year involved, except that this clause does not apply to the eligible area if the amount of the unobligated balance is less than $2,000.

(5) RELATION TO INCREASES IN GRANT.—A reduction under clause (i) for an eligible area for a fiscal year may not be taken into account in applying subsection (a)(4) with respect to the area for the subsequent fiscal year.

SEC. 105. USE OF AMOUNTS.

Section 2604 of the Public Health Service Act (42 U.S.C. 300ff-14) is amended to read as follows:

**SEC. 2604. USE OF AMOUNTS.**

(a) REQUIREMENTS.—The Secretary may not make a grant under section 2601(a) to the chief elected official of an eligible area unless such political subdivision agrees that—

(1) subject to the allocation of funds and services within the eligible area will be made in accordance with the priorities established, pursuant to section 2602(b)(4)(B), by the services planning council that serves such eligible area;

(2) funds provided under section 2601 will be expended only for—

(A) core medical services described in subsection (c);

(B) support services described in subsection (d); and

(C) administrative expenses described in subsection (h); and

(3) the use of such funds will comply with the requirements of this section.

(b) DIRECT FINANCIAL ASSISTANCE TO APPROPRIATE ENTITIES.—

(1) IN GENERAL.—The chief elected official of an eligible area shall use amounts from a grant under section 2601(a) for grants to entities described in section 2610(d)(2) as applied for such year.

(2) WAIVER.

(A) IN GENERAL.—The Secretary shall waive the application of paragraph (1) with respect to a chief elected official for a grant year if the Secretary determines that, within the eligible area involved—

(i) the Secretary has made a grant to an eligible entity described in paragraphs (2) or (3) of section 2610(d)(2) for the purpose of providing core medical services and support services.

(B) APPROPRIATE ENTITIES.—Direct financial assistance may be provided under paragraph (1) to public or nonprofit private entities, or private for-profit entities if such entities are the only available provider of quality HIV care in the area.

(c) REQUIRED FUNDING FOR CORE MEDICAL SERVICES.—

(1) IN GENERAL.—With respect to a grant under section 2601(a) for an eligible area for a grant year, the chief elected official of the eligible area shall, of the portion of the grant remaining after reserving amounts for purposes of paragraphs (1) and (5)(B)(i) of subsection (h), use not less than 75 percent to provide core medical services that are needed in the eligible area for individuals with HIV/AIDS who are identified and eligible under this title (including services regarding the co-occurring conditions of the individuals).

(d) SUPPORT SERVICES.

(1) IN GENERAL.—Core medical services described in this section includes services for adults and children, including treatment for mental disorders, substance use disorders, and other conditions closely related to the management of HIV/AIDS.

(2) WAIVER.—

(A) IN GENERAL.—The Secretary shall waive the application of paragraph (1) with respect to a chief elected official for a grant year if the Secretary determines that, within the eligible area involved—

(i) the services planning council, shall for each of such populations, identify and describe the needs of individuals with HIV/AIDS.

(B) APPROPRIATE ENTITIES.—Direct financial assistance may be provided under paragraph (1) to public or nonprofit private entities, or private for-profit entities if such entities are the only available provider of quality HIV care in the area.

(3) COVERAGE OF COSTS.—Any amount provided under paragraph (1) shall be used for purposes of this section.

(4) INCREASES.—Notwithstanding any other provision of law, the Secretary may increase the amount provided under paragraph (1) to comply with the requirements of this section.

(e) ADMINISTRATIVE EXPENSES.

Sec. 2605. ADMINISTRATIVE EXPENSES.

Sec. 2606. USE OF PROCEEDS.

Sec. 2607. UNOBLIGATED BALANCE.

Sec. 2608. REPEALS.
area a waiver of the requirement of paragraph (1) if such official demonstrates to the satisfaction of the Secretary that the population is receiving HIV-related health services through contracts or services, including contracts or services under title XIX of the Social Security Act, the State children’s health insurance program under title XXI of such Act, or other Federal or State programs.

(g) Requirement of Status as Medicaid Provider.—

(1) Provision of Service.—Subject to paragraph (2), the Secretary may not make a grant under section 260(a) for the provision of services under this section in a State unless, in the case of any such service that is available pursuant to the State plan approved under title XIX of the Social Security Act for the State—

(A) the political subdivision involved will provide the service directly, and the political subdivision has entered into a participation agreement under the State plan and is qualified to receive payments under such plan; or

(B) the political subdivision will enter into an agreement with a public or nonprofit private entity under which the entity will provide the service, and the entity has entered into such a participation agreement and is qualified to receive such payments.

(2) Waiver.—

(A) In General.—In the case of an entity making an agreement pursuant to paragraph (1)(B) regarding the provision of services, the requirement established in such paragraph shall be waived by the HIV health services planning council for the eligible area if the entity does not, in providing health care services, impose a charge or accept reimbursement available from any third-party payor, including reimbursement under any insurance policy or under any Federal or State health benefits program.

(B) Determination.—A determination by the HIV health services planning council of whether an entity referred to in subparagraph (A) is eligible shall be made without regard to whether the entity accepts voluntary donations for the purpose of providing services to the public.

(h) Administration.—

(1) Limitation.—The chief elected official of an entity shall not use in excess of 10 percent of amounts received under a grant under this part for administrative expenses.

(2) Allocations by Chief Elected Official.—The chief elected official of an eligible area allocates amounts received by the official under a grant under this part, the output standards, and the output standards for the payment of the grant amount so allocated, the total of the expenditures by such entities for administrative expenses does not exceed 10 percent (with certain other particular expenses expend more than 10 percent for such expenses).

(i) Administrative Activities.—For purposes of this section, administrative activities include—

(A) routine grant administration and monitoring activities, including the development and disbursement of program funds, the development and establishment of reimbursement and accounting systems, the development of quality management and quality improvement activities, including established indirect rates for agencies; and

(B) all activities associated with the grantee’s contract award procedures, including the activities carried out by the HIV health services planning council as established under section 260(b), the development of requests for proposals, contract proposal review activities, negotiation and awarding of contracts, monitoring of contracts through telephone consultation, written documentation or onsite visits, reporting on contracts, and funding reallocation activities.

(j) Subcontractor Administrative Activities.—For the purposes of this subsection, subcontractor administrative activities include—

(A) usual and recognized overhead activities, including established indirect rates for agencies; (B) management oversight of specific programs funded under this title; and

(C) other types of program support such as quality assurance, quality control, and related activities.

(k) Clinical Quality Management.—

(A) Requirement.—The chief elected official of an eligible area that receives a grant under this part shall provide for the establishment of a clinical quality management program to assess the extent to which HIV health services provided to patients under the grant are consistent with the most recent Public Health Service guidelines for the treatment of HIV/AIDS and related opportunistic infections, and to develop strategies for ensuring that such services are consistent with the guidelines for improvement in the access to and quality of HIV health services.

(B) Use of Funds.—

(1) In General.—From amounts received under a grant awarded under this subpart for a fiscal year, the chief elected official of an eligible area may use for activities associated with the clinical quality management program required in subparagraph (A) not to exceed the lesser of—

(I) 5 percent of amounts received under the grant; or

(II) $3,000,000.

(2) Relation to Limitation on Administrative Expenses.—The costs of a clinical quality management program under subparagraph (A) may not be considered administrative expenses for purposes of the limitation established in paragraph (1).

(l) Construction.—A chief elected official may not use amounts received under a grant awarded under this part to purchase or improve land, or to purchase, construct, or permanently improve (other than minor remodeling) equipment, or to make cash payments to intended recipients of services.

SEC. 106. ADDITIONAL AMENDMENTS TO PART A.

(a) Reporting of Cases.—Section 260(a)(1) of the Public Health Service Act (42 U.S.C. 300ff-11(a)) is amended by striking “for the most recent period” and inserting “during the most recent period”.

(b) Planning Council Representation.—Section 260(b)(2)(B)(i) of the Public Health Service Act (42 U.S.C. 300ff-15(a)(6)(B)) is amended by inserting “, members of a Federally recognized Indian tribe as represented in the population, individuals co-infected with hepatitis B or C”.

(c) Application for Grant.—

(1) Payor of Last Resort.—Section 260(a)(2) of the Public Health Service Act (42 U.S.C. 300ff-15(a)(6)(B)) is amended by inserting “except for a program administered by or providing the services of the Indian Health Service”.

(2) Audits.—Section 260(a)(3) of the Public Health Service Act (42 U.S.C. 300ff-15(a)) is amended—

(A) in paragraph (8), by striking “and” at the end; and

(B) in paragraph (9), by striking the period and inserting “; and”.

(d) Continuing Status as Eligible Area.—Subparagraph (A) does not
apply for a fiscal year if the metropolitan area involved qualifies under subparagraph (a) as an eligible area.

(d) APPLICATION OF CERTAIN PROVISIONS OF SUBPART I—

(1) ADMINISTRATION; PLANNING COUNCIL.—

(A) IN GENERAL.—The provisions of section 2602 apply with respect to a grant under subsection (b)(2)(B) to a transitional area in the same manner and in the same substantive manner as such provisions apply with respect to a grant under subparagraph (a) for an eligible area, except that, for purposes of subparagraph (B), the chief elected official of the transitional area may elect not to comply with the provisions of section 2602(b) if the official provides documental evidence that the process used to obtain community input (particularly from those with HIV) in the transitional area for formulating the overall plan for priority setting and allocating funds from the grant under subsection (a).

(B) EXCEPTION.—For each of the fiscal years 2007 through 2009, the exception described in subparagraph (A) does not apply if the transitional area involved received funding under subpart I for fiscal year 2006.

(2) TYPE AND DISTRIBUTION OF GRANTS; TIMELINE FOR OBTAINING AND EXPENDITURE OF GRANT FUNDS.—

(A) FORMULA GRANTS; SUPPLEMENTAL GRANTS.—The Secretary of section 2603 apply with respect to grants under subsection (a) to the same extent and in the same manner as such provisions apply with respect to grants under subpart I, subject to subparagraphs (B) and (C).

(B) FORMULA GRANTS; INCREASE IN GRANT.—For purposes of subparagraph (A), section 2603(a)(4) does not apply.

(C) SUPPLEMENTAL GRANTS; SINGLE PROGRAM WITH SUBPART I PROGRAM.—With respect to section 2603(b) as applied for purposes of subparagraph (A):

(i) The Secretary shall combine amounts available pursuant to such subparagraph with amounts available for carrying out section 2603(b) and shall administer the two programs as a single program.

(ii) In the single program, the Secretary has discretion in allocating amounts between eligible areas under subpart I and transitional areas under this section, subject to the eligibility criteria that apply under such section, and subject to section 2603(b)(4)(C) (relating to priority in making grants).

(iii) Pursuant to section 2603(b)(1), amounts for the single program are subject to use under paragraphs (a)(1) and (a)(2).

(3) APPLICATION; TECHNICAL ASSISTANCE; DEFINITIONS.—The provisions of sections 2605, 2606, and 2607 apply with respect to grants under subsection (a) to the same extent and in the same manner as such provisions apply with respect to grants under subpart I.

(b) CONFORMING AMENDMENTS.—Subpart I of part I of the Public Health Service Act, as designated by subsection (a)(1) of this section, is amended by striking “this part” each place such term appears and inserting “this subtitle” therefor.

SEC. 108. AUTHORIZATION OF APPROPRIATIONS FOR PART A.

Part A of title XXVI of the Public Health Service Act, amended by section 106(a), is amended by adding at the end the following:

“Subpart III—General Provisions

SEC. 2610. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—For the purpose of carrying out this part, there are authorized to be appropriated $694,000,000 for fiscal year 2007, $626,200,000 for fiscal year 2008, $659,500,000 for fiscal year 2009, $671,500,000 for fiscal year 2010, and $685,500,000 for fiscal year 2011. Amounts appropriated under the preceding sentence for a fiscal year are available for obligation by the Secretary until the end of the second succeeding fiscal year.

(b) RESERVATION OF AMOUNTS.—

(1) FISCAL YEAR 2007.—Of the amount appropriated under subsection (a) for fiscal year 2007, the Secretary shall reserve:

(A) $145,310,000 for grants under subpart I; and

(B) $145,690,000 for grants under section 2609.

(2) SUBSEQUENT FISCAL YEARS.—Of the amount appropriated under subsection (a) for fiscal year 2008 and each subsequent fiscal year—

(A) the Secretary shall reserve an amount for grants under subpart I; and

(B) the Secretary shall reserve an amount for grants under section 2609.

(c) TRANSFER OF CERTAIN AMOUNTS: CHANGE IN STATUS AS ELIGIBLE AREA OR TRANSITIONAL AREA.—Notwithstanding subsection (b):

(1) If a metropolitan area is an eligible area under section 2603 for a fiscal year, but for a subsequent fiscal year ceases to be an eligible area by reason of section 2601(b) or 2609, the amount reserved under paragraph (1) of this section for the subsequent fiscal year of not being an eligible area is deemed to be reduced by an amount equal to the amount of the grant made pursuant to section 2603(a) for the metropolitan area for the preceding fiscal year;

(B) if a transfer under subparagraph (A) of this section for the first subsequent fiscal year of not being an eligible area is deemed to be reduced by an amount equal to the amount of the grant made pursuant to section 2603(a) for the metropolitan area for the preceding fiscal year;

(ii) an amount equal to the amount of such reduction is, notwithstanding subsection (a), transferred and made available for grants pursuant to section 2603(a), in addition to amounts available for such grants under section 2623;

(2) if a transfer under subparagraph (A) of this section for the first subsequent fiscal year of not being an eligible area is deemed to be reduced by an amount equal to the amount of the grant made pursuant to section 2603(a) for the metropolitan area for the preceding fiscal year,

(ii) an amount equal to the amount of such reduction is, notwithstanding subsection (a), transferred and made available for grants pursuant to section 2603(a), in addition to amounts available for such grants under section 2623;

(3) if the amounts referred to in paragraph (1) are used for purposes of section 2603(a)(4).

(4) If the amounts referred to in paragraph (1) are not sufficient for making all the reductions, the reductions shall be reduced until the total amount of the reductions equals the total of the amounts referred to in such paragraph.

(5) If the amounts referred to in paragraph (1) are not sufficient for making all the reductions, the reductions shall be reduced until the total amount of the reductions is increased by an amount equal to the total of

(a) the amount of the grant that, pursuant to section 2603(a), was made available for grants under section 2603(d)(2)(A) for the metropolitan area for the preceding fiscal year; and

(b) the amount reserved under subsection (b)(2)(B) of this section for the first such subsequent fiscal year of not being a transitional area by reason of section 2609, an amount equal to the amount of such reduction is, notwithstanding subsection (a), transferred and made available for grants pursuant to section 2603(a), in addition to amounts available for such grants under section 2623;

(2) if a metropolitan area is a transitional area under section 2609 for a fiscal year, but for a subsequent fiscal year ceases to be a transitional area by reason of section 2609, and does not qualify for such second fiscal year ceases to be such an area by reason of section 2601(b) or 2609(c)(2), respectively, rather than applying to a single such series.

(b) REPEAL.—The rules of construction regarding first subsequent fiscal year. —Paragraphs (1) and (2) of subsection (c) apply with respect to each series of fiscal years during which a metropolitan area is an eligible area under subpart I or a transitional area under section 2609 for a fiscal year and then for a subsequent fiscal year ceases to be such an area by reason of section 2601(b) or 2609(c)(2), respectively, rather than applying to a single such series. Paragraph (3) of subsection (c) applies with respect to each series of fiscal years during which a metropolitan area is an eligible area under subpart I, rather than applying to a single such series.

(b) REPEAL.—The rules of construction regarding first subsequent fiscal year. —Paragraphs (1) and (2) of subsection (c) apply with respect to each series of fiscal years during which a metropolitan area is an eligible area under subpart I or a transitional area under section 2609 for a fiscal year and then for a subsequent fiscal year ceases to be such an area by reason of section 2601(b) or 2609(c)(2), respectively, rather than applying to a single such series. Paragraph (3) of subsection (c) applies with respect to each series of fiscal years during which a metropolitan area is an eligible area under subpart I, rather than applying to a single such series.

(b) REPEAL.—The rules of construction regarding first subsequent fiscal year. —Paragraphs (1) and (2) of subsection (c) apply with respect to each series of fiscal years during which a metropolitan area is an eligible area under subpart I or a transitional area under section 2609 for a fiscal year and then for a subsequent fiscal year ceases to be such an area by reason of section 2601(b) or 2609(c)(2), respectively, rather than applying to a single such series. Paragraph (3) of subsection (c) applies with respect to each series of fiscal years during which a metropolitan area is an eligible area under subpart I, rather than applying to a single such series.

(b) REPEAL.—The rules of construction regarding first subsequent fiscal year. —Paragraphs (1) and (2) of subsection (c) apply with respect to each series of fiscal years during which a metropolitan area is an eligible area under subpart I or a transitional area under section 2609 for a fiscal year and then for a subsequent fiscal year ceases to be such an area by reason of section 2601(b) or 2609(c)(2), respectively, rather than applying to a single such series. Paragraph (3) of subsection (c) applies with respect to each series of fiscal years during which a metropolitan area is an eligible area under subpart I, rather than applying to a single such series.

TITLe II—CARE GRANTS

SUBTITLE A. GENERAL USE OF GRANTS.

(a) IN GENERAL.—Section 2611 of the Public Health Service Act (42 U.S.C. 300ff-22) is amended to read as follows:

“SEC. 2612. GENERAL USE OF GRANTS.—

(a) IN GENERAL.—The State may use amounts provided under grants made under section 2611 for—

(1) core medical services described in subsection (d)(2); and

(2) support services described in subsection (c);

(3) administrative expenses described in section 2611(b)(3).

(b) REQUIRED FUNDING FOR CORE MEDICAL SERVICES.—

(a) IN GENERAL.—With respect to a grant under section 2611 for a fiscal year, the State shall, of the portion of the grant remaining after reserving amounts for purposes of paragraphs (A) and (B)(i)(I) of subsection (b)(2)(B) of this section, hold in reserve at least 75 percent to provide core medical services that are needed in the State for individuals with HIV/AIDS who are identified and eligible for care under this subpart, as well as the diagnoses regarding the co-occurring conditions of the individuals.”
(2) WAIVER.—
(A) IN GENERAL.—The Secretary shall waive the application of paragraph (1) with respect to a State for a grant year if the Secretary determines that, within the State, a grant under section 2611 is being made to the State for a fiscal year, the Secretary shall inform the State whether a waiver under subparagraph (A) is in effect for the fiscal year.
(B) NOTIFICATION OF WAIVER STATUS.—When the Secretary determines that a grant under section 2611 is being made to a State for a fiscal year, the Secretary shall notify the State whether a waiver under subparagraph (A) is in effect for the fiscal year.

3. Core Medical Services.—For purposes of this subsection, the term ‘core medical services’ means those outcomes affecting the HIV-related health status of individuals with HIV/AIDS, including treatment measures to prevent the perinatal transmission of HIV, a State shall for each of such populations in the eligible area use, from the grants made for the area under section 2611(a) for a fiscal year, not less than the percentage constituted by the ratio of the population involved (infants, children, youth, or women in such area) with HIV/AIDS to the general population in such area of individuals with HIV/AIDS.

4. Treatment Adherence Services.—(1) IN GENERAL.—For the purpose of providing health and support services to infants, children, youth, and women in such areas with HIV/AIDS, including treatment measures to prevent the perinatal transmission of HIV, a State shall, by October 1, 2006, adopt a system that is operational in the State that provides accurate and reliable names-based reporting of live births to HIV/AIDS, relating to services described under this section.

5. Drug Assistance Program.—(a) REIMBURSEMENT OF MINIMUM DRUG LIST.—Section 2616 of the Public Health Service Act (42 U.S.C. 261ff-261qq-2) is amended (in subsection (c), by striking paragraph (1) and inserting the following:—(b) DIRECTION TO PROVIDE DRUGS TO ELIGIBLE INDIVIDUALS.—For purposes of the reauthorization of the Child Health and Personal Responsibility Education Program under this title, the Secretary may provide (in accordance with section 2612) for grants to carry out programs under this section, to be based on the therapeutics included in the list of classes of core antiretroviral therapeutics, which list shall be based on the recommendations of the Secretary as the criteria described in the Guidelines for Use of HIV/AIDS Drugs, relating to drugs needed to manage symptoms associated with HIV. The preceding sentence does not affect the authority of the Secretary to modify such Guidelines.

SEC. 205. DIRECTION TO PROVIDE DRUGS TO ELIGIBLE INDIVIDUALS.—(a) REIMBURSEMENT OF MINIMUM DRUG LIST.—Section 2616 of the Public Health Service Act (42 U.S.C. 261ff-261qq-2) is amended (in subsection (c), by striking paragraph (1) and inserting the following:—
to sufficiently accurate and reliable names-based reporting of living non-AIDS cases of HIV; or

“(bb) all statutory changes necessary to provide for a State for purposes of such clause except that such agreement is not required to provide that, as of such date, the system for such reporting be fully sufficient with respect to accuracy and reliability throughout the area.

“(iv) REQUIREMENT FOR EXEMPTION AS OF FISCAL YEAR 2008.—For each of the fiscal years 2008 through 2010, exempting subparagraph (ii) for a State applies only if, as of April 1, 2008, the State is substantially in compliance with the agreement under clause (iii)(D).

“(v) PROGRESS TOWARD NAMES-BASED REPORTING.—For fiscal year 2009 or 2010, the Secretary may terminate an exemption under clause (ii) for a State if the Secretary submits a plan under clause (ii)(I)(aa) and the Secretary determines that the State is not substantially following the plan.

“(vi) COUNTING OF CASES IN AREAS WITH EXEMPTIONS.—

“(I) IN GENERAL.—With respect to a State that is under a reporting system for living non-AIDS cases of HIV that is not names-based (referred to in this subparagraph as ‘code-based reporting’), the Secretary shall, for purposes of this subparagraph, modify the numerator, of such cases report, for the State in order to adjust for duplicative re-reporting in and among systems that use code-based reporting.

“(II) ADJUSTMENT RATE.—The adjustment rate under subclause (I) for a State shall be a reduction of 5 percent in the number of living non-AIDS cases of HIV reported for the State.

“(vii) LIST OF STATES MEETING STANDARD REGARDING DECEMBER 31, 2005.—

“(I) IN GENERAL.—If a State is specified in subclause (II), the State shall be considered to meet the standard described in clause (ii)(I). No other State may be considered to meet such standard.

“(II) NUMBER OF STATES.—For purposes of subclause (I), the States specified in this subclause are the following: Alaska, Alabama, Arkansas, Arizona, Colorado, Florida, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Michigan, Minnesota, Missouri, Mississippi, North Carolina, North Dakota, Nebraska, New Jersey, New Mexico, New York, Nevada, Ohio, Oklahoma, Oregon, Pennsylvania, South Dakota, Tennessee, Texas, Utah, Virginia, Wisconsin, West Virginia, Wyoming, Guam, and the Virgin Islands.

“(viii) RULES OF CONSTRUCTION REGARDING ACCEPTANCE OF REPORTS.—

“(I) CASHES OF AIDS.—With respect to a State that is subject to the requirement under clause (i) and is not in compliance with the requirement for names-based reporting of living non-AIDS cases of HIV, the Secretary shall, notwithstanding such non-compliance, accept reports of living cases of AIDS that are in accordance with such clause.

“(II) APPLICABILITY OF EXEMPTION REQUIREMENTS.—Except as provided in clause (ii) through (vii) may not be construed as having any legal effect for fiscal year 2010 or any subsequent fiscal year, and accordingly, the statute, the regulations, and any plan or rule promulgated or otherwise issued by the Secretary may not be considered after fiscal year 2010.

“(III) PROGRAM FOR DETECTING INACCURATE OR FRAUDULENT COUNTING.—The Secretary shall, in consultation with the national organizations involved in the monitoring of names-based purposes for purposes of this subparagraph and to detect instances of inaccurate reporting, including fraudulent reporting:—

“(2) NON-AIDS DISTRIBUTION FACTOR.—Section 2618(a)(2)(C) of the Public Health Service Act (42 U.S.C. 2618(a)(2)(C)) is amended—

“(A) in clause (1), by striking ‘estimated number of living cases of acquired immune deficiency syndrome’ each place such term appears and inserting ‘number of living cases of HIV/AIDS’; and

“(B) in clause (ii), by amending such clause to read as follows:

“(i) a number equal to the sum of—

“(I) the total number of living cases of HIV/AIDS that are within areas in such State that are eligible areas under subparagraph (B) for fiscal year 2008, with the severity of need index (as defined in clause (iv)) for the determination of the formula allocations, subject to the Congressional Review Act.

“(ii) SUBSEQUENT FISCAL YEARS.—If, on or before any January 1 that is subsequent to the date referred to in clause (i), the Secretary notifies the appropriate committees of Congress that the Secretary has developed a severity of need index, in accordance with clause (v), for each succeeding fiscal year, the provisions of subparagraphs (A) through (D) shall not apply for the subsequent fiscal year or any fiscal year thereafter, and the Secretary shall use the severity of need index (as defined in clause (iv)) for the determination of the formula allocations, subject to the Congressional Review Act.

“(iii) FISCAL YEAR 2013.—The Secretary shall notify the appropriate committees of Congress that the Secretary has developed a severity of need index by January 1, 2012, in accordance with clause (v), and the provision of subparagraphs (A) through (D) shall not apply for fiscal year 2013 or any fiscal year thereafter, and the Secretary shall use the severity of need index (as defined in clause (iv)) for the determination of the formula allocations, subject to the Congressional Review Act.

“(iv) DEFINITION OF SEVERITY OF NEED INDEX.—In this subparagraph, the term ‘severity of need index’ means the index of the relative needs of individuals within the State, as identified by a variety of different factors, and is a factor that is multiplied by the number of living cases of AIDS in the State, providing different weights to those cases based on their needs.

“(v) REQUIREMENTS FOR SECRETARIAL NOTIFICATIONS.—When the Secretary notifies the appropriate committees of Congress that the Secretary has developed a severity of need index, the Secretary shall provide the following:

“(I) Methodology for and rationale behind developing the severity of need index, including information related to the field testing of the severity of need index.

“(II) An independent contractor analysis of activities carried out under subclause (I).

“(III) Expected changes in funding allocations given the application of the severity of need index and the elimination of the provisions of subparagraphs (A) through (D).

“(IV) Information regarding the process by which the Secretary received community input regarding the application and development of the severity of need index.

“(V) Timeline and process for the implementation of the severity of need index to ensure that it is applied in the following fiscal year.

“(VI) ANNUAL REPORTS.—Not later than 1 year after the date of enactment of this Act, the Secretary shall—

“(A) develop and submit to the Congress a report on the impact of the Ryan White AIDS Treatment Modernization Act of 2006, and annually thereafter until the Secretary notifies Congress that the Secretary has developed a severity of need index, in accordance with this subparagraph, the Secretary shall prepare and submit to the

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appropriate committees of Congress a report—

"(1) that updates progress toward having client level data;"

"(II) that describes the progress toward having a severity of need index, including information related to the methodology and process for obtaining community input; and"

"(II) eligible, states whether the Secretary could develop a severity of need index before fiscal year 2010;" and

(4) by redesignating subparagraph (1) as subparagraph (a), by adding the following:

"(c) SEPARATE ADAP GRANTS.—Section 2618(a)(2)(G) of the Public Health Service Act (42 U.S.C. 300ff–28(a)(2)(G)), as redesignated by subsection (b)(4) of this section, is amended by adding at the end the following subparagraph:

"(I) IN GENERAL.—For each of the fiscal years 2007 through 2009, the Secretary shall ensure, subject to clauses (ii) through (iv), that the total amount of grant pursuant to paragraph (1) and the grant pursuant to subparagraph (G) is not less than 95 percent of such total for the State for the preceding fiscal year and that any increase under this clause—

"(I) may not result in a grant pursuant to paragraph (1) that is more than 85 percent of the amount of such grant for the preceding fiscal year; and

"(II) may not result in a grant pursuant to subparagraph (G) that is more than 85 percent of the amount of such grant for such preceding fiscal year.

"(ii) FISCAL YEAR 2007.—For purposes of clause (i) as applied for fiscal year 2007, the references in such clause to subparagraph (G) are deemed to be references to subparagraph (I) as such subparagraph was in effect for fiscal year 2006.

"(iii) SOURCE OF FUNDS FOR INCREASE.—

"(I) IN GENERAL.—From amounts made available for grants under subparagraph (G), the Secretary shall award supplemental grants to States described in subsection (II) to enable such States to purchase and distribute to eligible individuals under section 2616(b) pharmaceutical therapeutics described under subsections (c)(2) and (e) of such section.

"(II) ELIGIBLE STATES.—For purposes of subparagraph (I), a State shall be an eligible State if the State did not have unobligated funds subject to reallocation under section 2618(d) in the previous fiscal year and, in accordance with criteria established by the Secretary, demonstrates a severe need for a grant under this clause. For purposes of determining severe need, the Secretary shall consider eligibility standards, formulary composition, the number of eligible individuals to whom a State is unable to provide therapeutics described in section 2618(a), and an attendant increase of eligible individuals with HIV/AIDS.

"(III) STATE REQUIREMENTS.—The Secretary may not make a grant to a State under clause (i) and in the case of a grant to the State if the State did not have unobligated funds subject to reallocation under section 2618(d) in the previous fiscal year and, in accordance with criteria established by the Secretary, demonstrates a severe need for a grant under this clause, if the State has not fully complied with section 2618(d) with respect to the grant year involved. The provisions of this subsection shall apply to States that are not required to comply with such section 2618(d).

(B) in subsection (IV), by moving the subsection two ems to the left;

(C) in subsection (V), by striking "3 percent" and inserting "5 percent"; and

(D) by striking subsection (VI); and

(3) by adding at the end the following clause:

"(II) CODE-BASED STATES: LIMITATION ON INCREASE IN FORMULA GRANT.—The limitation under subparagraph (E)(1) applies to grants pursuant to clause (I) of this subparagraph to the same extent as it otherwise applies, except that the reference to minimum grants does not apply for purposes of this subparagraph, and the amount of any such grants is the same as the amount of any such grants pursuant to paragraph (1), except that the reference to minimum grants does not apply for purposes of this subparagraph if the Secretary determines by rule that the reference to minimum grants does not apply for purposes of this subparagraph.

"(II)alez—In the case of entities and subcontractors to which a State allocates amounts received by the State under a grant under section 2611, the State shall ensure that, of the aggregate amount so allocated, the total of the expenditures by such entities for administrative expenses does not exceed 10 percent (without regard to whether particular entities expend more than 10 percent for such expenses);";"

(D) in subparagraph (C) (as so redesignated), by striking "and" and inserting "notwithstanding paragraphs (2) and (4)"; and

(E) by adding at the end the following:

"(C) CLINICAL QUALITY MANAGEMENT.—

"(I) REQUIREMENT.—Each State that receives a grant under section 2611 shall provide for the establishment of a clinical quality management program to assess the extent to which HIV health services provided to patients under the grant are consistent with the most recent guidelines for the treatment of HIV/AIDS and related opportunistic infection, and as applicable, to develop strategies for ensuring that such services are consistent with the guidelines for improvement in the access to and quality of HIV health services.

"(ii) USE OF FUNDS.—

"(a) 5 percent of amounts received under the grant; or

"(b) $3,000,000.

"(III) RELATION TO LIMITATION ON ADMINISTRATIVE EXPENSES.—The costs of a clinical quality management program under clause (i) may not be considered administrative expenses for purposes of the limitation established in subparagraph (A)."

(4) in paragraph (4) (as so redesignated)—

(A) by striking "paragraph (6)" and inserting "paragraph (5)"; and

(B) by striking "paragraphs (3) and (4)" and inserting "paragraphs (3) and (4) and paragraphs (5) and (6)";

(5) in paragraph (5) (as so redesignated), by striking "paragraphs (3)" and all that follows through "(5)"; and

"(E) DEFINITIONS; OTHER TECHNICAL AMENDMENTS.—Section 2618(a) of the Public Health Service Act (42 U.S.C. 300ff–28(a)) is amended to read as follows:

"(1) in paragraph (1), in the matter preceding subparagraph (A), by striking "section 2677" and inserting "section 2623";

(2) in paragraph (1) (as so redesignated), by inserting "(A) by striking "paragraph (6)" and inserting "paragraph (5)"; and

(B) by striking "paragraphs (3) and (4)" and inserting "paragraphs (3) and (4) and paragraphs (5) and (6)";

(C) by adding at the end the following:

"(a) 5 percent of amounts received under the grant; or

"(b) $3,000,000.

"(D) RELLOCATION FOR SUPPLEMENTAL GRANTS.—Section 2618(d) of the Public Health Service Act (42 U.S.C. 300ff–28(d)) is amended to read as follows:

"(4) RELLOCATION.—Any portion of a grant made to a State under section 2611 for a fiscal year that has not been obligated as of March 31 of the following fiscal year (c) ceases to be available to the State and shall be made available by the Secretary for grants under section 2620, in addition to amounts made available for grants under section 2611, for activities described in section 2618(b) (as so redesignated), by striking "paragraphs (3)" and all that follows through "(5)"; and

"(1) in paragraph (1), in the matter preceding subparagraph (A), by striking "section 2618(d)" and inserting "section 2623"; and

"(2) in paragraph (1) (as so redesignated), by inserting "(A) by striking "paragraph (6)" and inserting "paragraph (5)"; and

(B) by striking "paragraphs (3) and (4)" and inserting "paragraphs (3) and (4) and paragraphs (5) and (6)";

(C) by striking "paragraphs (3) and (4)" and inserting "paragraphs (3) and (4) and paragraphs (5) and (6)";

(D) RELLOCATION.—Any portion of a grant made to a State under section 2611 for a fiscal year that has not been obligated as of March 31 of the following fiscal year. In paragraph (4), (I) in subclause (i), by striking "paragraph (6)" and inserting "paragraph (5)"; and

(B) by striking "paragraphs (3) and (4)" and inserting "paragraphs (3) and (4) and paragraphs (5) and (6)";

(C) by adding at the end the following:

"(A) by striking "paragraph (6)" and inserting "paragraph (5)"; and

(B) by striking "paragraphs (3) and (4)" and inserting "paragraphs (3) and (4) and paragraphs (5) and (6)";

(D) RELLOCATION.—Any portion of a grant made to a State under section 2611 for a fiscal year that has not been obligated as of March 31 of the following fiscal year. In paragraph (4), (I) in subclause (i), by striking "paragraph (6)" and inserting "paragraph (5)"; and

(B) by striking "paragraphs (3) and (4)" and inserting "paragraphs (3) and (4) and paragraphs (5) and (6)";
(4) in paragraph (2)(C)(1), by striking ‘‘or territory’’; and
(5) by striking paragraph (3).

SEC. 204. ADDITIONAL AMENDMENTS TO SUBPART D
(a) REFERENCES TO PART B.—Subpart I of part B of title XXVI of the Public Health Service Act (42 U.S.C. 300ff-21 et seq.) is amended—
(1) by redesignating section 2620 as section 2621; and
(2) by inserting after section 2619 the following:

‘‘SEC. 2620. SUPPLEMENTAL GRANTS.

‘‘(a) IN GENERAL.—For the purpose of pro-
viding services described in section 2612(a), the Secretary shall make grants to States
(1) the designation of a lead State agency
(A) administers all assistance received
under this part;
(B) conducts the needs assessment and
preparation of State plans under paragraph (3);
(C) prepares all applications for assistance
under this part;
(D) receives notices with respect to pro-
grants under this title;
(E) every 2 years, collect and submit to
the Secretary all audits, consistent with Of-
fice of Management and Budget circular A-11, from grantees within the State, includ-
ing audits regarding funds expended in ac-
cordance with this part; and
(F) carry out any other duties determined
appropriate by the Secretary to facilitate the
coordination of programs under this title.
(C) in paragraph (5) (as so redesignated)—
(1) in subparagraph (B), by striking ‘‘and’’;
and
(2) in subparagraph (C), by striking
‘‘, including specialty care and vaccinations
for hepatitis co-infections’’.
(c) APPLICATION FOR GRANT.—
(1) COORDINATION.—Section 2617(b) of the Public Health Service Act (42 U.S.C. 300ff-
27(b)) is amended—
(A) by redesignating paragraphs (4) through (6) as paragraphs (5) through (7), re-
spectively;
(B) by inserting after paragraph (3), the
following:—
‘‘(4) the designation of a lead State agency
that shall—
‘‘(A) administer all assistance received
under this part;
‘‘(B) conduct the needs assessment and
prepare the State plan under paragraph (3);
‘‘(C) prepare all applications for assistance
under this part;
‘‘(D) receive notices with respect to pro-
grants under this title;
‘‘(E) every 2 years, collect and submit to
the Secretary all audits, consistent with Of-
fice of Management and Budget circular A-11, from grantees within the State, includ-
ing audits regarding funds expended in ac-
cordance with this part; and
‘‘(F) carry out any other duties determined
appropriate by the Secretary to facilitate the
coordination of programs under this title.
(C) in paragraph (5) (as so redesignated)—
(1) in subparagraph (B), by striking ‘‘and’’;
and
(2) in subparagraph (C), by striking
‘‘, including specialty care and vaccinations
for hepatitis co-infections’’.
(b) DEMONSTRATED NEED.—The factors
considered by the Secretary in determining
whether an eligible area has a demonstrated
need for purposes of subsection (a)(1) may in-
clude any or all of the following:
(1) The unmet need for such services, as
determined under section 2617(b).
(2) An increasing need for HIV/AIDS-re-
lated services, including relative rates of in-
ncrease in the number of cases of HIV/AIDS.
(3) The relative rates of increase in the
number of cases of HIV/AIDS within new or
emerging subpopulations.
(4) The current prevalence of HIV/AIDS.
(5) Relevant factors related to the cost
and complexity of delivering health care to
individuals with HIV/AIDS in the eligible
area.
(6) The impact of co-morbid factors, in-
cluding co-occurring conditions, determined
relevant by this Secretariat.
(7) The prevalence of homelessness.
(8) The prevalence of individuals de-
scended under section 2602(b)(2)(M).
(9) The relative number of cases of HIV/AIDS
in emerging communities in the
State to the sum of the respective numbers
of such cases in such communities for all
States.
(10) The prevalence of individuals de-
scended under section 2602(b)(2)(M).
(11) The reliance on or access to
health care, including geographic vari-
ation, adequacy of health insurance cov-
erage, and language barriers.
(12) The impact of a decline in the
amount received pursuant to section 2618 on
services available to all individuals with
HIV/AIDS identified and eligible under this
title.
(c) PRIORITY IN MAKING GRANTS.—The
Secretary shall provide funds under this sec-
tion in a ratio of declines in ser-
ices relative to the decline in the amounts re-
ceived pursuant to section 2618 consistent
with the grant award to the State for fiscal
year 2007, and for each subsequent fiscal
year (relating to a decline in funding) applies to the State.
(d) CORE MEDICAL SERVICES.—The provi-
sions of section 2612(b) apply with respect to
a grant under this section to the same extent
and in the same manner as such provisions apply with respect to a grant made pursuant
to section 2618(a)(1).
(e) APPLICABILITY OF GRANT AUTHORITY.—
The authority to make grants under this sec-
tion applies for the first fiscal year for which
amounts are made available for such grants under section 2623(b)(1).’’.

SEC. 205. SUPPLEMENTAL GRANTS ON BASIS OF
DEMONSTRATED NEED.
Subpart I of part B of title XXVI of the Public Health Service Act (42 U.S.C. 300ff-21 et seq.) is amended—
(1) by redesignating section 2620 as section
2621; and
(2) by inserting after section 2619 the fol-
lowing:

‘‘SEC. 2620. SUPPLEMENTAL GRANTS.

‘‘(a) IN GENERAL.—For the purpose of pro-
viding services described in section 2612(a), the Secretary shall make grants to States
(1) the designation of a lead State agency
(A) administers all assistance received
under this part;
(B) conduct the needs assessment and
prepare the State plan under paragraph (3);
(C) prepare all applications for assistance
under this part;
(D) receive notices with respect to pro-
grants under this title;
(E) every 2 years, collect and submit to
the Secretary all audits, consistent with Of-
fice of Management and Budget circular A-11, from grantees within the State, includ-
ing audits regarding funds expended in ac-
cordance with this part; and
(F) carry out any other duties determined
appropriate by the Secretary to facilitate the
coordination of programs under this title.
(C) in paragraph (5) (as so redesignated)—
(1) in subparagraph (B), by striking ‘‘and’’;
and
(2) in subparagraph (C), by striking
‘‘, including specialty care and vaccinations
for hepatitis co-infections’’.
(b) DEMONSTRATED NEED.—The factors
considered by the Secretary in determining
whether an eligible area has a demonstrated
need for purposes of subsection (a)(1) may in-
clude any or all of the following:
(1) The unmet need for such services, as
determined under section 2617(b).
(2) An increasing need for HIV/AIDS-re-
lated services, including relative rates of in-
ncrease in the number of cases of HIV/AIDS.
(3) The relative rates of increase in the
number of cases of HIV/AIDS within new or
emerging subpopulations.
(4) The current prevalence of HIV/AIDS.
(5) Relevant factors related to the cost
and complexity of delivering health care to
individuals with HIV/AIDS in the eligible
area.
(6) The impact of co-morbid factors, in-
cluding co-occurring conditions, determined
relevant by this Secretariat.
(7) The prevalence of homelessness.
(8) The prevalence of individuals de-
scended under section 2602(b)(2)(M).
(9) The relative number of cases of HIV/AIDS
in emerging communities in the
State to the sum of the respective numbers
of such cases in such communities for all
States.
(10) The prevalence of individuals de-
scended under section 2602(b)(2)(M).
(11) The reliance on or access to
health care, including geographic vari-
ation, adequacy of health insurance cov-
erage, and language barriers.
(12) The impact of a decline in the
amount received pursuant to section 2618 on
services available to all individuals with
HIV/AIDS identified and eligible under this
title.
(c) PRIORITY IN MAKING GRANTS.—The
Secretary shall provide funds under this sec-
tion in a ratio of declines in ser-
ices relative to the decline in the amounts re-
ceived pursuant to section 2618 consistent
with the grant award to the State for fiscal
year 2007, and for each subsequent fiscal
year (relating to a decline in funding) applies to the State.
(d) CORE MEDICAL SERVICES.—The provi-
sions of section 2612(b) apply with respect to
a grant under this section to the same extent
and in the same manner as such provisions apply with respect to a grant made pursuant
to section 2618(a)(1).
(e) APPLICABILITY OF GRANT AUTHORITY.—
The authority to make grants under this sec-
tion applies for the first fiscal year for which
amounts are made available for such grants under section 2623(b)(1).’’.
In the case of a State whose laws or regulations are in accordance with section 2614, shall make grants to such States the Secretary obtains the information necessary for determining that such balance is unobligated as of the end of the grant year for the award, and shall require the State to return any amounts from such balance that have been disbursed to the State, unless—

(A) before the end of the grant year, the State submits to the Secretary a written application for the carryover of the balance, which application includes a description of the purposes for which the State intends to expend the funds involved; and

(B) the Secretary approves the waiver.

(2) EXPENDITURE BY END OF CARRYOVER YEAR.—With respect to a waiver under paragraph (1) that is approved for a balance that is unobligated as of the end of a grant year for an award:

(A) The unobligated funds are available for expenditure by the State involved for the one-year period beginning upon the expiration of the grant year (referred to in this section as the ‘‘carryover year’’).

(B) If the funds are not expended by the end of the carryover year, the Secretary shall cancel that unexpended balance of the award, and shall require the State to return any amounts from such balance that have been disbursed to the State.

(3) USE OF CANCELLED BALANCES.—In the case of any balance of a grant award that is cancelled under paragraph (1) or (2), the Secretary shall make the unobligated balance available by the Secretary as additional amounts for grants under section 2620 for the first fiscal year beginning after the fiscal year in which the Secretary obtains the information necessary for determining that the balance is required under such paragraph to be cancelled, except that the availability of the funds under this paragraph is subject to section 2618(a)(2)(H) as applied for such year.

(4) CORRESPONDING REDUCTION IN FUTURE GRANT.—

(A) IN GENERAL.—In the case of a State for which a balance from a grant award made pursuant to section 2618(a)(1) or 2618(a)(2)(G)(i) is unobligated as of the end of the grant year for the award—

(i) the Secretary shall reduce, by the same amount as such unobligated balance, the amount of the grant award for the first fiscal year beginning after the fiscal year in which the Secretary obtains the information necessary for determining that such balance was unobligated as of the end of the grant year for the award, except that a reduction applies without regard to whether a waiver under paragraph (1) has been approved with respect to such balance; and

(ii) the grant funds involved in such reduction shall be made available by the Secretary as additional funds for grants under section 2620 for such first fiscal year, subject to section 2618(a)(2)(H); except that this subparagraph does not apply to the State if the amount of the unobligated balance is not more than 2 percent or less.

(B) RELATION TO INCREASES IN GRANT.—

A reduction under subparagraph (A) for a State for a fiscal year may not be taken into account in determining section 2618(a)(2)(G)(i) as applied for such State for any subsequent fiscal year.

(d) TREATMENT OF DRUG REBATES.—For purposes of this section, funds that excluding rebates referred to in section 2616(g) may not be considered part of any grant awardedreferred to in subsection (a).

SEC. 208. AUTHORIZATION OF APPROPRIATIONS—SUBPART 1 OF PART B.

Subpart I of part B of title XXVI of the Public Health Service Act (42 U.S.C. 300ff-21 et seq.), as amended by section 207, is further amended by adding at the end the following:

SEC. 2623. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—For the purpose of carrying out this subpart, there are authorized to be appropriated $1,195,500,000 for fiscal year 2007, $1,239,500,000 for fiscal year 2008, $1,290,000,000 for fiscal year 2009, $1,361,700,000 for fiscal year 2010, and $1,381,700,000 for fiscal year 2011. Amounts appropriated under the preceding sentence for a fiscal year are available only for the Secretary to expend until the end of the second succeeding fiscal year.

(b) RESERVATION OF AMOUNTS.

(1) EMERGING COMMUNITIES.—Of the amount appropriated under subsection (a) for a fiscal year, the Secretary shall reserve $5,000,000 for grants under section 2621.

(2) SUPPLEMENTAL GRANTS.

(A) IN GENERAL.—Of the amount appropriated under subsection (a) for a fiscal year in excess of the 2006 adjusted amount, the Secretary shall reserve 14 percent for grants under section 2620, except that the availability of the reserved funds for such grants is subject to section 2618(a)(2)(H) as applied for such year, and any amount appropriated exclusively for carrying out section 2616 (and, accordingly, distributed under section 2618(a)(2)(G)) is not subject to this subparagraph.

(B) 2006 ADJUSTED AMOUNT.—For purposes of subparagraph (A), the term ‘‘2006 adjusted amount’’ means the amount appropriated for fiscal year 2006 under section 2616(b) (as such section was in effect for such fiscal year), excluding any amount appropriated for such year exclusively for carrying out section 2616 (and, accordingly, distributed under section 2618(a)(2)(I), as so in effect).

SEC. 209. EARLY DIAGNOSIS GRANT PROGRAM.

Section 2635 of the Public Health Service Act (42 U.S.C. 300ff-33) is amended to read as follows:

SEC. 2625. EARLY DIAGNOSIS GRANT PROGRAM.

(a) IN GENERAL.—In the case of States whose laws or regulations are in accordance with section 2614, the Secretary, acting through the Centers for Disease Control and Prevention, shall make grants to such States for the purposes described in subsection (b).

(b) DESCRIPTION OF GRANT PROGRAM.—

For purposes of subsection (a), the laws or regulations of a State are in accordance with this subpart if the State has policies described in paragraph (1) and the Secretary, in effecting the purposes described in paragraph (2) are in effect, as follows:

(1)(A) Voluntary opt-out testing of pregnant women.

(B) Universal testing of newborns.

(2)(A) Voluntary opt-out testing of clients at sexually transmitted disease clinics.

(B) Voluntary opt-out testing of clients at substance abuse treatment centers.

(c) USE OF FUNDS.—A State may use funds provided under subsection (a) for HIV/AIDS testing (including rapid testing), prevention counseling, treatment of newborns exposed to HIV/AIDS, treatment of mothers infected with HIV/AIDS, and costs associated with linking those diagnosed with HIV/AIDS to care and treatment for HIV/AIDS.

(d) ELIGIBILITY.—A State that is eligible for the grant under subsection (a) shall submit an application to the Secretary, in such form, in such manner, and containing such information as the Secretary may require.

(e) LIMITATION ON AMOUNT OF GRANT.—A grant under subsection (a) to a State for a fiscal year may not be made in an amount exceeding $10,000,000.

(f) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to pre-empt United States or State laws regarding HIV/AIDS counseling and testing.

(g) DEFINITIONS.—In this section:

(1) The term ‘‘voluntary opt-out testing’’ means testing carried out by the use of an HIV/AIDS test.

(2) A test counseling is not required but the individual is informed that the individual will receive an HIV/AIDS test and the individual may opt out of such testing; and

(3) Post-test counseling (including referrals for care) is provided and confidentiality is protected.

SEC. 210. CERTAIN PARTNER NOTIFICATION PROGRAMS. AUTHORIZATION OF APPROPRIATIONS.

Section 2631(d) of the Public Health Service Act (42 U.S.C. 300ff-38) is amended by striking ‘‘there are’’ and all that follows and inserting the following: ‘‘there is authorized to be appropriated $10,000,000 for each of the fiscal years 2007 through 2011 for grants under subsection (a), of which $20,000,000 shall be made available for grants to States whose policies described in paragraph (b)(1), and $10,000,000 shall be made available for grants to States with the policies described in subsection (b)(2). Funds provided under this section are available until expended.’’.

TITLE III—EARLY INTERVENTION SERVICES

SEC. 301. ESTABLISHMENT OF PROGRAM: CORE MEDICAL SERVICES.

(a) IN GENERAL.—Section 2651 of the Public Health Service Act (42 U.S.C. 300ff-51) is amended to read as follows:

SEC. 2651. ESTABLISHMENT OF A PROGRAM.

(a) IN GENERAL.—For the purposes described in subsection (b), the Secretary, acting through the Administrator of the Health Resources and Services Administration, may make grants to and contracts with public and private nonprofit entities specified in section 2652(a).

(b) REQUIREMENTS.—

(1) IN GENERAL.—The Secretary may not make a grant under subsection (a) unless the applicant for the grant agrees to expend the grant funds for—

(A) core medical services described in subsection (c);

(B) support services described in subsection (d); and

(C) administrative expenses as described in section 2669(g)(3).

(2) EARLY INTERVENTION SERVICES.—An applicant for a grant under subsection (a) shall expend not less than 50 percent of the amount received under the grant for the services described in subparagraphs (B) and (C) of section 2664(g)(3).

(c) Required Funding for Core Medical Services.—

(A) IN GENERAL.—With respect to a grant under subsection (a) to an applicant for a fiscal year, the applicant shall, of the portion
of the grant remaining after reserving amounts for purposes of paragraphs (3) and (5) of section 2664(g), use not less than 75 percent to provide core medical services that are needed to treat an individual with HIV/AIDS who are identified and eligible under this title (including services regarding the co-occurring conditions of the individual) nonpro

(2) WAIVER.—

(A) The Secretary shall waive the application of paragraph (1) with respect to an applicant if the Secretary determines that, within the service area of the applicant—

(i) there are no waiting lists for AIDS Drug Assistance Program services under section 2616; and

(ii) core medical services are available to all individuals with HIV/AIDS identified and eligible under this title.

(B) NOTIFICATION OF WAIVER STATUS.—When informing an applicant that a grant under subsection (a) is being made for a fiscal year, the Secretary shall inform the applicant whether a waiver under subparagraph (A) is in effect for the fiscal year.

(3) CORE MEDICAL SERVICES.—For purposes of this section, the term ‘‘core medical services’’, with respect to an individual with HIV/AIDS (including the co-occurring conditions of the individual) means the following services:

(A) Outpatient and ambulatory health services.

(B) AIDS Drug Assistance Program treatments under section 2616.

(C) AIDS pharmaceutical assistance.

(D) Oral health care.

(E) Early intervention services described in subsection (e).

(F) Health insurance premium and cost sharing assistance for low-income individuals in accordance with section 2615.

(G) Home health care.

(H) Medical nutrition therapy.

(I) Hospice services.

(J) Home and community-based health services as defined under section 2614(c).

(K) Mental health services.

(L) Substance abuse outpatient care.

(M) Medical case management, including treatment planning services.

(d) SUPPORT SERVICES.—

(1) IN GENERAL.—For purposes of this section, the term ‘‘support services’’ means services, for the approval of the Secretary, that are needed for individuals with HIV/AIDS to achieve their medical outcomes (such as respite care for persons caring for individuals with HIV/AIDS, outreach services, medical transportation, linguistic services, and referrals for health care and support services).

(2) DEFINITION OF MEDICAL OUTCOMES.—In this section, the term ‘‘medical outcomes’’ means those outcomes affecting the HIV-related clinical status of an individual with HIV/AIDS.

(e) SPECIFICATION OF EARLY INTERVENTION SERVICES.—

(1) In general.—The early intervention services referred to in this section are—

(A) counseling individuals with respect to HIV/AIDS in accordance with section 2662;

(B) testing individuals with respect to HIV/AIDS, including tests to confirm the presence of the disease, tests to diagnose the extent of the deficiency in the immune system, and tests to provide information on appropriate therapeutic measures for preventing and treating the deterioration of the immune system and for preventing and treating conditions arising from HIV/AIDS;

(C) core medical services defined in paragraph (2);

(D) other clinical and diagnostic services regarding HIV/AIDS, and periodic medical evaluations of individuals with HIV/AIDS; and

(2) Provisional services described in subparagraph (A) are referred to in paragraph (1)(C) are referrals of individuals with HIV/AIDS to appropriate providers of health and support services, including, as appropriate—

(A) to entities receiving amounts under part A or B for the provision of such services; and

(B) to biomedical research facilities of institutions of higher education that offer experimental treatment for such disease, or to community-based organizations or other entities that provide such treatment; or

(C) to grantees under section 2611, in the case of a pregnant woman.

(3) REQUIREMENT OF AVAILABILITY OF ALL EARLY INTERVENTION SERVICES THROUGH EACH GRANTEE.—

(A) IN GENERAL.—The Secretary may not make a grant under subsection (a) unless the grant agrees that each of the early intervention services specified in paragraph (2) will be available through the grantee. With respect to compliance with such agreements, the Secretary may expend the grant to provide the early intervention services directly, and may expend the grant to enter into agreements with public or nonprofit private entities or non-profit private entities if such entities are the only available provider of quality HIV care in the area, under which the entities provide the services.

(B) OTHER REQUIREMENTS.—Grantees described in—

(i) subparagraphs (A), (D), (E), and (F) of section 2632(a) shall expend less than 10 percent of the amount of such a grant to provide the services described in subparagraphs (A), (B), (D), and (E) of paragraph (1) directly and on-site;

(ii) except as provided in paragraphs (2)(A) and (2)(D), the grants under such other core primary care services are rendered; and

(iii) subparagraphs (B) and (C) of section 2623(a)(1) shall ensure the availability of early intervention services through a system of linkages to community-based primary care providers, and to establish mechanisms for the referrals described in paragraph (1)(C), and for follow-up concerning such referrals.

(b) ADMINISTRATIVE EXPENSES; CLINICAL QUALITY MANAGEMENT PROGRAM.—Section 2664(c) of the Public Health Service Act (42 U.S.C. 300f–64(g)) is amended—

(1) in paragraph (3), by amending the paragraph to read—

‘‘(3) in paragraph (3), by amending the paragraph to read—

‘‘(3) the applicant will not expend more than 10 percent of the grant for administrative expenses with respect to the grant, including planning and evaluation, except that the costs of a clinical quality management program under paragraph (5) may not be considered administrative expenses for purposes of such limitation; and

(2) in paragraph (5), by inserting ‘‘clinical’’ before ‘‘quality management’’. ‘‘

SEC. 302. ELIGIBLE ENTITIES; PREFERENCES; PLANNING AND DEVELOPMENT GRANTS.

(a) MINIMUM QUALIFICATION OF GRANTEES.—Section 2653(c) of the Public Health Service Act (42 U.S.C. 300f–53(c)) is amended to read as follows:

(a) MINIMUM QUALIFICATION OF GRANTEES.—Section 2653(c) of the Public Health Service Act (42 U.S.C. 300f–53(c)) is amended to read as follows:

(1) ELIGIBLE ENTITIES.—The entities referred to in section 2653(a) are public entities and non-profit private entities that are—

(A) federally-qualified health centers under section 1905(b)(2) of the Social Security Act;

(B) grantees under section 1001 (regarding family planning) other than States; and

(C) community-based organizations;

(D) rural health clinics;

(2) E health facilities operated by or pursuant to a contract with the Indian Health Service;

(3) Community-based organizations, clinics, hospitals, and other health facilities that provide early intervention services to those persons infected with HIV/AIDS through intravenous drug use; or

(b) PREFERENCES IN MAKING GRANTS.—Section 2653(c) of the Public Health Service Act (42 U.S.C. 300f–53(c)) is amended—

(1) in subsection (b)(1)–

(A) in subparagraph (A), by striking ‘‘acquired immunodeficiency syndrome’’ and inserting ‘‘HIV/AIDS’’;

(B) in subparagraph (D), by inserting before the semicolon the following: ‘‘and the number of cases of individuals co-infected with HIV/AIDS and’’;

(2) in subsection (b)(2), by striking ‘‘special consideration’’ and inserting ‘‘preference’’.

SEC. 303. AUTHORIZATION OF APPROPRIATIONS.

Section 2655 of the Public Health Service Act (42 U.S.C. 300f–54(c)) is amended—

(1) in paragraph (1)–

(A) in subparagraph (A), by striking ‘‘HIV’’; and

(B) in subparagraph (B), by striking ‘‘HIV’’ and inserting ‘‘HIV/AIDS’’; and

(2) in paragraph (3), by striking ‘‘or underserved populations’’ and inserting ‘‘or underserved communities’’ and inserting ‘‘areas or to underserved populations’’.

SEC. 304. CONFIDENTIALITY AND INFORMED CONSENT.

Section 2661 of the Public Health Service Act (42 U.S.C. 300f–61) is amended to read as follows:

(a) CONFIDENTIALITY.—The Secretary may not make a grant under this part unless, in the case of any entity applying for a grant under section 2651, the entity agrees to ensure that information regarding the receipt of early intervention services pursuant to this grant is maintained confidentially in a manner not inconsistent with applicable law.

(b) INFORMED CONSENT.—The Secretary may not make a grant under this part unless the applicant for the grant agrees that, in testing an individual for HIV/AIDS, the applicant will test an individual only after the individual confirms that the decision of the individual with respect to undergoing such testing is voluntarily made.’’.

SEC. 305. PROVISION OF CERTAIN COUNSELING SERVICES.

Section 2662 of the Public Health Service Act (42 U.S.C. 300f–62) is amended to read as follows:

(a) COUNSELING OF INDIVIDUALS WITH NEGATIVE TEST RESULTS.—The Secretary may
not make a grant under this part unless the applicant for the grant agrees that, if the results of testing conducted for HIV/AIDS indicate that an individual does not have such condition and that such individual will provide the individual information, including—

“(1) measures for prevention of, exposure to, and transmission of HIV/AIDS, hepatitis B, hepatitis C, and other sexually transmitted diseases;

“(2) the accuracy and reliability of results of testing for HIV/AIDS, hepatitis B, and hepatitis C;

“(3) the significance of the results of such testing, including the potential for developing AIDS, hepatitis B, or hepatitis C;

“(4) the appropriateness of further counseling, testing, and education of the individual regarding HIV/AIDS and other sexually transmitted diseases;

“(5) if diagnosed with chronic hepatitis B or hepatitis C co-infection, the potential of developing hepatitis-related liver disease and its impact on HIV/AIDS; and

“(6) information regarding the availability of hepatitis B vaccine and information about the benefits of vaccination.

(b) COUNSELING INDIVIDUALS WITH POSITIVE TEST RESULTS.—The Secretary may not make a grant under this part unless the applicant for the grant agrees that, if the results of testing for HIV/AIDS indicate that the individual has such condition, the applicant will provide the individual appropriate counseling regarding the condition, including—

“(1) information regarding—

“(A) measures for prevention of, exposure to, and transmission of HIV/AIDS, hepatitis B, and hepatitis C;

“(B) the accuracy and reliability of results of testing for HIV/AIDS, hepatitis B, and hepatitis C;

“(C) the significance of the results of such testing, including the potential for developing AIDS, hepatitis B, or hepatitis C;

“(ii) reviewing the appropriateness of further counseling, testing, and education of the individual regarding HIV/AIDS and other sexually transmitted diseases; and

“(ii) providing counseling—

“(A) on the availability, through the applicant, of early intervention services;

“(B) on the availability in the geographic area served by the applicant for health care, mental health care, and social and support services, including providing referrals for such services, as appropriate;

“(C) on the availability of the benefits of locating and counseling any individual by whom the infected individual may have been exposed to HIV/AIDS, hepatitis B, or hepatitis C and any individual whom the infected individual may have exposed to HIV/AIDS, hepatitis B, or hepatitis C; and

“(ii) that emphasizes it is the duty of infected individuals to disclose their infected status to their sexual partners and their partners in the sharing of hypodermic needles; that provides advice to infected individuals on such sharing of equipment can be made; and that emphasizes that it is the continuing duty of the individuals to avoid any behaviors that will expose others to HIV/AIDS, hepatitis B, or hepatitis C; and

“(D) on the availability of the services of public health authorities with respect to locating and counseling any individual described in subparagraph (C); and

“(E) if diagnosed with chronic hepatitis B or hepatitis C co-infection, the potential of developing hepatitis-related liver disease and its impact on HIV/AIDS; and

“(F) information regarding the availability of hepatitis B vaccine.

(c) ADDITIONAL REQUIREMENTS REGARDING APPROPRIATE COUNSELING.—The Secretary may not make a grant under this part unless the applicant for the grant agrees that, in counseling individuals with respect to HIV/AIDS, the applicant will ensure that the counseling is provided under conditions appropriate to the needs of the employees regarding the counseling.

“(4) COUNSELING OF EMERGENCY RESPONSE EMPLOYEES.—The Secretary may not make a grant under this part to a State unless the applicant for the grant agrees that, in counseling employees with respect to HIV/AIDS, the State will ensure that, in the case of emergency response employees, the counseling is provided to such employees under conditions appropriate to the needs of the employees regarding the counseling.

“(e) RULE OF CONSTRUCTION REGARDING COUNSELING WITHOUT TESTING.—Agreements made pursuant to this section may not be construed to prohibit any grantee under this part from expending the grant for the purpose of providing counseling services described in this section to an individual who does not undergo testing for HIV/AIDS as a result of the grant or the individual determining that such testing of the individual is not appropriate.

SEC. 206. GENERAL PROVISIONS.

(a) APPLICABILITY OF CERTAIN REQUIREMENTS.—Section 2683 of the Public Health Service Act (42 U.S.C. 300ff-63) is amended by striking "Public Health Service Act" and all that follow "be administered" and inserting "(with funds appropriated through this Act) will be carried".

(b) ADDITIONAL AGREEMENTS.—Section 2684(a) of the Public Health Service Act (42 U.S.C. 300ff-64(a)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A), by striking "and" at the end; and

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

(C) by adding at the end the following:

"(C) information regarding the expected expenditures of the grant are related to the planning process for localities funded under part A (including the planning process described in section 2622) and for States funded under part B (including the planning process described in section 2617(b)); and

"(D) a specification of the expected expenditures and the conditions will improve overall client outcomes, as described in the State plan under section 2617(b);"

(2) in paragraph (2), by striking the period and inserting a semicolon; and

(3) by adding at the end the following:

"(8) the applicant agrees to provide additional counseling to the Secretary regarding the process used to obtain community input into the design and implementation of activities related to such grant; and

"(9) at least once every 2 years, to the lead State agency under section 2617(b)(4) audits, consistent with Office of Management and Budget circular A133, regarding the expenditures described in this title and shall include necessary client-level data to complete unmet need calculations and Statewide coordinated statements of need process.

(c) PAYER OF LAST RESORT.—Section 2684(f)(1)(A) of the Public Health Service Act (42 U.S.C. 300ff-64(f)(1)(A)) is amended by inserting "in accordance with this title" before the semicolon.

TITLE IV—WOMEN, INFANTS, CHILDREN, AND YOUTH

SEC. 401. WOMEN, INFANTS, CHILDREN, AND YOUTH.

(a) GRANTS FOR COORDINATED SERVICES AND ACCESS TO RESEARCH FOR WOMEN INFANTS, CHILDREN, AND YOUTH.

(1) IN GENERAL.—The Secretary, acting through the Administrator of the Health Resources and Services Administration, shall award grants to public and nonprofit private entities (including a health facility operated pursuant to a contract with the Indian Health Service) for the purpose of providing family-centered care involving outpatient or ambulatory care (directly or through con-tractual agreements) for women, infants, children, and youth with HIV/AIDS.

(2) ADDITIONAL SERVICES FOR PATIENTS AND FAMILIES.—Funds provided under grants awarded under subsection (a) may be used for the following support services:

(1) Family-centered care including case management.

(2) Referrals for additional services including—

(A) referrals for inpatient hospital services, treatment for substance abuse, and mental health services.

(B) referrals for other social and support services, as appropriate.

(3) Additional services necessary to enable the patient and the family to participate in the program established by the applicant pursuant to such subsection including services designed to recruit and retain youth with HIV.

"(d) Administration; Application.—A grant awarded under subsection (a) may only be made to an applicant that agrees to the following:

"(1) The applicant will coordinate activities under the grant with other providers of health care services under this Act, and under title V of the Social Security Act, including programs promoting the reduction and elimination of risk of HIV/AIDS for youth.

"(2) The applicant will participate in the statewide coordinated statement of need (under part B) that has been promulgated by the public health agency responsible for administering grants under part B and in revisions of such statement.

"(3) The applicant will every 2 years submit to the lead State agency under section 2617(b)(4) audits regarding expenditures in accordance with this title and shall include necessary client-level data to complete unmet need calculations and Statewide coordinated statements of need process.

"(e) Administration; Application.—A grant may only be awarded to an entity under subsection (a) if an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, as the Secretary determines to be necessary to carry out this such application. Such application shall include the following:

"(1) Information regarding how the expected expenditures of the grant are related to the planning process for localities funded under part A (including the planning process described in section 2622) and for States funded under part B (including the planning process outlined in section 2617(b)).

"(2) A specification of the expected expenditures and how these expenditures will improve overall patient outcomes, as outlined as part of the State plan (under section 2617(b)) or through additional outcome measures.

"(f) Annual Review of Programs; Evaluations.—
"(1) REVIEW REGARDING ACCESS TO AND PARTICIPATION IN PROGRAMS.—With respect to a grant under subsection (a) for an entity for a fiscal year, the Secretary shall, not later than 180 days after the end of the fiscal year, provide for the conduct and completion of a review of the operation during the year of the program carried out under such subsection (a). The purpose of such review shall be the development of recommendations, as appropriate, for improvements in the following:

(A) Administration by the entity to allocate opportunities and services under subsection (a) among patients of the entity who are women, infants, children, or youth.

(B) Policies or practices of the entity regarding the participation of such individuals in such program.

(2) EVALUATIONS.—The Secretary shall, directly or through contracts with public and private entities, provide for evaluations of programs carried out pursuant to subsection (a).

(3) ADMINISTRATIVE EXPENSES.—

(1) LIMITATION.—A grantee may not use more than 10 percent of amounts received under a grant awarded under this section for administrative expenses.

(2) CLINICAL QUALITY MANAGEMENT PROGRAM.—A grantee under this section shall implement a clinical quality management program to assess the extent to which HIV health services provided to patients under the grant are consistent with the most recent medical guidelines for the treatment of HIV/AIDS and related opportunistic infection, and as applicable, to develop strategies for ensuring that such services are consistent with the guidelines for improvement in the access to and quality of HIV health services.

(g) TRAINING AND TECHNICAL ASSISTANCE.—A grant approved under subsection (i) for a fiscal year, the Secretary may use not more than 5 percent to provide, directly or through contracts with public and private entities (which may include grantees under subsection (a)), training and technical assistance to assist applicants and grantees under subsection (a) in complying with the requirements of this section.

(h) DEFINITIONS.—In this section—

(1) ADMINISTRATIVE EXPENSES.—The term ‘administrative expenses’ means funds that are to be used by grantees for grant management and monitoring activities, including costs of staff or activity unrelated to services or indirect costs.

(2) INDIRECT COSTS.—The term ‘indirect costs’ means costs included in a Federally negotiated indirect rate.

(i) SERVICES.—The term ‘services’ means—

(A) services that are provided to clients to meet the goals and objectives of the program under this section, including the provision of professional, diagnostic, and therapeutic services by a primary care provider or a referral to and provision of specialty care; and

(B) services that sustain program activity and contribute to or help improve services under subparagraph (A).

(1) AUTHORIZATION OF APPOINTMENTS.—For the purpose of carrying out this section, there are authorized to be appropriated, $71,800,000 for each of the fiscal years 2007 through 2011.

SEC. 402. GAO REPORT

Not later than 24 months after the date of enactment of this Act, the Comptroller General of the Government Accountability Office shall conduct an evaluation, and submit to Congress a report containing the findings provided for under part D of title XXVI of the Public Health Service Act to determine—

(1) how funds are used to provide the administrative expenses, indirect costs, and services, as defined in section 2671(h) of such title, for individuals with HIV/AIDS;

(2) how funds are used to provide for the administrative expenses, indirect costs, and services, as defined in section 2671(h) of such title, to family members of women, infants, children, or youth with HIV/AIDS; and

(3) how funds are used to provide family-centered care involving outpatient or ambulatory care authorized under section 2671(a) of such title;

(h) how funds are used to help identify HIV-positive women and their children who are exposed to HIV and connect them with care that can improve their health and prevent perinatal transmission.

TITLE V—GENERAL PROVISIONS

SEC. 501. GENERAL PROVISIONS.

Part E of title XXVI of the Public Health Service Act (42 U.S.C. 300H–80 et seq.) is amended to read as follows:

"PART E—GENERAL PROVISIONS

"SEC. 2681. COORDINATION.

"(a) REQUIREMENT.—The Secretary shall ensure that the Health Resources and Services Administration, the Centers for Disease Control and Prevention, the Substance Abuse and Mental Health Services Administration, and the Centers for Medicare & Medicaid Services coordinate the planning, funding, and implementation of Federal HIV programs (including all minority AIDS initiatives of the Public Health Service, including under section 2683) to enhance the continuity of care for individuals with HIV/AIDS or those at risk of such disease. The Secretary shall consult with other Federal agencies, including the Department of Veterans Affairs, as needed and utilize planning information submitted to such agencies by the States and entities eligible for assistance under this title.

"(b) REPORT.—The Secretary shall biennially prepare and submit to the appropriate committees of the Congress a report concerning the coordination efforts at the Federal, State, and local levels described in the section, including a description of Federal barriers to HIV program integration and a strategy for eliminating such barriers and enhancing the coordination of care and prevention services for individuals with HIV/AIDS or those at risk of such disease.

"(c) INTEGRATION BY STATE.—As a condition of receiving funds under this title, a State shall provide assurances to the Secretary that health care services funded under this title will be integrated with other such services, that programs will be coordinated with other available programs (including Medicaid), and that the continuity of care and prevention services of individuals with HIV/AIDS in the State will be integrated with the delivery of care and prevention services of individuals with HIV or those at risk of such disease.

"(d) INTEGRATION BY LOCAL OR PRIVATE ENTITIES.—As a condition of receiving funds under this title, a local or private nonprofit entity shall provide assurances to the Secretary that services funded under this title will be integrated with other such services, that programs will be coordinated with other available programs (including Medicaid), and that the continuity of care and prevention services of individuals with HIV or those at risk of such disease in the State will be integrated with the delivery of care and prevention services of individuals with HIV.

"SEC. 2682. AUDITS.

"(a) IN GENERAL.—For fiscal year 2009, and each subsequent fiscal year, the Secretary may reduce the amounts of funds under this title by an amount equal to the contribution of a State for a fiscal year if, with respect to such grants for the second preceding fiscal year, the State or subdivision fails to prepare audits in accordance with the procedures of section 7502 of title 31, United States Code. The Secretary shall annually select a representative sample of the grants from the State lead agency under section 2671(b)(4) and submit the summaries of the selected audits to the Congress.

"(b) POSTING ON THE INTERNET.—All audits that are required under this section shall be posted, in their entirety, on the Internet website of the Health Resources and Services Administration.

"SEC. 2683. PUBLIC HEALTH EMERGENCY.

"(a) IN GENERAL.—In an emergency area and during an emergency period, the Secretary may waive such requirements of this title to improve the health and safety of those receiving care under this title and the general public, except that the Secretary may not expend more than 5 percent of the funds allocated under this title for sections 2620 and section 2603(b).

"(b) EMERGENCY AREA AND EMERGENCY PERIOD.—In this section:

"(1) EMERGENCY AREA.—The term ‘emergency area’ means a geographic area in which there exists—

(A) an emergency or disaster declared by the President pursuant to the National Emergencies Act or the Robert T. Stafford Disaster Relief and Emergency Assistance Act; or

(B) a public health emergency declared by the Secretary pursuant to section 319.

"(2) EMERGENCY PERIOD.—The term ‘emergency period’ means the period in which there exists—

(A) an emergency or disaster declared by the President pursuant to the National Emergencies Act or the Robert T. Stafford Disaster Relief and Emergency Assistance Act; or

(B) a public health emergency declared by the Secretary pursuant to section 319.

"(c) UNOBLIGATED FUNDS.—If funds under a grant under this section are not expended for an emergency in the fiscal year in which the emergency is declared, such funds shall be returned to the Secretary for reallocation under sections 2620(b) and 2620.

"SEC. 2684. PROHIBITION ON PROMOTION OF CERTAIN ACTIVITIES.

"None of the funds appropriated under this title shall be used to support AIDS programs or to develop materials, advertise, or encourage, directly, intravenous drug use or sexual activity, whether homosexual or heterosexual. Funds authorized under this title may be used to provide treatment and support services for individuals with HIV.

"SEC. 2685. PRIVACY PROTECTIONS.

"(a) IN GENERAL.—The Secretary shall ensure that any information submitted to, or collected by, the Secretary under this title excludes any personally identifiable information.

"(b) DEFINITION.—In this section, the term ‘personally identifiable information’ has the meaning given such term under the regulations promulgated under section 2617 of title 42, or the Secretary pursuant to the National Health Insurance Portability and Accountability Act of 1996.

"SEC. 2686. GAO REPORT.

"(a) IN GENERAL.—The Comptroller General of the Government Accountability Office shall biennially submit to the appropriate committees of Congress a report that includes a description of Federal, State, and local implementation of HIV program integration, particularly for racial and ethnic minorities, including activities carried out under subpart III of part F, and recommends measures to enhance the continuity of care and the provision of prevention services for individuals with HIV/AIDS.
or those at risk for such disease. Such report shall include a demonstration of the manner in which funds under this subpart are being expended and to what extent the services provided under this subpart increase access to prevention and care services for individuals with HIV/AIDS and build stronger community linkages to address HIV prevention and care for racial and ethnic minority communities.

**SEC. 2687. DEFINITIONS.**

For purposes of this title:

(1) AIDS means any condition that results in 

(ii) acquired immune deficiency syndrome.

(2) Co-occurring conditions. —The term ‘‘co-occurring conditions’’ means one or more additional conditions in an individual with HIV/AIDS, with regard to whether the individual has AIDS and without regard to the conditions arise from HIV.

(3) Counseling. —The term ‘‘counseling’’ means such counseling provided by an individual trained to provide such counseling.

(4) Family-centered care. —The term ‘‘family-centered care’’ means the system of services described in this title that is targeted specifically to the special needs of infants, children, women and families. Family-centered care shall be based on a partnership between parents, professionals, and the community designed to ensure an integrated, coordinated, culturally sensitive, and community-based approach of care for children, women, and families with HIV/AIDS.

(5) Families with HIV/AIDS. —The term ‘‘families with HIV/AIDS’’ means families in which one or more members have HIV/AIDS.

(6) HIV. —The term ‘‘HIV’’ means infection with the human immunodeficiency virus.

(7) HIV/AIDS. —The term ‘‘HIV/AIDS’’ means HIV, and includes AIDS and any condition arising from AIDS.

(8) Human Immunodeficiency Virus. —The term ‘‘human immunodeficiency virus’’ means the etiologic agent for AIDS.

(9) Official Poverty Line. —The term ‘‘official poverty line’’ establishes the poverty level for individuals, families, and groups of individuals.

(10) Person. —The term ‘‘person’’ includes one or more individuals, governments (including the Federal Government and the governments of the States, territories, Native American agencies, political subdivisions, labor unions, partnerships, associations, corporations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, receivers, trustees, and substitutes in cases under title 11, United States Code.

(11) State. —The term ‘‘state’’ includes each of the 50 States, the District of Columbia, and each of the territories.

(12) Youth with HIV. —The term ‘‘youth with HIV’’ means individuals who are 13 through 24 years old and who have HIV/AIDS.

**TITLE VI—DEMONSTRATION AND TRAINING**

SEC. 601. DEMONSTRATION AND TRAINING.

Subpart I of part F of title XXVI of the Public Health Service Act (42 U.S.C. 300ff-101 et seq.) is amended to read as follows:

**Subpart I—Special Projects of National Significance**

**SEC. 2691. SPECIAL PROJECTS OF NATIONAL SIGNIFICANCE.**

(1) General. —Of the amount appropriated under section 2616(c) of the Public Health Service Act (42 U.S.C. 300ff-111(c)), $14,320,000 is appropriated to carry out activities under this section to report client-level data to the Secretary.

(b) Grants. —The Secretary shall award grants to entities eligible for funding under parts A, B, C, and D based on:

(i) whether the funding will provide an immediate improvement in the ability of grantees under this title to report client-level data to the Secretary.

(ii) the potential replicability of the proposed activity in other similar localities or nationally.

(iii) the demonstrated reliability of the proposed activity to create and maintain a qualified health information technology system.

(iv) the number of living non-AIDS cases of HIV in the area, and

(v) the number of living cases of AIDS in the area.

(2) Authorization of Appropriations. —For the purpose of carrying out activities under this section, there is authorized to be appropriated $131,200,000 for each of fiscal years 2007 through 2011.

(3) Purpose. —The Secretary shall award grants under subsection (a) to entities eligible for funding under parts A, B, C, and D based on:

(i) whether the funding will provide an immediate improvement in the ability of grantees under this title to report client-level data to the Secretary.

(ii) the potential replicability of the proposed activity in other similar localities or nationally.

(iii) the demonstrated reliability of the proposed activity to create and maintain a qualified health information technology system.

(iv) the number of living non-AIDS cases of HIV in the area, and

(v) the number of living cases of AIDS in the area.

(4) Non-AIDS Cases. —The term ‘‘non-AIDS cases’’ means a case to a case of HIV, means that the individual involved has HIV but does not have AIDS.

(5) Human Immunodeficiency Virus. —The term ‘‘human immunodeficiency virus’’ means the etiologic agent for AIDS.

(6) Official Poverty Line. —The term ‘‘official poverty line’’ establishes the poverty level for individuals, families, and groups of individuals.

(7) Counseling. —The term ‘‘counseling’’ means such counseling provided by an individual trained to provide such counseling.

(8) Family-centered care. —The term ‘‘family-centered care’’ means the system of services described in this title that is targeted specifically to the special needs of infants, children, women and families. Family-centered care shall be based on a partnership between parents, professionals, and the community designed to ensure an integrated, coordinated, culturally sensitive, and community-based approach of care for children, women, and families with HIV/AIDS.

(9) Families with HIV/AIDS. —The term ‘‘families with HIV/AIDS’’ means families in which one or more members have HIV/AIDS.

(10) HIV/AIDS. —The term ‘‘HIV/AIDS’’ means HIV, and includes AIDS and any condition arising from AIDS.

(11) State. —The term ‘‘state’’ includes each of the 50 States, the District of Columbia, and each of the territories.

(12) Youth with HIV. —The term ‘‘youth with HIV’’ means individuals who are 13 through 24 years old and who have HIV/AIDS.
The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

Mr. DEAL of Georgia. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in strong support of the Ryan White HIV/AIDS Treatment Modernization Act of 2006, because I believe that we must reform the unacceptable status quo for the benefit of those suffering from HIV/AIDS across our great Nation.

As my colleagues are aware, the Ryan White CARE Act was first authorized in 1990 and was reauthorized in 1996 and 2000. And although the legislative authority expired on September 30, 2005, the program continues to operate at its current funding level.

The outcomes and treatments for HIV and AIDS have changed over the years, and so have the needs of those who suffer from the disease. For example, persons with HIV now live longer due to advances in drug therapies.

However, many patients are on waiting lists for these life-saving drugs, because Ryan White funds are being spent on resources that include services not covered for Medicare or Medicaid beneficiaries, including buddy and companion services, dog walking, therapeutic touching, and housing assistance.

Mr. Speaker, there is a 50 percent difference in funding for AIDS cases for some areas of the country over other areas due to outdated formulas. Patients in some areas will not receive needed drug therapies if the status quo remains. Currently, there is a 50 percent difference in funding for AIDS cases across some areas of the country over other areas due to outdated formulas.

Some States cannot find enough doctors to write prescriptions for needed medications while others are paying for buddy and companion services. If we do not pass this legislation, the status quo will remain.

Mr. Speaker, the status quo to me is unacceptable, and I think it is unacceptable to the taxpayers, and it is unacceptable to those suffering from HIV/AIDS.

Mr. Speaker, I urge my colleagues to support this needed and timely legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. PALLONE, Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, it is with great regret that I rise in opposition to this bill. Unlike previous reauthorizations of the Ryan White CARE Act, I believe the legislation before us has the potential to do great harm to systems of care around the country and place HIV/AIDS patients at risk.

In my home State of New Jersey, for example, we have tremendous need for CARE Act dollars. We have the highest proportion of cumulative AIDS cases in women. We rank third in cumulative AIDS cases among and older all cumulative AIDS cases. In the early days of this epidemic when the Federal Government refused to help, New Jersey stepped forward and did the right thing.

Ever since then, we have remained at the forefront of this battle working hard to provide the medical and support services HIV/AIDS patients need to live longer.

But that will all change if this bill is enacted. This bill will punish States like New Jersey for keeping people alive and preventing new infections. It sets up a very perverse disincentive. It says to States: you will be penalized for doing a good job. This is not the message that Washington should be sending back home.

Mr. Speaker, there are a number of reasons why this bill is flawed. The most obvious is that it is woefully underfunded. As a result, it sets up a very perverse disincentive. It says to States: you will be penalized for doing a good job. This bill pits AIDS against HIV, urban centers against rural communities. This is not how you treat a public health emergency.

If Republicans would stop draining the Treasury to help pay for the tax cuts, we would have the resources necessary to adequately address this epidemic. Ultimately this bill is flawed. Mr. Speaker. It has no business being considered in the waning days of the session on this Suspension Calendar.

Mr. Speaker, it needs to be fixed so that every State has the resources to treat their HIV/AIDS patients. I urge my colleagues to oppose this bill. Instead, let’s pass a temporary reauthorization that holds every State harmless so that we can work out these problems.

Mr. Speaker, I reserve the balance of my time.

Mr. DEAL of Georgia. Mr. Speaker, I yield myself 4 minutes to the gentlewoman from California (Mrs. Bosco), the original sponsor of this legislation.

Mrs. BONO. Mr. Speaker, I rise today in strong support of the Ryan White HIV/AIDS Treatment Modernization Act. Its consideration on the floor today is testament to the bipartisan nature of this legislation.

HIV/AIDS is a disease that has virtually touched all of us in all parts of our great Nation. Since its inception, the purpose of the Ryan White CARE Act has been to provide care.

As we discuss this specifics of this legislation, and the more technical aspects of the funding formulas, it is my
hope that each of us will bear in mind the true purpose of this legislation. It is critical that we recognize the significant steps that have been made towards ensuring that the funding we are providing here today is going to real people to meet very real and very imminent needs.

Mr. WAXMAN. Mr. Speaker, I rise in very reluctant opposition to this Ryan White HIV/AIDS Treatment Modernization Act of 2006.

I was the original sponsor of the legislation, and I have been a long-time supporter of it, but I think we find ourselves in a tragic situation today because the basis of the problem is that the population of those needing services has grown, but the funds for the Ryan White program have not grown with it. This program is chronically underfunded.

Well, that means if we want to give to some people who are very deserving, we are going to have to take it from others who are very deserving. This should not be the choice of the body in Congress today.

I recognize that a failure to pass the legislation could result in many States, like my own, that have been collecting HIV data by code, at a severe risk of a loss of funding. Obviously, this is a situation in which we wish we would not find ourselves in, but if we adopt this bill we are agreeing to a long-term system that is then going to be quite unfair.

Well, I ask unanimous consent that I be permitted to continue the debate.

Mr. BARTON of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. BARTON of Texas. Mr. Speaker, I rise in support of H.R. 6143, the Ryan White HIV/AIDS Treatment Modernization Act of 2006. This legislation was introduced by Congresswoman Bono. It is the product of a year of bipartisan, bicameral negotiations. The bill recognizes and refines the Ryan White program, the Federal Government's largest discretionary grant program specifically designed for people with HIV/AIDS.

We know that HIV/AIDS disproportionately affects people in poverty and racial/ethnic populations who are underserved by health care and prevention systems. We know that the most likely users of Ryan White services are persons with limited sources of health care. We know that Ryan White services keeps these people out of hospitals, increases their access to health care and improves their quality of life.

This reauthorization has been the product of bipartisan and bicameral efforts to do the right thing and to thank the committee staff who have dedicated so much time to this effort from both sides of the Capitol and from both sides of the aisle: Melissa Bartlett, John Ford, Shana Chiristup and Connie Garner. And, finally, I would like to thank my personal staff, both past, Katherine Martin, and present, Taryn Nader, for their hard work and tireless efforts on behalf of the Ryan White CARE Act.

The goal of each Member of this body is to work on behalf of all constituents of this great country by passing legislation that meets the needs of our citizens. The CARE Act has for 16 years been a cornerstone of the care, treatment and support services necessary for the lives of people living with HIV and AIDS. It is vitally important to maintain its support and modernize its approach to ensure it continues to sustain the lives of people with HIV and AIDS.

I ask my colleagues for their support, Mr. Speaker.

Mr. PALLONE. Mr. Speaker, I yield 4 minutes to the gentleman from California (Mr. WAXMAN), who has been a leader on this Ryan White CARE Act from the very beginning.

Mr. WAXMAN. Mr. Speaker, I rise in very reluctant opposition to this Ryan White HIV/AIDS Treatment Modernization Act of 2006.

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This is what we also know about the current Ryan White program. We know that due to outdated, hold-harmless and double-counting provisions in the current law persons are not treated similarly across this country. We know that, under the current formula, there is a potential 50% decrease in funding per AIDS case for some areas of the country over other areas of the country who get no increase or little increase at all. We know that sometimes this huge inequity occurs within the same State. We know that one city in particular is greatly advantaged by an outdated, hold-harmless formula, one that may allow even for deceased persons, someone who is no longer living, counted for current funding purposes. I do not think anyone would think that is right. In fact, I would say that is not right.

The Ryan White program was established to be the payor of last resort for
needed medical services for those suffering from HIV/AIDS. Then and now, that is a noble cause and one worth supporting. However, we know that in many States, including my own State of Texas, Ryan White dollars, Federal taxpayer dollars, are being used for nonhealth services. Why? What are we paying for with these funds? For example, buddy/companion services, child care services, housing, transportation and many other types of services similar to these are being provided with Ryan White dollars. While some of these services may, arguably, be necessary to get people to health care and keep people in health care, others are misuses of Ryan White dollars under the current formula and need to be fixed.

The use of Ryan White funds for such services should be put into check. We should be asking the question, why are there waiting lists in some parts of the country to get lifesaving drugs? And why in some parts of the country are there CEOs of physicians to even write prescriptions for these lifesaving drugs? Again, this is just not right. It is not fair.

The bill before us would begin to right those wrongs. The bill before us would provide help to people across the country in a fair and equitable fashion so that, no matter where you live, if you are eligible for Ryan White assistance, you will get access to health care, you will get access to treatment, you will get access to drugs.

This bill requires cities, States and providers to start making the right decisions when it comes to how to spend their Ryan White dollars by requiring that they spend at least 75 percent on core medical services. I repeat, they must spend at least 75 percent on core medical services. HIV/AIDS is, and first and foremost, a medical condition and providing medical care should be the primary focus of the Federal bill. I know that the bill is not perfect. I know that there have been significant compromises made by all parties at the table. I know that had any one party decided to write a reauthorization bill the bill would look different than it does today. This bill, though, reflects over a year of intense negotiations by all of the stakeholders. It reflects the input of many stakeholder groups and the Bush administration. The bill advances important consensus policy reforms.

The bill is also coming to this floor at a critical time for the Ryan White program. In just 3 days, again, 3 days from today, current law dictates that many areas of this country, including several large States, will not be able to include their HIV case counts to receive the appropriate Federal funding to provide services to persons in their States.

What does this mean? This means that thousands of HIV persons may have their health care needs put in jeopardy. This means that, under current law, the drug grant program will be reduced by 3 percent to pay for any existing hold harmless. So, at a time when there are people on waiting lists for drugs in some parts of the country, access to drugs in other parts of the country will be hindered, be reduced. These drug dollars will come up short. According to the Department of Health and Human Services, there will be a $40 million shortfall. Those are real dollars that otherwise would go to help real people. I cannot underscore the urgency of passing this bill today to prevent these cuts.

I want to commend Congresswoman Bono for her leadership in preventing these losses. I also want to thank Congressman Dingell, Senator Kennedy and Senator Enzi in the other body for their hard work on this consensus bill to reauthorize the program.

At the staff level, I want to thank John Ford on the minority staff and Melissa Bartlett on the majority staff for their hard work in dedicating themselves during the last several months and the last year to produce the legislation that is before us today.

Finally, I want to thank the Legislative Counsel’s office and, in particular, Pete Goodloe. He has worked very, very hard on this.

It is critical that we act today in a positive fashion so that we can prevent the cuts that go into effect 3 days from today.

The bill before us passed the Energy and Commerce Committee on a 38-10 bipartisan vote last week. If it passes this body under suspension, it will go to the other body, and we will work very hard to get it passed over there in the next 2 days. Because it is on suspension, it takes a two-thirds vote, which, if everyone is present and voting, we will need 291 Members to vote in favor of reauthorization of the Ryan White HIV/AIDS Act. I hope we get that vote later this afternoon.

Mr. Speaker, I reserve the balance of my time.

Mr. PALLONE. Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. Engel).

(Mr. ENGEL asked and was given permission to revise and extend his remarks.)

Mr. ENGEL. Mr. Speaker, I thank my friend from New Jersey for yielding to me; and, first of all, Mr. Speaker, I want to express my extreme displeasure that this bill comes here today. This bill will cut $2 billion more than $2 billion in this bill and we have 40 minutes to debate it. This is not a bill that should be under a suspension calendar. This is a bill that should have full and open debate among the Congress with not a 40-minute time limit, at least.

This is not a consensus bill. This is a contentious bill, and many of us are very, very upset. We are upset about the bill, and we are upset at the manner that this leadership brings this bill to the House floor.

This bill will destabilize established systems and care and will have a devastating effect on the ability of high prevalent communities to address need; and, unfortunately, as home to 17 percent, which is one-sixth of the Nation’s AIDS population, New York is just so upset that this bill has come out the way it has. This is profoundly important to our State. That is why all 29 Members of the New York delegation, Democrats and Republicans alike, have signed a letter opposing this bill and pledging to vote against the bill.

New York remains the epicenter of the HIV/AIDS crisis, leading the Nation with 30 percent of the persons living with HIV/AIDS and number of new cases of HIV/AIDS each year.

But what does this bill do? It has been estimated that New York State stands to lose more than $78 million in the first 4 years of the reauthorization. New York City will likely lose $17 million in the first year alone.

This bill will result in deep cuts in medications and services for people living with HIV/AIDS throughout the State. It reminds me of homeland security. Sometimes we need to use a little common sense. Homeland security is about protecting everyone. Everyone knows, unfortunately, that New York City remains the number one terrorist target and Washington number two. So what did we have when we had the Department of Homeland Security come up with its budget, New York City by 30 percent and cut Washington by 30 percent. The two biggest terrorist threats. That made no sense at all.

What happens here? New York City remains the epicenter of the AIDS epidemic, and what does this bill do? It cuts $78 million for New York and $17 million for New York City. It is shameful and disgraceful.

And despite what some may say, the HIV/AIDS epidemic has not shifted. It has expanded. One-half of all people living with AIDS reside in five States: New York, New Jersey, Florida, Texas, and California. Three of these States, New York, New Jersey and Florida, will face devastating losses under this reauthorization.

There is no question that other States have mounting epidemics and they are absolutely entitled and deserving of more funding. A good Ryan White bill would have ensured that every State had enough money to meet their needs; that every State would be held harmless; that every State would not be a winner or a loser, but that every State would have the resources needed to combat the scourge of AIDS.

And the House Appropriations Committee increased funding for the bill with Mr. Towns, Ms. Eshoo, and Mrs. CAPPS. It failed on essentially a party-line vote. So I strongly urge my colleagues to vote against this bill.

Where are our spending priorities? We continue to pass regressive tax cuts in a time of war, and yet shortchange cities and states who are just trying to provide lifesaving services. We’re truly talking about life and death.
Mr. BARTON of Texas. Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Ms. SOLIS).

Ms. SOLIS. Mr. Speaker, I thank the gentleman.

Mr. Speaker, I am not reluctant to vote against this bill. I voted against it in committee because it is not the right measure we should be approving today. In fact, I supported some of our alternative amendments that were presented by folks on our side of the aisle.

For my community, this is devastating. We see an increase in communities like East Los Angeles, the hub of the Hispanic community in the San Gabriel Valley, that fought over 20 years to combat this disease, yet it is being thrown away because New York want to take away very important funding and reappropriate it to other parts of the country.

We need to expand the pie. We need to make sure people are covered everywhere. And I am glad to hear from my colleagues that while we know that this is not a good solution, but we are really working toward a deadline of October 1, we should hold off, make some rational decisions, and when we come back here, we must not see the right thing for those afflicted by this disease.

I am very concerned, because a large number of Latinas, almost 20 to 25 percent, are now faced with this disease, and it is through heterosexual relationships. We have yet to understand what the cultural dichotomies that are exist in our communities. We have to understand that, get information tools out there, a campaign to combat this disease, and put all the resources that are necessary here.

I am glad that we were able to get some semblance of these concepts in the bill, but it is still not good enough. Places like Los Angeles and San Francisco and other epicenters that we heard of in New York and Miami, they are affected. Our communities need this funding.

So I just want to say to my colleagues that don’t know much about this, because it is on suspension, take a very close look at what is going on in your district. All of my groups, the minority groups that I represent, are saying that they also are urging us to vote “no” on this bill.
The reauthorization of the Ryan White CARE Act has enormous implications for people living with HIV and AIDS, and the communities providing related health services.

The communities I represent in East Los Angeles and the San Gabriel Valley have fought this disease since its onset over 20 years ago.

Los Angeles is an epicenter of the HIV and AIDS epidemic, with between 50,000 and 60,000 persons living with HIV/AIDS.

As the epidemic grows, communities of color are disproportionately at risk.

Although only 14 percent of the U.S. population, Latinos constitute almost 20 percent of the AIDS cases diagnosed since the start of the epidemic.

I am proud of the work that has been accomplished to codify the Minority AIDS Initiative in this reauthorization, a priority of the TriCaucus.

I am pleased that the committee agreed to report language recognizing the importance of service providers to persons with limited English proficiency at risk of and living with HIV and AIDS.

However, I cannot support this legislation.

We are being pushed to vote on this legislation because of an arbitrary October 1 deadline.

We could move to extend this deadline and create better, sounder policy, as my good friend Mr. Pallone has suggested, but instead we are being pushed to vote on legislation that risks too much for the health of too many.

This bill considers language services a support service, when in reality, for many racial and ethnic minorities, language services are necessary to ensure proper HIV/AIDS related health care.

This bill also bases future funding levels on questionable runs and conflicting data.

I believe that, while we need to address the increasing incidence of HIV and AIDS in the south and rural areas, we must do this without risking those communities such as mine which have historically had large populations and which continue to struggle.

The position we are in today is not enviable, but we have an opportunity to work through the needs of our States and communities by rejecting the arbitrary deadlines.

I am rejecting this risky bill and encouraging my colleagues to join with me. Let’s give our suffering communities a better policy for a brighter, healthier future.

Mr. Barton of Texas. Mr. Speaker, may I inquire as to the time remaining.

The Speaker pro tempore. The gentleman from Texas has 4½ minutes remaining, and the gentleman from New Jersey has 7 minutes remaining.

Mr. Barton of Texas. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, I want to put into the record a letter dated September 19, 2006, from the County of Los Angeles signed by Reginald Todd, the Chief Legislative Representative for that county to Congresswoman Bono, where he states strong support of the current bill before us, and I want to read one sentence from this letter:

“You and your colleagues have been working on this for 15 years. We are spending $2 billion a week in Iraq. We only need $1 billion more to fund all of these programs adequately. What are we doing? Let’s stop with this. Don’t accept this. Don’t pit yourself against your friends and your colleagues. Tear it up. It is not worth the paper it is written on. Vote ‘no’ on this bill. Throw it out and let’s start all over again next year.

I am with my friends from New York. I am with the Speaker; the House of Representatives, and let’s not be scrambling over pennies. People are dying. And don’t tell me we don’t have the resources to deal with it. Even if you didn’t spend $2 billion a week in Afghanistan, in Iraq, we would be able to fund this adequately.

Let’s stop this. Somebody does not care that Americans are dying. Somebody doesn’t give a damn that it is decimating black populations. Let’s stop playing the game. Let’s stop it today. Stop this bill. Don’t think you’re so desperate you have to vote for anything in order to get a little something. Throw it out. It’s not worth it.

Mr. Barton of Texas. Mr. Speaker, I yield myself 30 seconds.

I appreciate the gentlewoman’s passion, but I just want to point out the facts. If we don’t pass this bill today, the City of Los Angeles, in 3 days, is going to lose over $41 million, and the State is going to lose over $6 million. The State could lose up to 21 percent of its AIDS funds.

Now, those are the facts.

Mr. Pallone. Mr. Speaker, I yield 1½ minutes to my colleague from New Jersey (Mr. Pascrell).

This Ryan White CARE Act reauthorization legislation would allow states, such as California, which have converted or are converting to a names-based HIV reporting system to use the data collected through their code-based HIV reporting system. As you know, this is extremely important for California and Los Angeles County, which is the nation’s second most HIV/AIDS impacted local jurisdiction.

As the epidemic grows, communities of color are disproportionately at risk. The Ryan White CARE Act reauthorization legislation would allow states, such as California, which have converted or are converting to a names-based HIV reporting system to use the data collected through their code-based HIV reporting system. As you know, this is extremely important for California and Los Angeles County, which is the nation’s second most HIV/AIDS impacted local jurisdiction.

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The County understands that, absent this legislation, the Health Resources and Services Administration (HRSA) will count only HIV cases for states with mature name-based HIV reporting systems in allocating Federal fiscal year 2007 Ryan White CARE Act funds. This would have a devastating fiscal impact on California and the County of Los Angeles. The proposed CARE Act reauthorization legislation would address many of the concerns raised by the County’s Board of Supervisors in its August 30, 2006, letter to you.

COUNTY OF LOS ANGELES,
WASHINGTON, DC LEGISLATIVE OFFICE,
Washington, D.C., September 19, 2006;
Hon. Mary Bono,
House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE BONO: I am writing to communicate Los Angeles County’s support for the Ryan White HIV/AIDS Treatment Modernization Act of 2006, which is due to be marked up by the House Energy and Commerce Committee on September 20, 2006.

This Ryan White CARE Act reauthorization legislation would allow states, such as California, which have converted or are converting to a names-based HIV reporting system to use the data collected through their code-based HIV reporting system. As you know, this is extremely important for California and Los Angeles County, which is the nation’s second most HIV/AIDS impacted local jurisdiction.

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The proposed CARE Act reauthorization legislation would allow states, such as California, which have converted or are converting to a names-based HIV reporting system to use the data collected through their code-based HIV reporting system. As you know, this is extremely important for California and Los Angeles County, which is the nation’s second most HIV/AIDS impacted local jurisdiction.

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Mr. PASCRELL. I rise today, Mr. Speaker, in strong opposition to the legislation before us. It reduces vital funding for States that are most heavily impacted.

I absolutely disagree with the Chair. He is wrong, he says that this problem has shifted. The epidemic has expanded. It has not shifted. There are more areas that are involved, and we should be fair to all areas besides New York, California, Florida, Texas and New Jersey. I can’t support that idea. If Ryan White resources are to follow the epidemic, they must continue to flow to all jurisdictions, and be increased.

It is irresponsible to take an already inadequate pot of money and cover new areas with it, taking it away from the areas of need. If you don’t understand what the need is in those five States that I recognize, I will give you the flat statistics: They are not diminishing in any sense of the imagination whatsoever. We don’t know what facts you are looking at.

Under the proposed bill in the House, Mr. Speaker, funding for New Jersey will be cut by $13 million. I looked at the numbers in New Jersey. I have worked on this problem for 15 years. I will be cut by $13 million. I looked at Mr. Speaker, funding for New Jersey looking at.

Mr. Speaker, again, I want to restate to those of us who are in opposition to this. Why do I feel so strongly about it. The problem is that it is woefully underfunded. No one is suggesting that more money doesn’t need to go to other parts of the country, that maybe the formula needs to be changed in some fashion. But the problem is there is just not enough money to go around. So you have a situation where we are pitting one State against another or even different parts of the State of one State against another. It just isn’t right.

My colleagues on this side of the aisle have pointed out over and over again how we are spending money in Iraq, we are spending money on tax cuts. The problem here is the Republicans, those on the other side of the aisle, are not prioritizing funding where it is most needed. I should go to health care. It should go in this case to not only the AIDS patients but also those with HIV.

The problem is we tried many times in committee to add through various amendments that would increase the funding, hold harmless those States and those localities that need this funding under the current formula. Every time we tried to do that we were not successful because the Republicans insisted on the opposition, if you will, to the suggestions that we were making.

I can’t stress enough, there is not enough funding in this bill. We really should go back to day one. One of the amendments that I had was simply reauthorize the program the way it is for another year and hold us harmless for a year as we tried to find a solution that would be acceptable to everyone. That did not happen; and, instead, instead of having a normal debate and allowing amendments on the floor in the normal course of procedure, we stand here today with this bill on the suspension calendar.

It shouldn’t be here. The consensus doesn’t exist. I urge my colleagues to vote against this legislation, and let’s bring it back on an occasion when we can actually have a full debate and have amendments.

Mr. Speaker, I yield back the balance of my time.

Mr. BARTON of Texas. Mr. Speaker, I reserve my time.

Mr. FALLONE. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I think if you have listened to those in opposition to this bill, you recognize that there is not a consensus. One of the things that disturbs me the most today is that this is on the suspension calendar. This does not belong on the suspension calendar because it is obviously a very controversial piece of legislation.

Let me tell you, I heard my colleague from New Jersey (Mr. PASCRELL). I went to one of the centers in my State in my district that treats AIDS and HIV patients, and I want to tell you, people are scared about this. They are very, very concerned that if this legislation passes in its current form that we are just not going to have the funding to deal with the AIDS and HIV cases in my State.

Really, when you have a situation where so many people are worried about the impact this is going to have, and we have clear indication that this is not going to be enough money, this is simply not going to be enough money.

I have no reason to believe if this bill goes to the other body that it is actually going to end up in something that goes to the President’s desk. It is simply a mistake to deal with this on the suspension calendar with all the controversy that exists over it.

Mr. Speaker, again, I want to stress again those of us who are in opposition to this. Why do I feel so strongly about it. The problem is that it is woefully underfunded. No one is suggesting that more money doesn’t need to go to other parts of the country, that maybe the formula needs to be changed in some fashion. But the problem is there is just not enough money to go around. So you have a situation where we are pitting one State against another or even different parts of the State of one State against another. It just isn’t right.

Mr. Speaker, I want to read from the AIDS Institute endorsement letter that was dated September 28 by Dr. Gene Copello.

Mr. Speaker, I want to read from the AIDS Institute endorsement letter that was dated September 28 by Dr. Gene Copello. “To the Keeper, Inc.

It says, “Dear Representative: The AIDS Institute,” and this is a non-partisan institute, “urges you to vote ‘yes’ today on the Ryan White HIV/AIDS Treatment Modernization Act, H.R. 6143.

“While no bill that is crafted through a series of compromises is perfect, the AIDS Institute strongly supports this legislation because it would better direct limited resources throughout the country in a more equitable fashion. Additionally, it contains a number of important reforms that seek to update the law to better reflect the AIDS epidemic.

“If the bill is not passed this week, a number of States and the District of Columbia will lose funding, and the important reforms contained in the bill will not be allowed to be implemented for the coming year.”

Mr. Speaker, the bill before us is the result of bipartisan, bicameral negotiations over a several year period. It is not perfect, but it is a better bill and better legislation than current law. It is better allocates the funds not just for AIDS patients but also for HIV patients.

The States that lose in the new formula are guaranteed 95 percent of their current year funding for 3 years, 95 percent. And then, in the fourth or fifth year, they are allowed to petition through a supplemental fund to make up for these losses under the old baseline formula.

This is a very fair compromise. It begins to treat all States on an equal footing; and also, for the first time, begins to count HIV cases as well as AIDS cases. It deserves to be supported.

Please vote “yes.” We do need a two-thirds vote to pass this, because it is on the suspension calendar. So we need more than a majority vote.

Please vote “yes” on H.R. 6143.

ORGANIZATIONS THAT SUPPORT THE RYAN WHITE HIV/AIDS TREATMENT MODERNIZATION ACT

AIDS Institute, AIDS Action Coalition; Huntville, AL.
AIDS Alabama, Inc.
AIDS Healthcare Foundation.
AIDS Outreach of East Alabama Medical Center.
Alaska Native Tribal Health Consortium.
American Academy of HIV Medicine.
American Dietetic Association.
Alaska Native Tribal Health Consortium.
AIDS Outreach of East Alabama Medical Center.
American Dietetic Association.
Am I My Brother’s Keeper, Inc.
Brother 2 Brother.
Capepoint Adult, Child and Family.
Catholic Charities Diocese of Fort Worth.
First Ladies Summit.
Harabee Empowerment Center.
HIV Medicine Association.
Latino Coalition.
League of United Latin American Citizens (LULAC).
Log Cabin Republicans.
Lowcountry Infectious Diseases.
Montgomery AIDS Outreach.
National Black Chamber of Commerce.
National Coalition of Pastors Spouses.
National Minority Health Month.
New Black Leadership Coalition.
President’s Advisory Council on HIV/AIDS.
South Alabama Cares.
The AIDS Institute urges you to vote “yes” on H.R. 6143. We thank you for your interest in this legislation and look forward to working with you to adequately fund Ryan White CARE Act programs to meet the growing domestic need for HIV/AIDS care and treatment. The AIDS Institute has closely followed the debate on ADAPs, and it is clear that the bill under consideration does not address the critical need for services to people living with HIV/AIDS. Instead, the bill provides absolutely no increase next year for the nation’s AIDS Drug Assistance Programs (ADAPs). We hope you will join us in securing new and adequate funding for ADAP in FY07 as part of the Labor, HHS Appropriations bill.

Should you have any questions or comments, please feel free to contact me or Carl Schmid, Director Federal Affairs for The AIDS Institute at (202) 462-3042 or cschmid@theaidsinstitute.org.

Sincerely,

Dr. A. GENE COPELLO, Executive Director, The AIDS Institute.

Ms. LEE, Mr. Speaker, I must reluctantly oppose to H.R. 6143. As the Co-chair of the Congressional Black Caucus Global AIDS Taskforce, I have consistently fought for more funding for our HIV/AIDS programs. As a leader in my community, we have helped lead efforts to raise awareness about HIV/AIDS in the African American community, and last year the House passed my resolution supporting Black HIV/AIDS Awareness Day.

But without changes to the current formulas, or increased appropriations to fund these programs, I cannot support this bill in its current form.

Mr. LANTOS. Mr. Speaker, I rise in reluctant opposition to H.R. 6143, the Ryan White HIV/AIDS Treatment Modernization Act of 2006. I fear that this bill due to be reauthorized last year is now in danger of being rushed through to a vote just before a recess even before an election.

The bill, in its current form, does not adequately address the need for services to people living with HIV/AIDS. Because tax cuts for the wealthiest Americans have contributed to extraordinary deficits, we are forced to pinch pennies when it comes to saving the lives of millions of Americans. Rather than provide needed increases for the Ryan White program, this bill reduces funding for states and localities facing this increasing challenge.

I urge my colleagues to take the needed time and bring us a bill we can all support wholeheartedly knowing that it will benefit all Americans with HIV/AIDS.

Mr. Speaker, I rise today in reluctant opposition to H.R. 6143, the Ryan White Comprehensive AIDS Resources Emergency (CARE) Act is the centerpiece of the federal government’s response to the HIV and AIDS epidemic. H.R. 6143 woefully under-funds the HIV/AIDS response in the CARE Act provides; this bill is a deeply flawed shadow of what it could and should be.

The Chairman has argued here today that the epicenter of the AIDS epidemic has shifted, and that the number of AIDS cases is on the wane. Therefore, he says, fewer resources are needed to fight the disease, and those funds can be spread around. I don’t know where he gets his figures, Mr. Speaker. The Chairman is flatly wrong.

The fact is that New York State has the most AIDS cases of any other state in the nation—almost 17 percent of HIV/AIDS cases nationwide. More than half of people living with HIV in the United States reside in five states—New York, Florida, Texas, California, and New Jersey. The fact is that New York City has the oldest, largest, and most active AIDS epidemic in the United States. New York City accounts for one of every six reported AIDS cases in the United States, and each year reports more AIDS cases than Los Angeles, San Francisco, Miami, and Washington, D.C. combined. And the majority of those cases are in the cities who so desperately need the services in this bill has been and continues growing.

But the funding has not. The programs the CARE Act covers have been level funded for years, despite increases in healthcare costs and inflation. And this bill unfortunately continues that trend. Under the flawed funding formula in this bill, three of the highest prevalence states in the nation—New York, Florida, and New Jersey—will lose significant funding.

The City of New York predicts a $17.8 million loss in the first year alone, and more losses in each of the remaining 4 years of the reauthorization; New York State anticipates a loss of $118 million over the life of this bill.

This will be unacceptably detrimental to the state’s ability to care for the HIV/AIDS population. The reductions in funding will require cost containment measures, including deep cuts in covered drugs and services. In the first year alone, this will translate to the elimination of nutritional, housing, mental health, and transportation services, as well as increased copayments and out of pocket costs for all participants. This will also lead to a major reduction and/or removal of entire classes of drugs from the state’s pharmaceutical formularies.

We have a choice. We can go back to the table and negotiate a compromise. My friend from New Jersey, Representative PALLONE, has introduced legislation (H.R. 6191) that would temporarily reauthorize the program for one year to allow Congress to continue working on a bill that would not unfairly reduce funds for any state. Additionally, H.R. 6191 would increase authorized appropriation levels for all titles of the CARE Act so we can get the services and treatment to people who need it while we craft a bill that works. This is the bill we should be voting on today.
Mr. Speaker, my district has been on the frontline of the fight of this epidemic for over 20 years. I know a good approach when I see one, and the bill we are debating on the floor today isn’t it. I urge a “no” vote on H.R. 6143.

Mr. MOORE. Mr. Speaker, it’s hard to believe it has been 25 years since the first reported AIDS case was reported in the United States. Growing from a cluster of cases in Los Angeles in 1981, this disease spread throughout every segment of our society—no one was left untouched, and we were all forced to watch helplessly as AIDS transformed into a worldwide pandemic. In all, there have been 1.6 million cases of HIV infection in the United States including over 26,000 in Massachusetts.

Thanks to research and medical advancements, we began to make great strides in HIV treatment. By 1987, the first antiviral drug was approved by the Food and Drug Administration (FDA), and 3 years later, in 1990, Congress passed the Ryan White CARE Act, which helped to improve the quality and availability of care for persons with HIV/AIDS. Gradually, with adequate care and treatment, those infected with HIV began to live longer, healthier lives.

Today, there are over 1 million people living with HIV/AIDS in the United States, the highest number in the history of this disease. But, with these improvements has come a greater need for the health care services and drug treatment provided by the CARE Act.

Each year, 40,000 people are infected with HIV in the United States. But rather than increasing funding for these programs, Congress passed the Ryan White CARE Act, which reauthorizes the Ryan White CARE Act, once again fails to provide the necessary funds to meet the needs of this growing population. Instead, it shifts funds to meet the needs of this growing population. Instead, it shifts funds to meet the needs of this growing population. Instead, it shifts funds to meet the needs of this growing population.

A number of amendments were offered in Committee to increase funding for Title I, the Emergency Relief Grant Program, and Title II, the Care Grant Program. But, unfortunately, they were defeated by a largely party-line vote.

And, today, rather than allowing these and other amendments to be brought before the full House for consideration, this Republican-controlled Congress has closed off the process, providing us with only a mere up or down vote on this bill.

For these reasons, I oppose H.R. 6143, and I urge my colleagues to join me in voting no.

Mr. DINGELL. Mr. Speaker, I support H.R. 6143, the Ryan White HIV/AIDS Treatment Modernization Act of 2006, but I also support providing significantly more funding for it. This bill has funded the Ryan White program has been an integral part of our domestic response to the HIV/AIDS epidemic, helping metropolitan areas, States, and territories pay for essential healthcare services and medications for people living with and affected by HIV/AIDS. This is another program hurt by the majority’s budget priorities. For every millionaire that gets a large tax cut, there are many people with HIV/AIDS not getting the help they need. And this underfunding means that the reforms in this bill hurt some States and cities that have borne the brunt of this crisis. Nonetheless, the bill before us has many improvements, and is worthy of support at this point even though authorization levels are too low. This bill recognizes the changing demographics of the HIV/AIDS epidemic in our Nation. It expands access, improves quality, and provides additional services to help target healthcare services and other support services to communities throughout our Nation that need them most.

The policy of this bill may be adequate, but it is only a paper promise without sufficient funding. As this bill goes to conference, the majority will have one more chance to recognize the human cost of their budget priorities and properly fund this program.

Ms. PELOSI. Mr. Speaker, 19 years ago, I came to Congress to fight AIDS, a disease that has taken nearly 18,000 lives in my city of San Francisco alone.

We have lost friends, family, and loved ones, but we have not lost our will to fight this terrible disease. This year, we mark the 25th anniversary of the first diagnosis of AIDS—a stark reminder that this epidemic is still among us, and that our work is not done.

Yet as we grieve for those we have lost, we are filled with hope as we see the strength of those who are fighting and living full lives with HIV and AIDS. This would not be possible without the help of the Federal Government through initiatives such as the Ryan White CARE Act. The act has been instrumental in our fight to defeat AIDS. It has greatly improved the quality and availability of healthcare services for people living with and affected by HIV and AIDS. I was proud to be a part of the creation of the Ryan White CARE Act.

Unfortunately, I must rise in opposition to this reauthorization.

There are a number of good provisions in this bill, including the recognition of emerging communities and the use of actual living AIDS counts rather than estimated living AIDS cases. That change will benefit many communities, including my constituents in San Francisco.

However, when it comes to meeting the needs of people living with AIDS, our mantra should be the same as the physicians who care for all patients: first, do no harm. The primary problem with this legislation is that it fails to provide adequate funding for the treatment of HIV/AIDS patients.

Had this Administration and the Republican-controlled Congress made a priority of funding the Ryan White program over the last several years, I would be standing here in strong support of this bill. But they have not, and I cannot support this bill.

Yet funding in this bill simply won’t be able to meet the current demand for HIV/AIDS care in the United States. Under this reauthorization, San Francisco, with the highest per capita caseload of people living with AIDS in the country, stands to lose almost $30 million over the next 5 years.

That is a far cry from the bipartisan consensus we were able to achieve on this issue between 1993 and 2001. During that time, funding—adjusted for both inflation and case load growth—under the Ryan CARE Act increased by 70 percent.

Since 2001, funding has declined by 35 percent.

The problem is not that one part of the country gets too much money and some other parts of the country are left behind. Instead, people suffering from this disease—and those caring for them—are being forced to compete for pieces of an ever-shrinking pie.

In fact, for the last several years we kept pace with the number of people with AIDS and inflation, my city and all other cities and States would be getting increases in funding instead of grappling with how they can stretch—and where they will have to sacrifice—in meeting the growing demand for services.

In fact, for the next 5 years this bill will be compounded, because in San Francisco, these funds form the basis for matching funds from the city.

Due in no small part to this Federal, State and local investment, more people are living with HIV and AIDS now than dying from it. That is remarkable.

As the epicenter of the epidemic, San Francisco has experienced terrible loss of life—but from that loss, my city has created a standard of care that has been a model for the Nation. But the problem with this legislation is that it fails to meet this goal and jeopardizes the critical funding of areas throughout the country, including California.

This legislation has far-reaching implications for the stability of HIV/AIDS funding in our nation’s cities. The provisions of the Ryan White CARE Act have literally been a lifeline for people who live with HIV/AIDS.

It has provided critical support to the cities that have been the center of the epidemic, and to States that have been funding critical programs to treat the disease. This out in funding to San Francisco means a loss in services for patients receiving primary medical care, a lack of access to counseling, support, outreach services, transitional and emergency housing and emergency payments for health care costs.

Where do these people go? What do we tell them when their ability to receive support to fight HIV/AIDS is cut off?

In prior reauthorizations of the Ryan White CARE Act, the changes that have been made were made at the margins in order to deal with emerging problems and developments; these changes did not, however, disrupt an initiative that was working.

Unlike those past reauthorizations, this bill would have a drastic destabilizing effect on many of the hardest-hit areas of the country, including California.

A basic goal of this reauthorization must be to ensure that the actions we take do not destabilize systems already in place. Unfortunately, the bill fails to meet this goal and jeopardizes the critical funding of areas throughout the country, in general, and the State and cities of California in particular.

In addition, the bill prematurely incorporates HIV reporting into the allocation formula, eliminates the hold harmless provision just when it was needed. The changes have been made without the States and cities and the State and cities.

That is remarkable.

For these reasons, I oppose this bill and I will submit the entirety of my statement for the record.

The second major problem with this legislation is that there is simply no way to incorporate data on HIV cases into the funding formula on a consistent and comparable basis.
across jurisdictions. The 2000 reauthorization of the Act included a requirement that HIV cases be incorporated into the funding dis-
tribution by no later than 2007. At that time, HIV reporting systems were in various stages of development across the country; although some states and cities had been reporting HIV cases since 1985, others had not yet implemented an HIV-reporting system at all.

Given this landscape, the drafters understood the need to provide sufficient time to allow states and cities to begin collecting HIV cases. At the time, they believed seven years to be adequate for such a transition. As it turns out, it was not.

As HIV reporting systems were developed, variations among these systems across jurisdic-
tions emerged. Some areas reported HIV by the individual’s name along with other iden-
tifying information. Others, like California, as a means of protecting the individual’s confiden-
tiality, opted not to report the person’s name at all, and instead included only a unique code identifying the individual. The 2000 reau-
thorization of the Ryan White Act did not specify which type of reporting system jurisdictions were required to use and nothing in the law prohibited this kind of variation. So long as the Secretary found that the data on HIV cases prohibited this kind of variation. So long as the Secretary found that the data on HIV cases was “sufficiently accurate and reliable,” jurisdictions were free to report cases by name or by code. For an area began collecting HIV by name or by code, they could start on a solid ground under the law.

It was not until December 2005, that CDC first gave a clear indication that it would deem only cases reported by name to be “suffi-
ciently accurate and reliable.” In a letter to states and code-based States, CDC set forth its strong recommendation that those States convert their systems to names-based—it did not, however, establish any sort of legal require-
ment. At that point, 13 States used some form of a code-based reporting system. In response to CDC’s announcement, almost all code-based States began the process of converting, their HIV reporting systems to names-based systems.

The reported bill would rely exclusively on names-based HIV and AIDS cases for making funding allocations starting in fiscal year 2011. In order to meet this deadline, and have all of their names-based HIV cases counted for funding purposes, code-based jurisdictions will be required to have completely converted to names-based systems in less than 3 years.

For large and diverse code-based States with several very large cities, like California, this is simply not enough time to make this change. California essentially has to start from scratch. In its code-based system, California currently has approximately 40,000 cases of HIV (non-AIDS). Under California law, these cases cannot simply be re-coded under the new names-based system. In order to incor-
porate these cases into the new system, the State must contact each of these 40,000 individ-
uals, and ask them to come in to a testing site to be re-tested. Some of these individuals are at home. Some are drug-abusers. Many don’t speak English. When personnel and re-
sources are already strained, California will simply not be able to get all of these individ-
uals entered into the names-based system in 3 years.

The experience of other large code-based systems provides a sense of the difficulty of this task. New York, for example, converted to

a names-based system in 2000 and is now considered by CDC to be mature. However, it is widely acknowledged that New York’s cur-
rent names-based HIV count severely under-
counts the true burden of HIV in the State simply because it has not had enough time to find and report all of its HIV cases.

I cannot stress enough that this would dis-
advantage my State and city and take large amounts of dollars away simply because the data system is incomplete. The number of per-
sions with HIV and with need for services re-
 mains. They should not lose needed services because of a methodological requirement to make sure numbers are included in funding determinations.

Under the language of the proposal, it is
also unclear on what basis the funds will be allocated. GAO and the State of California, both of which have modeled the bill, have quite different case counts for the same State and city. The proposed language says code-

based numbers are used to determine funding allocations. HRSA numbers used by GAO in their estimates are not code-based numbers. Those numbers purport to show need—not any scientific way of counting cases and a methodological requirement to make sure numbers are included in funding determinations with a jurisdiction depending on how much the grantee estimated. What assurance is there that the GAO numbers will be used to allocate funds in fiscal year 2007 and the out years? This does not pass the test of good govern-
ment.

Under the proposed language, the case count used in 2010 and 2011 in making the al-
llocation to San Francisco will be substantially less than the actual number of HIV positive in-
dividuals who currently live in San Francisco. That simply is unfair and is not good policy.

Because HIV reporting systems across the country remain in a state of flux, it is critical that this reauthorization protect against severe losses in funding when the bill requires that the funding be based on HIV cases. The most effective way to accomplish this protection is to incorporate a hold-harmless provision for the entire life of the bill. Unfortunately, the cur-
rent bill protects a jurisdiction’s funding for only the first 3 years. This is not enough.

California faces the most drastic cuts at the very time in the bill when the transition to names-based reporting becomes mandatory, California (and all other jurisdictions moving to names-based reporting) will lose substantially. The amount of loss is difficult to ascertain, because it will depend entirely upon how quickly California and other jurisdictions can transition to names-

based reporting.

The elimination of the hold harmless will have a devastating impact on the provision of HIV/AIDS services in San Francisco. The hold harmless was adopted to protect the epicenters of this disease from experiencing drastic reductions in CARE funding from year to year that would disrupt the systems of care in place, and eliminating it now would cause this very consequence. As you may know, the city of San Francisco consistently has invested local funds into the fight against this disease and the care of those living with HIV/AIDS.

San Francisco has been conscientiously pre-
paring to absorb cuts as a result of the event-
tual loss of the hold harmless, but the more than one-third cut in funding proposed is pune-
tive and will eliminate critical care for thou-

sands of people living with HIV/AIDS.

Finally, I cannot support the bill’s inclusion of the so-called “seventy of need index” (SONI). The bill requires the Secretary to de-
velop a SONI to measure the needs of individuals living with HIV/AIDS, but fails to specify the factors that should be incorporated into this index, leaving it entirely up to the Secretary. Further, the bill then permits the Secretary to completely discard the current funding formula and distribute funding on the basis of this SONI beginning as early as FY 2011 without Congressional action. This is un-
acceptable. Congress—not the Administra-
tion—should be solely responsible for making such a drastic shift in the way funds are dis-
tributed under the Act.

Mr. GENE GREEN of Texas. I rise in sup-
port of this legislation to reauthorize the Ryan White CARE Act. Initially enacted in 1990, the Ryan White CARE Act provides critical med-
ical and support services for individuals living with HIV and AIDS. The Ryan White program is essentially a payer of last resort and specifically targets uninsured and medically underserved individ-
uals living with HIV and AIDS.

In my community in Harris County, our Hospi-
tal District utilizes millions of $26 million each year to coordinate essential health care and support services for more than 21,000 in-
dividuals in our community living with HIV and AIDS. The importance of this program cannot be overestimated; without CARE Act funds, many Americans living with HIV and AIDS would have no other source for treatment.

This reauthorization bill includes an impor-
tant change in the criteria used to formulate funding under the Ryan White program. Thus far, funding was determined based on a grantee’s estimated number of living AIDS cases, with a jurisdiction’s number of HIV cases not included in funding determinations.

As the HIV/AIDS epidemic has shifted geo-
graphically, our funding formulas must change to meet increased need in certain areas. Southern States and rural areas are seeing higher numbers of individuals with HIV, for whom treatment is necessary. I whole-
heartedly support the use of HIV counts in CARE Act funding formulas to provide these areas with the support to develop appropriate systems of care. However, it is im-
portant that the funding formula recognize that urban areas—particularly those in New York—continue to be the epicenter of the AIDS epi-
demic. Unfortunately, this bill does not provide the necessary assurances that communities with a high prevalence of HIV/AIDS will have the resources to maintain their systems of care.

In this kind of formula fight, the battle lines are drawn geographically rather than ideologi-
cally. I appreciate the work of Chairman BARTON, Ranking Member DINGELL, and their staffs, who worked tirelessly for more than 6 months to develop a bi-partisan, consensus bill that sought to address great need in every corner of the country. This type of bill there are always winners and losers. This bill contains more winners than losers, and my State of Texas comes out a winner, relatively speaking. For that reason, I am happy to support this legislation and encour-
ge my colleagues to do the same.

Mr. CROWLEY. Mr. Speaker, I rise in oppo-
Today as we debate the Ryan White HIV/AIDS Treatment Modernization Act of 2006 we must take into account one fact. The fact is that New York is the epicenter of the HIV/AIDS epidemic, and while New York has the highest prevalence of HIV/AIDS in the country, they have made the most progress in battling this disease.

Now, in a normal situation, New York would be rewarded with more funds to battle this epidemic, and be set as an example for the rest of the country, however under this bill they would not be. In fact, the opposite would occur. Current legislation proposes that New York City would lose a whopping $17 million the first year, and New York State would lose an estimated total of $78 million over the course of the 4 years of the reauthorization.

My district, in New York has one of the highest prevalence of HIV/AIDS in all of New York City. This bill would take precious funds away from individuals in my districts, as well as New York State, California, New Jersey, and Florida and other states that are on the front line of this fight.

To be fair to all states affected by HIV/AIDS, this bill should have included hold harmless provisions for states that stand to lose millions can be spared.

Mr. SOUDER. Mr. Speaker, as the nation’s largest AIDS-specific care program, the Ryan White CARE Act plays a critical role in providing HIV/AIDS treatment and support equally to all U.S. citizens needing such medical care. Ryan White, as many of you know, was a fellow Hoosier and a heroic young man and this program that so many depend upon to stay healthy and alive is a great tribute to him.

Currently, the federal government is funding wasteful and unnecessary programs that would otherwise be held in check if this reauthorization had already been law. This bill would require that 75 percent of CARE Act funds be spent on primary medical care and medication. This is important because in the past, funds were misspent on unnecessary and dubious programs while thousands living with HIV were on waiting lists for AIDS medications.

Let me give a recent example of government waste that would have been better spent treating those with HIV but without access to treatment.

According to the Department of Health and Human Services, $405,000 in federal funds was provided this month to the National Minority AIDS Council for its annual U.S. Conference on AIDS. Held at a beachside resort in Hollywood, Florida, the conference featured a “sizzling” fashion show, beach party, and “Latin Fiesta.” Indirect costs are not yet available from HHS regarding the costs involving 67 employees from National Centers for Disease Control and Prevention, 5 employees from the National Institutes of Health (NIH), and one NIH contractor.

While such spending strikes one as strange, the examples don’t end there. The New York Times reported that New York was paying for dog walking and candle-lit dinners with AIDS funds, while other areas of the country do not even have sufficient funds to pay for medications for those living with HIV. Hot lunches, haircuts, Broadway shows were financed by federal funding.

Indeed, although the federal government spends over $21 billion on HIV/AIDS annually, up to a staggering 59 percent of Americans afflicted with HIV are not in regular care. This misallocation of funds is great cause for concern and should motivate Members of Congress to respond by supporting the reauthorization of the Ryan White CARE Act. By doing so, greater oversight in funding would be provided.

The reauthorization of this act would prioritize medical care and treatment over less essential services and programs. I ask my colleagues to support this reauthorization.

Ms. ESHOO. Mr. Speaker, when Congress passed the Ryan White CARE Act in 1990, we sent hope to millions of Americans who were living under a death sentence that came with a diagnosis of HIV or AIDS. In large part because of Ryan White, outcomes have dramatically improved.

This bill fails to uphold the hopeful tradition of the original legislation because it creates a system of winner and losers in the allocation of federal resources. This major reauthorization of our federal HIV/AIDS policy is also being considered under suspension of the rules, with no opportunity for Members from offering amendments to address the serious deficiencies in the bill.

Last week, I offered an amendment with several of my colleagues from the California, New York and New Jersey delegations to increase the overall authorization levels in the bill which would help address the needs of communities more recently affected by the epidemic. Our amendment also extended the hold harmless provisions of the bill by two years to ensure that the historic epicenters of the disease do not experience precipitous declines in funding levels from year to year. Our amendment was defeated by a single vote.

Today we can’t offer that amendment or any other. Instead, we’re left with a “take it or leave it” proposition that doesn’t adequately respond to the real needs of people suffering from HIV and AIDS.

Congress has responsibility to address the imminent crisis facing emerging communities, but we can’t abandon the infrastructure of care already in place. By eliminating the hold harmless provisions three years in order to free up funding for emerging communities, some localities will experience sharp funding declines.

The bill also doesn’t allow sufficient time for states to transit HIV code-based reporting systems to the more efficient names-based system. Although California is making enormous strides to comply, Governor Schwarzenegger reports that the state will likely miss the 2009 deadline, sustaining a loss of up to $50 million, or 23 percent, of its total funding in FY2011. Such a delay has the potential to derail the entire state’s HIV/AIDS care system.

Given my serious concerns about the ability of this bill to preserve current infrastructure of care while extending assistance to areas of the country newly affected by the HIV/AIDS epidemic, and with no opportunity to address these concerns with amendments, I reluctantly oppose this bill.

The SPEAKER pro tempore (Mr. TERRY). The question is on the motion offered by the gentlemen from Texas (Mr. BARTON) that the House suspend the rules and pass the bill, H.R. 6143, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. PALLONE. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

Mr. HAYWORTH. Mr. Speaker, I move to suspend the rules and pass the Senate 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.

The Clerk read 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:


(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 OBLIGA- TION.

(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.
Mr. PALLONE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 2464, or the Fort McDowell Indian Community Water Rights Settlement Act, is companion legislation to H.R. 5299, a bill I introduced on May 4 of this year. This legislation codifies an important agreement struck between the Fort McDowell Yavapai Indian Community and the Department of the Interior to comply with all applicable environmental laws throughout implementation of the Act and to bear the cost of mitigation associated with that compliance.

Subsequently, the Secretary removed 227 acres originally included in the settlement as a result of review conducted under the National Environmental Policy Act. The Department of the Interior acknowledges that it has not yet complied with its obligation to provide and develop its swift-water replacement land for the tribe. The Department currently estimates the cost of developing the 227 acres lost through the NEPA process at $5.6 million.

Mr. Speaker, the agreement before us today provides for the cancellation of this 50-year loan at $4 million. Mr. Speaker, I reserve the balance of my time.

Mr. HAYWORTH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank my friend from New Jersey for visiting us in Arizona from time to time. I would also note that President Raphael Bear of the Fort McDowell Navajo Nation worked very hard on this, coming to see me personally and giving great testimony here on July 12.

Mr. Speaker, I have no additional speakers, would urge passage of this legislation and yield back the balance of my time.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Arizona.

Mr. HAYWORTH. Mr. Speaker, I yield back the balance of my time.

Mr. PALLONE. Mr. Speaker, S. 2464 will allow the Fort McDowell Yavapai Nation and the Department of the Interior to revise their respective responsibilities under the 1990 Fort McDowell Indian Water Rights Settlement Act in a mutually acceptable way.

I want to indicate that I have been actually at the Fort McDowell Reservation and we support this legislation and have no objection to its consideration on the suspension calendar today.

Mr. Speaker, I yield back the balance of my time.

Mr. HAYWORTH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank my friend from New Jersey for visiting us in Arizona from time to time. I would also note that President Raphael Bear of the Fort McDowell Navajo Nation worked very hard on this, coming to see me personally and giving great testimony here on July 12.

Mr. Speaker, I have no additional speakers, would urge passage of this legislation and yield back the balance of my time.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Arizona.

Mr. HAYWORTH. Mr. Speaker, I yield back the balance of my time.

Mr. PALLONE. Mr. Speaker, I yield myself such time as I may consume.
Projects like this can help residents of southern California increase local water supplies and reduce their dependence on imported water from northern California and the Colorado River.

This is an innovative project and a good example of how we can work together. Again, I want to congratulate my friend, LINDA SÁNCHEZ, for her hard work on this bill.

Mr. HAYWORTH. Mr. Speaker, I reserve the balance of my time.

Mr. PALLONE. Mr. Speaker, I would now yield as much time as she would consume to the gentleman who is the sponsor of the bill.

Ms. LINDA T. SÁNCHEZ of California. Mr. Speaker, let me begin by thanking Resources Committee Chairman RICHARD POMBO and Ranking Member NICK RAHALL as well as Water and Power Subcommittee Chairman GEORGE RADANOVICH for recognizing the importance of this bill, H.R. 4545, the Southern California Water Augmentation Study.

I would also like to especially thank my colleague GRACE NAPOLITANO, the ranking member of the Water and Power Subcommittee. She has served in that position with distinction and established herself as an advocate for sound water policy in her home State of California and across the Nation. Representative NAPOLITANO has supported this bill, and she has utilized many efforts in shepherding it through the legislative process.

I became interested in this effort because California and other parts of this country need to move forward on two very important issues: First, we must increase our groundwater drinking supplies, and we can do this by improving the safe infiltration of surface water. And, second, we must reduce urban stormwater runoff that can carry trash and contamination to our beaches and oceans.

The water augmentation study was created to address important economic and scientific questions about water quality and water supply. Simply put, this project is about taking the water that we lose and turning it into water that we can use.

This study will assess the potential of urban stormwater infiltration to augment water supplies. This water augmentation study will determine the benefits, costs, and risks of infiltration. It will help us understand what conditions we need to make infiltration work and assess the potential for larger water supply. At the same time, it will show us how to reduce water pollution and create additional environmental and social benefits.

Mr. Speaker, this bill is designed to make southern California more water self-sufficient and less reliant on imported water from our neighbors in the central and northern parts of our State. Mr. Speaker, I am very pleased that President Bush has included funding for the water augmentation study in his last three budgets, including this year. This is a bipartisan effort in which there is agreement on the merits of the project throughout our government.

Also, the California staff of the Bureau of Reclamation has been very supportive of this project. In fact, they helped develop it the year 2000, because they see it as helping solve a real problem we face in California and, shall I say, other water-challenged States across the country.

Again, I would like to thank Chairman POMBO and Ranking Member RAHALL, as well as the staff on the House Resources Committee, and to Representative NAPOLITANO for her unyielding support of this bill. I urge all my colleagues to join us in supporting H.R. 4545.

Mr. PALLONE. Mr. Speaker, I have no additional speakers. I would yield back my time.

Mr. HAYWORTH. Likewise, Mr. Speaker, with that note of unanimity, I would like to thank my friend, Ms. NAPOLITANO, for her unyielding support of this bill. I urge all my colleagues to join us in supporting H.R. 4545.

The SPEAKER pro tempore. The SPEAKER pro tempore. The SPEAKER pro tempore. The SPEAKER pro tempore. The SPEAKER pro tempore. The SPEAKER pro tempore. The SPEAKER pro tempore. The SPEAKER pro tempore. The SPEAKER pro tempore.

Again, I would like to thank Chairwoman Grace Napolitano, the ranking member of the Water and Power Subcommittee. She has served in that position with distinction and established herself as an advocate for sound water policy in her home State of California and across the Nation.

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Again, I would like to thank Chairman POMBO and Ranking Member RAHALL, as well as the staff on the House Resources Committee, and to Representative NAPOLITANO for her unyielding support of this bill. I urge all my colleagues to join us in supporting H.R. 4545.

Mr. PALLONE. Mr. Speaker, I have no additional speakers. I would yield back my time.

Mr. HAYWORTH. Likewise, Mr. Speaker, with that note of unanimity, I would like to thank my friend, Ms. NAPOLITANO, for her unyielding support of this bill. I urge all my colleagues to join us in supporting H.R. 4545.

The SPEAKER pro tempore. The SPEAKER pro tempore. The SPEAKER pro tempore. The SPEAKER pro tempore. The SPEAKER pro tempore. The SPEAKER pro tempore. The SPEAKER pro tempore. The SPEAKER pro tempore. The SPEAKER pro tempore. The SPEAKER pro tempore.
his life, and I urge all Members to join me in supporting it.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I would yield myself such time as I might request.

Mr. Speaker, this bill creates, for the first time, a matching grant program administered by the National Archives for the construction of a private Presidential library. I am pleased that the Woodrow Wilson Library Foundation is expanding, and I hope it can develop into a vital research center.

While I fully support the private Presidential libraries and will not oppose this bill, I do, however, want to raise two concerns about this method of funding these libraries.

First, I want us to be clear that we are not establishing a precedent here. Private Presidential libraries have always sought funds from private donors and are successful in doing so. I do not want passage of this bill to encourage them to turn away from these sources of funding in favor of the Federal Government. The Federal Government simply does not have the resources to support all private Presidential libraries.

Secondly, I have been concerned that this grant would cut into the operating funds of the Archives. The National Archives is the Nation's depository of all valuable and preserved documents and materials conducted in the course of business conducted by the Federal Government. This is a huge responsibility that must be met with its limited budget.

The bill before us is different from the introduced version, and I want to thank the sponsors of the bill for revising the bill to give the Archivist discretion regarding the provision of the grant. This provision ensures that any grant made to the Woodrow Wilson Library Foundation does not jeopardize any of the Archives' important work because it ensures that any grant to the library must be from funds appropriated specifically for that purpose.

Mr. Speaker, with these expressions of concerns and provisions, I would support this legislation.

I yield back the balance of my time.

Mr. WESTMORELAND. Mr. Speaker, I would like to yield 4 minutes to the gentleman from the Commonwealth of Virginia, Mr. GOODLATTE.

Mr. GOODLATTE. Mr. Speaker, I rise in support of H.R. 4846, the Woodrow Wilson Presidential Library Authorization Act, which will authorize grants from the National Archives for the establishment of a Presidential library to provide educational and interpretive service to honor the life of Woodrow Wilson.

As a statesman, scholar and President, Woodrow Wilson faced economic crisis, Democratic decay, and a world war. Presidential historians agree that World War I and President Wilson's leadership radically altered the role of diplomacy as a tool of foreign policy, a policy that established a new path for America's role in promoting democracies throughout the world. So, too, did Wilson's high-minded ideals craft a legacy that shaped the powers and responsibilities of the executive branch in times of crisis.

Mr. Speaker, as a professor and President of Princeton University, Wilson created a more selective and accountable system for higher education. By instituting curriculum reform, Wilson revolutionized the roles of teachers and students and made Princeton one of the most renowned universities in the world.

Due to Wilson's legacy at Princeton, I am pleased to have the support of the current Princeton President, Shirley Tilghman, as we establish this library. H.R. 4846 gives the National Archives the authority to make pass-through grants for the establishment of a Presidential library in Staunton, Virginia, Woodrow Wilson's birthplace, and does not create a new program.

In addition, to ensure that a public-private partnership exits, this legislation mandates that no grant shall be available for the establishment of this library until a private entity has raised at least half the amount to be allocated by the archives.

Quite frankly, more Federal public-private programs should operate in this manner.

Finally, and to ensure that the Woodrow Wilson Presidential Library is not part of the Presidential library's system, this legislation states that the Federal Government shall have no role or responsibility for the ongoing operation of the library.

I am also pleased to have the support of several other Presidential sites throughout the Commonwealth of Virginia, known as the Birthplace of Presidents, including Monticello, Poplar Forest, Montpelier, Ash-Lawn, and Mount Vernon.

Mr. Speaker, in order to increase the awareness and understanding of the life and principles and accomplishments of the 28th President of the United States, I ask that you join me in voting for this legislation in the 150th anniversary of Woodrow Wilson's birthday.

I would also like to thank the Woodrow Wilson Library Foundation for their help in this cause, including Eric Vetto, Director, honorary officers, board members, and trustees. I want to thank House leadership for scheduling this bill today, cosponsors, which includes the entire Virginia delegation and the staff of the Government Reform Committee and the Office of Legislative Counsel for their assistance in crafting this bill.

Mr. GOODE. Mr. Speaker, I rise in support of H.R. 4846, which authorizes a grant for contributions toward the establishment of the Woodrow Wilson Presidential Library in Staunton, Virginia.

Thomas Woodrow Wilson was born in Staunton, Virginia on December 28, 1856. He later lived in Charlottesville, Virginia while studying law at the University of Virginia. When elected President of the United States in 1912, Wilson became the eighth person born in Virginia to ascend to the Presidency, more than any other state in the nation.

As President, Wilson promoted numerous social and economic reforms including the Federal Reserve Act of 1913.

H.R. 4846 authorizes a matching grant program to establish the Wilson Library at the President's birthplace in Staunton. I have had the pleasure of visiting the museum there on many occasions and my nephew, Brett, especially enjoyed seeing the fully restored Pierce-Arrow limousine that was used to transport President Wilson from New York to Washington upon his return from France in 1919 after negotiating the Treaty of Versailles.

I commend the gentleman from Virginia, Mr. GOODLATTE, for this legislation and urge my colleagues to support H.R. 4846.

Mr. DAVIS of Illinois. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. WESTMORELAND. Mr. Speaker, I urge all Members to support the passage of H.R. 4846, as amended, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Georgia (Mr. WESTMORELAND) that the House suspend the rules and pass the bill, H.R. 4846, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to authorize grants for contributions toward the establishment of the Woodrow Wilson Presidential Library.”

A motion to reconsider was laid on the table.

EXTENDING RELOCATION EXPENSES TEST PROGRAMS FOR FEDERAL EMPLOYEES

Mr. WESTMORELAND. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2146) to extend relocation expenses test programs for Federal employees.

The Clerk read as follows: S. 2146

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF RELOCATION EXPENSES TEST PROGRAMS.

(a) IN GENERAL.—Section 5739 of title 5, United States Code, is amended—

(1) in subsection (a)(1), by striking ‘‘for a period not to exceed 24 months’’; and

(2) in subsection (e), by striking ‘‘7 years’’ and inserting ‘‘11 years’’.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as though enacted as part of the Travel and Transportation Reform Act of 1998 (Public Law 105–264; 112 Stat. 2350).

Mr. WESTMORELAND. Mr. Speaker, I call the balance of my time. Pursuant to the rule, the gentleman from Georgia (Mr. WESTMORELAND) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.
The Chair recognizes the gentleman from Georgia.

**General Leave**

Mr. WESTMORELAND. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. WESTMORELAND. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of S. 2146, which was introduced by Homeland Security and Government Affairs Committee Chairwoman Susan Collins last December.

This legislation would extend the authority for the General Services Administration to conduct relocation expenses test programs for Federal employees for an additional 4 years.

The Customs and Border Patrol agency has long supported this legislation to help them relocate Border Patrol agents in a cost-efficient and timely manner, thereby allowing the transfers to get settled and focused on the new assignment as soon as possible. The capability to efficiently relocate personnel, while simultaneously minimizing costs, would be a significant benefit to the Federal agencies as they continue to recruit and retain a highly skilled workforce.

Mr. Speaker, I would also like to note that the CBO estimates an extension of the pilot program reauthorization would produce savings to the Federal Government of approximately $15 million annually.

It is rare within the Federal personnel world to come across a program that produces a savings for the government and is valued by the workforce.

I urge my colleagues to support S. 2146.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of S. 2146. This bill would provide the authority of the General Services Administration to extend pilot programs on the relocation expenses of Federal employees for an additional 4 years. The Federal Government spends more than $800 million each year to relocate its employees, and reducing those expenses has long been a goal of Congress.

Under the pilot program, agencies are given the flexibility to experiment on how to reimburse relocation expenses. Two agencies are currently participating in the pilot program. These agencies generally provide lump-sum payments so employees are not required to keep receipts and then be reimbursed.

This test program has shown promise in reducing relocation expenses so the House should join the Senate in extending this pilot.

I urge my colleagues to support S. 2146.

Mr. Speaker, I yield back the balance of my time.

Mr. WESTMORELAND. Mr. Speaker, I urge Members to support passage of S. 2146, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. LaHOOD). The question is on the motion offered by the gentleman from Georgia (Mr. WESTMORELAND) that the House suspend the rules and pass the Senate bill, S. 2146.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

**SUPPORTING THE GOALS AND IDEALS OF GYNECOLOGIC CANCER AWARENESS MONTH**

Mr. WESTMORELAND. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 473) supporting the goals and ideals of Gynecologic Cancer Awareness Month.

The Clerk read as follows:

H. CON. RES. 473

Whereas the Gynecologic Cancer Foundation marks its 15th anniversary in 2006; Whereas the Gynecologic Cancer Foundation was founded as the Society of Gynecologic Oncologists in 1991; Whereas the mission of the Gynecologic Cancer Foundation is to raise awareness about the prevention, early detection, and treatment of reproductive cancers; Whereas the Gynecologic Cancer Foundation raises funds to support training and research grants; Whereas over 77,000 American women will be diagnosed with a reproductive cancer in 2006; Whereas there are screening tests and warning signs for reproductive cancers, and early detection leads to improved survival for all female reproductive cancers; Whereas gynecologic oncologists are board-certified obstetrician-gynecologists with an additional three to four years in training in the comprehensive care of women with reproductive cancers; Whereas the Gynecologic Cancer Foundation works with gynecologic oncologists, survivors, and advocates throughout the year to increase knowledge about reproductive cancers, so that these cancers can be prevented or detected at their earliest, most curable stage; and Whereas September is widely recognized as Gynecologic Cancer Awareness Month: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring). That the Congress—

(1) supports the goals and ideals of Gynecologic Cancer Awareness Month; and

(2) requests that the President issue a proclamation calling upon the people of the United States to observe Gynecologic Cancer Awareness Month with appropriate educational programs and activities.

The SPEAKER pro tempore. Pursuant to the request, the gentleman from Georgia (Mr. WESTMORELAND) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from Georgia.

Mr. WESTMORELAND. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the concurrent resolution currently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. WESTMORELAND. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, research indicates that more than 77,000 women in the United States will be diagnosed with reproductive cancer in 2006. The Gynecologic Cancer Foundation works with oncologists, cancer survivors and advocates so that one day these cancers can be prevented or detected at their earliest stage.

I am pleased to speak on behalf of this resolution honoring the 15th anniversary of the Gynecologic Cancer Foundation as well as this mission to raise awareness about the prevention, early detection, and treatment of reproductive cancers.

I urge all Members to join me in supporting the goals and ideals of Gynecologic Cancer Awareness Month by agreeing to H. Con. Res. 473.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

The mission of the Gynecologic Cancer Foundation is to ensure public awareness, early diagnosis, and proper treatment of gynecologic cancer prevention and to support research and training related to gynecologic cancers.

For 15 years, GCF has advanced this mission by increasing public and private funds that aid in the development and implementation of programs to meet these worthy goals.

This year, over 77,000 American women will be diagnosed with a reproductive cancer. In 2002, more than 27,000 women died from some form of gynecologic cancer. GCF works with gynecologic oncologists, survivors, and advocates throughout the year to increase the public’s knowledge about reproductive cancers, so that these cancers can be either prevented or detected at their earliest and most curable stage.

September is Gynecologic Cancer Awareness Month, so it is an appropriate time to recognize the efforts of the GCF, gynecologic oncologists, and all those who work to save lives by educating Americans about gynecologic cancers. This is indeed a worthy piece of legislation.

I urge my colleagues to support this resolution.

Mr. Speaker, I yield back the balance of my time.
Mr. WESTMORELAND. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. ISSA).

Mr. ISSA. Mr. Speaker, it is with pride I rise today in support of H. Con. Res. 473, supporting the goals and ideals of Gynecologic Cancer Awareness Month and particularly the Gynecologic Cancer Foundation.

This marks the 15th anniversary in 2006 of the Gynecologic Cancer Foundation. It is that foundation that has such a long and proud history of serving women in America through educational programs and to provide up-to-date information on the prevention and early detection and treatment of these reproductive cancers, cancers that will affect over 77,000 American women this year alone.

It was in 1999 that September was first declared Gynecologic Cancer Awareness Month. It is that month since then the Gynecologic Cancer Foundation has embarked on an intensive education program to reach women with an important message:

First, you know your family history, Second, conduct a cancer-risk assessment. Third, ask questions, educate yourself about these deadly cancers. Last, make an appointment for a annual gynecologic cancer screening test.

Mr. Speaker, every 7 minutes a woman is diagnosed with gynecologic cancer. In 2006, over 77,000 women will be diagnosed with gynecologic cancer; and, unfortunately, over 27,000 women will die, many of them because they didn’t have early diagnosis. Too many women are dying because of the lack of early diagnosis. Education and early detection are the keys to saving women’s lives and reducing this terrible statistic.

I thank the gentleman from Georgia (Mr. WESTMORELAND), I thank the Speaker of the House, and urge passage of this bill.

Mr. WESTMORELAND. Mr. Speaker, I yield to my friend Dr. GINGREY 1 minute.

Dr. GINGREY. Mr. Speaker, I thank my colleague from Georgia for yielding.

I just wanted to come down quickly and support Representative ISSA and H. Con. Res. 473, this resolution regarding gynecologic cancer.

I spent a lot of years in my former life as a practitioner of the specialty of gynecology and obstetrics, and that dreaded fear of the big C-word, cancer, for women, particularly ovarian cancer that is so deadly. That is why it is so important that this resolution be brought forward to the Congress and bring some recognition to this dreaded disease.

Mr. ISSA and I were talking earlier today about ovarian cancer, in particular, and how difficult it is to detect. It is commonly thought you can do a blood test, but it is not a good screening test for ovarian cancer. There are other things that we can do, and we need to be sure that the American public and our colleagues in the Congress are aware of that. It costs money, certainly, but it saves lives.

I wanted to drop in for a few seconds, and I appreciate the gentleman yielding to me. I want to support this very, very important resolution.

Mr. WESTMORELAND. Mr. Speaker, I urge all Members to support the adoption of House Concurrent Resolution 473, and I yield back the balance of my time.

The SPEAKER pro tempore. The question was taken; and (two) motions to reconsider were laid on the table.

SUPPORTING THE GOALS AND IDEALS OF INFANT MORTALITY AWARENESS MONTH

Mr. WESTMORELAND. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 402) supporting the goals and ideals of Infant Mortality Awareness Month, as amended.

The Clerk read as follows:

H. Res. 402

Whereas September 1, 2007, is the birthday of the baby before it reaches its first birthday;

Whereas the United States ranks 28th among industrialized nations in the rate of infant mortality;

Whereas in the United States, infant mortality increased in 2002 for the first time in more than 4 decades; Whereas in 2002 the rate reached 7 deaths per 1,000 live births, which was the first increase since 1958;

Whereas the recent increase is a significant and troubling public health issue, especially for African American families, Native American families, and Hispanic families;

Whereas the mortality rate among African American women is more than double that of Caucasian women, according to a report produced by the National Healthy Start Association and by a related group supported by the health department of Allegheny County, in the State of Pennsylvania;

Whereas theSecretary of Health and Human Services has designated 2010 as the year by which certain objectives should be met with respect to the health status of the people of the United States;

Whereas such objectives, known as Healthy People 2010, include the objective regarding a decrease in the rate of infant mortality;

Whereas September 1, 2007, is the beginning of a period of 6 months during which there will be several national observances that relate to the issue of infant mortality, including the observance of October as Sudden Infant Death Awareness Month and November as Prematurity Awareness Month; and

Whereas it would be appropriate to observe September 2007 as Infant Mortality Awareness Month: Now, therefore, be it

Resolved, That the House of Representa-tives supports the goals and ideals of Infant Mortality Awareness Month in order to—

(1) increase national awareness of infant mortality and its contributing factors; and facilitate activities that will assist local communities in their efforts to meet the objective, as established by the Secretary of Health and Human Service in Healthy People 2010, to decrease infant mortality in the United States to be reduced by a rate of more than 4.5 infant deaths per 1,000 births.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Georgia (Mr. WESTMORELAND) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from Georgia.

Mr. WESTMORELAND. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia? There was no objection.

Mr. WESTMORELAND. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in 2002 infant mortality rates increased in the United States for the first time in more than four decades. There are approximately seven deaths per every 1,000 live births, and this recent increase is absolutely a troubling development.

The Secretary of Health and Human Services has designated 2010 as a year by which several health objectives should be met, including objectives to decrease infant mortality rates.

Mr. Speaker, the Nation currently observes the month of October as Sudden Infant Death Awareness Month and November as Prematurity Awareness Month. It is fitting to observe September of 2006 as Infant Mortality Awareness Month, and I urge my colleagues to support House Resolution 402, as amended, to do just that.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the term “infant mortality rate” is given to the number of infant deaths during the first 12 months of life for every 100,000 births.

In the United States, infant mortality increased in 2002 for the first time in more than four decades. The rate reached 7 deaths per 1,000 live births, which was the first increase since 1958.

American babies are three times more likely to die during their first month of life than children born in
And, as he pointed out, it is even worse

births and we are 28th among industri-

all league in this House and another OB/

part. So it is an honor and a pleasure

is another part to that, and it is the ob-

my specialty was gynecology, but there

minutes. But I appreciate the oppor-

the gentleman for yielding. I know I

bly of the United States as a

whole, with 9.3 deaths per 1,000 births.

The primary causes of infant mor-

tality are premature birth and low

birth weight. A common reason for low

birth weight infant mortality includes

respiratory distress syndrome, which

may involve a collapsed lung, low oxy-

gen absorption, and high carbon diox-

ide level.

All children, regardless of where they

are born and regardless of their race or

ethnic group, deserve a healthy start in

life. Mr. Speaker, I have always been
told that mortality rates are too high, it
tells me that the quality of life is

low. If infant mortality rates are low,

then it means that the quality of life is

high.

It is pretty obvious, Mr. Speaker,

that we need to do more to deal effec-

tively across the board with the qual-

ity of life for people in our country, a
great Nation, in an effort to make it

even greater.

I strongly support this resolution and

urge all of my colleagues to do so.

Mr. Speaker, I yield back the balance

of my time.

Mr. WESTMORELAND. Mr. Speaker,

I yield 3 minutes to my distinguished

colleague from Georgia, Dr. GINGREY.

Mr. Speaker, I thank the gentleman for yielding. I know I

talk slow, but I hope I won’t take 3

minutes. But I appreciate the oppor-

tunity.

I mentioned just a moment ago that

my specialty was gynecology, but there

is another part to that, and it is the ob-

stetrical part, the birth and babies

part. So it is an honor and a pleasure
to be here and to support H. Res. 402;

and I want to thank my physician col-

league in this House and another OB/

GYN, MIKE BURGESS, Representa-

tive BURGESS from Texas, who also

practiced OB/GYN for 17 years, for

bringing this resolution; and, also, of

course, my colleague from Georgia,

Representative WESTMORELAND; and

my good friend from Chicago, Illinois,

Mr. DAVIS.

Mr. DAVIS just said it perfectly.

When you lose babies in the first year

of life at the rate of 7 per 1,000 live

births and we are 28th among industri-

alized nations and we brag about the

fact that we have the greatest health

care system in the world, there is

something wrong with that picture.

And, as he pointed out, it is even worse

for African American minorities; and

the big problem, of course, is lack of

prenatal care. Deaths occur because of

Sudden Infant Death Syndrome. We are

still struggling to figure out why that

occurs, but we clearly know why pre-

natal care matters, because when we

look at the infants that Representative DAVIS was

talking about, and we can do some-

thing about that.

So this resolution is very timely,
supporting the goals and ideals of In-
fant Mortality Awareness Month; and I

just want to thank the gentleman for

letting me put in my 2 cents worth in

good regard to this very, very important

issue.

Mr. WESTMORELAND. Mr. Speaker,

I urge all Members to support the adop-

tion of House Resolution 402, as amend-

ed.

Mr. Speaker, I have no further re-
dquests for time, and I yield back the

balance of my time.

The SPEAKER pro tempore. The ques-
tion is on the motion offered by

the gentleman from Georgia (Mr. WES-
	TMORELAND) that the House sus-

pend the rules and agree to the resolu-

tion, H. Res. 402, as amended.

The question was taken; and (two-
thirds having voted in favor thereof)

the rules were suspended and the reso-

lution, as amended, was agreed to.

A motion to reconsider was laid on

the table.

RECOGNIZING THE 225TH ANNIVER-

SARY OF THE AMERICAN AND

FRENCH VICTORY AT YORKTOWN

DURING THE REVOLUTIONARY

WAR

Mr. WESTMORELAND. Mr. Speaker,

I move to suspend the rules and agree
to the resolution (H. Res. 748) recog-

nizing the 225th anniversary of the

American and French victory at York-

town, Virginia, during the Revolu-

tionary War.

The Clerk read as follows:

H. Res. 748

Whereas at Yorktown, Virginia, on October

19, 1781, General George Washington and

the American and French armies received the

surrender of Lieutenant General Charles

Cornwallis and nearly 7,100 British soldiers

and sailors, ending nine days of siege oper-

ations against the British army;

Whereas the victory at Yorktown

concluded the last major battle of the Amer-

ican Revolution, effectively ending the war

and securing for the colonies their independ-

ence, December 23, 1775, with the proclama-

tion of the Declaration of Indepen-

dence issued 5 years earlier;

Whereas Virginia, as the largest and most

populous of the 13 colonies and the home of

General Washington, Thomas Jefferson,

Patrick Henry, Thomas Nelson, Jr., and

other leaders of the American Revolution,

is blessed with a rich history of noteworthy

contribution to the struggle to secure lib-

erty and democracy;

Whereas in 1983 the Virginia General As-

sembly designated the 19th day of October of

each year to be Yorktown Day and celebrat-

ed Yorktown Day throughout the Common-

wealth of Virginia; and

Whereas the 2006 observance of Yorktown

Day celebrates the 225th anniversary of the

American and French victory at Yorktown;

Now, therefore, be it

Resolved, That the House of Representa-
	tives recognizes the 225th anniversary of the

American and French victory at Yorktown,

Virginia, during the Revolutionary War and

reminds the American people of the debt the

United States owes to its armed forces and

the important role Yorktown and the Com-

monwealth of Virginia played in securing the

nation.

The SPEAKER pro tempore. Pursu-

ant to the rule, the gentleman from

Georgia (Mr. WESTMORELAND) and the

gentleman from Illinois (Mr. DAVIS)

each will control 20 minutes.

The Chair recognizes the gentleman

from Georgia.

GENERAL LEAVE

Mr. WESTMORELAND. Mr. Speaker,

I ask unanimous consent that all Mem-

bers may have 5 legislative days within

which to revise and extend their re-

marks and include extraneous material

on the resolution under consideration.

The SPEAKER pro tempore. Is there

objection to the request of the gent-

leman from Georgia?

There was no objection.

Mr. WESTMORELAND. Mr. Speaker,

I yield myself such time as I may con-

sume.

On October 19, 1781, Mr. Speaker,

Lieutenant General Charles Cornwallis

and nearly 7,100 British soldiers surren-

dered to General George Washington in

Yorktown, Virginia. This surrender al-

most 225 years ago ended the American

and French 9-day siege against the

British troops, and it signaled the end

of the last major battle of the Amer-

ican Revolution.

This day in history also solidified the

political declaration of independence

made by the colonies 5 years later, and

it opened the door to America becom-

ing the democracy our forefathers envi-

sioned.

We are most fortunate to live in this

Nation, and I urge all Members to join

me in supporting this resolution recog-

nizing the 225th anniversary of the

American and French Victory at York-

town.

Mr. Speaker, I reserve the balance of

my time.

Mr. DAVIS of Illinois. Mr. Speaker, I

yield myself such time as I may con-

sume.

Mr. Speaker, Yorktown was estab-

lished by Virginia’s colonial govern-

ment in 1691 to regulate trade and to

collect taxes on both imports and ex-

ports for Great Britain. Over time, the

city grew to become a major Virginia

port and economic center.

Today, Yorktown is best known as

the site where the British army under

General Charles Lord Cornwallis was

forced to surrender on October 19, 1781,

to General George Washington’s com-

ting American and French army. Upon

hearing of their defeat, British

Prime Minister Frederick Lord North

is reputed to have said, “Oh, God, it’s

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Mr. WESTMORELAND. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it is an enormous tragedy to lose the life of a child, and it is a sad statistic that each year approximately 1 million pregnancies in the United States end in miscarriage, stillbirth, or the death of a newborn baby. Whereas it is a great tragedy to lose the life of a child; Whereas even the shortest lives are still valuable, and the grief of those who mourn the loss of these lives should not be trivialized; Whereas during the past 3 years, Governors of all 50 States have signed proclamations designating October 15 as Pregnancy and Infant Loss Remembrance Day; Whereas the legislatures of the States of Arkansas, Kansas, Kentucky, Louisiana, Missouri, New York, Rhode Island, and South Dakota have passed concurrent resolutions recognizing October 15th of each year as Pregnancy and Infant Loss Remembrance Day; and

Whereas each year, approximately one million pregnancies in the United States end in miscarriage, stillbirth, or the death of a newborn baby; Whereas it is a great tragedy to lose the life of a child; Whereas even the shortest lives are still valuable, and the grief of those who mourn the loss of these lives should not be trivialized; Whereas during the past 3 years, Governors of all 50 States have signed proclamations designating October 15 as Pregnancy and Infant Loss Remembrance Day; whereas the observance of Pregnancy and Infant Loss Remembrance Day may provide validation to those who have suffered a loss through miscarriage, stillbirth, or other complications; Whereas recognizing Pregnancy and Infant Loss Remembrance Day would enable the people of the United States to consider how, as individuals, families, and as a nation, we can meet the needs of bereaved mothers, fathers, and family members, and work to prevent the causes of these deaths; and Whereas October 15th of each year is an appropriate day to observe National Pregnancy and Infant Loss Remembrance Day: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress—

(1) supports the goals and ideals of National Pregnancy and Infant Loss Remembrance Day; and

(2) requests that the President issue a proclamation calling upon the people of the United States to observe such day with appropriate programs and activities.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Georgia (Mr. WESTMORELAND) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from Georgia.

Mr. WESTMORELAND. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia? There was no objection.

Mr. WESTMORELAND. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, when any baby or child dies, there is deep grief for the hopes, dreams, and wishes that will never be. Left behind are a sense of loss and a need for understanding.

Every year, many lives are touched by miscarriage or the death of an infant or child. According to a 1996 study by the Center for Disease Control, 16 percent of the more than 6 million pregnancies that year ended in either a miscarriage or a stillbirth, and 26,784 births ended in infant death.

Pregnancy and Infant Loss Day, which will be held on October 15, will assist in bringing the process of healing to families and will help to heal families who are coping with and recovering from a miscarriage, stillbirth, or the loss of an infant.

Families will always struggle to cope with the devastating crisis of a miscarriage or loss of an infant child. Parents often cry, feel ill or depressed, or have other emotional responses for months or years after a death. The pain is a normal part of grieving. Parents often want to talk about their pain and are pleased when others take the time to listen. People who come in contact with a grieving family have a role in helping to resolve the family’s grief. The role of each person will be determined by his or her relationship with the family and the family’s stage of grief. As a community, we should remember that no one can take the pain away from a grieving family. We can, however, provide comfort, sympathy, and understanding.

There will always be the need for compassionate support for grieving families, and I hope that all Americans will join in supporting October 15 to show their compassion for families that have experienced the loss of an infant or a child.
I urge all of my colleagues to support this resolution.

Mr. Speaker, I yield back the balance of my time.

Mr. WESTMORELAND. Mr. Speaker, each year approximately 1 million pregnancies in the United States end in miscarriage, stillbirth, or the death of a newborn baby.

Most Americans are not aware of this startling statistic, because many of those affected grieve in silence, sometimes never coming to terms with their loss.

We can help by giving all parents, grandparents, siblings, relatives and friends a special day of remembrance. In addition, bringing attention to this issue will foster greater understanding in our communities of how to meet the needs of bereaved family members and focus efforts to prevent pregnancy loss and newborn deaths.

The Governors of all 50 States have signed proclamations recognizing October 15 as Pregnancy and Infant Loss Remembrance Day, and the legislatures of at least eight States have passed resolutions recognizing this day each year on a permanent basis.

Congress can bring even greater national awareness to this important issue by proclaiming its support for Pregnancy and Infant Loss Remembrance Day. Taking this action will mean something special to millions of Americans that have been affected, especially the mothers.

I commend the resolution’s 54 bipartisan cosponsors and the many citizens throughout the country and in my home State of Iowa whose efforts have made consideration of this resolution possible.

Mr. Speaker, I urge all Members to support the adoption of this resolution which will offer the support to individuals and families who have lost a child through miscarriage, stillbirth or other complications.

Mr. WESTMORELAND. Mr. Speaker, I yield 2 minutes to my colleague, the gentleman from Georgia (Mr. Gingrey).

Mr. GINGREY. Mr. Speaker, I thank the gentleman for yielding me time.

I stand to thank Representative LATHAM for bringing this resolution to the floor and stressing the importance to make people understand that a million babies lost a year, in addition to probably another million or so that are aborted deliberately, is a lot of lost lives.

Mr. Speaker, I think the importance of this resolution is to let people know that when couples have a miscarriage, it is a child. It might be for someone, well, it is like losing a miscarriage. They were only 6 weeks or they were only 9 weeks, and they did not even know whether it was a boy or girl.

But in the minds of that couple in many instances it is their first pregnancy, and they are already thinking about that little boy or the little girl and what the name is going to be and the clothes that they are going to pick out and the joy that they are going to have sending them to school and raising it and seeing it play sports and become an adult some day and contribute to our great society.

We tend to forget that. And this was brought home to me pretty vividly recently by a young, pregnant with her first child, found out at 10 weeks that the baby did not have a heartbeat. And so that baby was lost. And she went on, of course, and miscarried. And that loss will be with them forever. And so I think it is just so important for us all to realize that when somebody, when you hear about somebody having a miscarriage, do not think, well, it was just a miscarriage, it is not like losing a child or an older child, which we do not know that anything compares to that.

But this is a significant loss. And that is why this resolution today is so important. I thank the gentleman for yielding. I thank Congressman LATHAM for bringing it forward and Congressman DAVIS as well.

Mr. WESTMORELAND. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. BILBRAY).

Mr. BILBRAY. Mr. Speaker, I rise today to thank Mr. LATHAM and both the majority and the minority for presenting this resolution today.

I do not talk about a situation that occurred over 22 years ago in my family. Actually it was 22 years, 2 months ago that my wife and I lost our child at 3 months to crib death.

I am sure you have got to believe that 22 years should be able to cover up the pain and the hurt and the scar. But it does not. And though we have been blessed with children, we will always have that missing spot that that little 3-month-old baby filled.

But I want to thank you for today, and I stand up here today and speak of this matter to represent the men and women who have gone through what my family has gone through, and thank you for this.

If I may leave you with one message: more important than us grieving for our losses of those young ones that have died and are not here today, the best way for us to really remember them is to appreciate and worship and thank God for the blessings of having healthy children and babies that we can take care of.

Because they truly are the best memorial for our babies that we have lost, by preserving and protecting the treasures that God has given us in healthy children.

Mr. PAUL. Mr. Speaker, I am pleased to support H. Con. Res. 222, a resolution commemorating the goals and ideals of National Pregnancy and Infant Loss Remembrance Day. As a practicing OB/GYN for almost 40 years, I know there are few things more devastating than losing a child to medical complications such as a miscarriage or a stillbirth. Americans should take every opportunity to provide comfort and support to people who have suffered such a grievous loss.

I also wish to pay tribute to the efforts of Mrs. Robyn Bear, who played a seminal role in bringing this issue before Congress. Mrs. Bear’s story is an inspirational example of how a dedicated individual can make something good come from even the most tragic circumstances. After suffering six first trimester miscarriages between 1997 and 1999, Mrs. Bear began working to create a national system for parents who lost their children because of medical complications during or shortly after pregnancy. Largely due to her efforts, Governors of all 50 States have signed proclamations recognizing National Pregnancy and Infant Loss Remembrance Day. Mrs. Bear has also been instrumental in founding several online support groups for families that have suffered the loss of an unborn or newborn child. Mrs. Bear’s efforts were also the inspiration for this legislation. I am pleased to let my colleagues know that today Mrs. Bear is the proud mother of a 6-year-old girl and 3-year-old twins.

In conclusion, Mr. Speaker, I once again urge my colleagues to support this bill. I also extend my thanks to Mrs. Robyn Bear for all her efforts to help parents who have lost a child due to a miscarriage, stillbirth, or other medical complications.

Mr. WESTMORELAND. Mr. Speaker, I have no further speakers. I want to urge all Members to support the adoption of House Concurrent Resolution 222, as amended, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Georgia (Mr. WESTMORELAND) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 222, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution, as amended, was agreed to.

A motion to reconsider was laid on the table.

CONGRATULATING COLUMBUS NORTHERN LITTLE LEAGUE BASEBALL TEAM ON ITS 2006 LITTLE LEAGUE WORLD SERIES VICTORY

Mr. WESTMORELAND. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 991) congratulating the Columbus Northern Little League Baseball Team from Columbus, Georgia, on its victory in the 2006 Little League World Series Championship games.

The Clerk read as follows:

H. Res. 991

Whereas on Monday, August 28, 2006, the Columbus Northern Little League baseball team from Columbus, Georgia, defeated the Japanese Little League team by a score of 2-1, as the 2006 Little League World Series Championship at South Williamsport, Pennsylvania;
Whereas, although Columbus Northern had taken 1 loss in the series, they did not give up, and although the Championship game was delayed a day by rain, the Columbus Northern boys pressing hard to come from behind to win the Championship game;

Whereas a team from the State of Georgia had not won the title in more than 20 years;

Whereas the 2006 Columbus Northern Little League World Series Championship tournament was one of the greatest in Little League history; whereas a team from Columbus, Georgia, won the title of U.S. Champion, and further demonstrated sportsmanship and Southern hospitality after the game by going to the Japanese dugout and inviting their opponents to run the victory lap around the field with them;

Whereas the championship victory of the Columbus Northern Little League Baseball Team is led by Coach Richard Carter, Manager Randy Morris, Team Mother Lynee Phillips, and President Curt Thompson;

Whereas the championship victory of the Columbus Northern Little League Baseball Team is led by Coach Richard Carter, Manager Randy Morris, Team Mother Lynee Phillips, and President Curt Thompson;

Whereas the championship victory of the Columbus Northern Little League Baseball Team is led by Coach Richard Carter, Manager Randy Morris, Team Mother Lynee Phillips, and President Curt Thompson;

Whereas Congress has passed a number of resolutions congratulating Little League Baseball teams from the State of Georgia.

Resolved, That the House of Representatives congratulates the Columbus Northern Little League Baseball Team from Columbus, Georgia, on its victory in the 2006 Little League World Series Championship games.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Georgia (Mr. WESTMORELAND) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from Georgia.

General Leave

Mr. WESTMORELAND. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to review and extend their remarks and include extraneous material on the resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. WESTMORELAND. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today to offer House Resolution 991, to congratulate the boys of Columbus Northern of winning the Little League World Series. Thousands upon thousands of kids across the Nation take to the baseball fields each year to enjoy America’s pastime.

The best of the best get a chance to compete for the title of U.S. Champion. The team that claims that mantle gets the chance to represent the Nation in the world championship game. This year, the American champions hailed from Columbus in Georgia’s 8th Congressional District.

While all of my colleagues from Georgia are certainly proud that the world champions are from our State, all of the Members of the House can take pride in their significant accomplishment.

Columbus Northern fought hard through the American playoffs. They lost one game, but they did not lose their fighting spirit. They came back with a vengeance and captured the American championship. Then they faced a strong Japanese team in the grand finale in Williamsport, Pennsylvania.

It was a defensive struggle, and pitcher Kyle Carter held the Japanese batters to one run, and catcher Cody Walker provided the winning margin, belting a two-run homer.

The boys of Columbus showed that they are winners not only on the field, but also off the field. They demonstrated sportsmanship and Southern hospitality after the game by going to the Japanese dugout and inviting their opponents to run the victory lap around the field with them.

A historical perspective puts the significance of this victory into better focus. Though this country is the home of baseball, it is not often that the American Little League team hoists the world championship trophy. Since 1980, only eight U.S. teams have won. I might add here, Mr. Speaker, that two of those teams hailed from Georgia. For Georgia, this victory shows the world that our athletes and coaches are among the best that play the game. The coaches and players of Columbus Northern can take pride in knowing that they have become the symbol of Georgia’s athletic prowess.

But even more important than that, the boys of Columbus Northern will have memories to last a lifetime. They have had the extraordinary opportunity to be a part of every American boy who has ever slipped on a glove or swung a bat.

Mr. Speaker, I urge my colleagues to join me in congratulating Columbus Northern, the American and World Champions, by supporting House Resolution 991.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, first of all, let me congratulate Mr. WESTMORELAND and all of his neighbors and friends and residents of Columbus. I can imagine the tremendous sense of pride that that entire community feels and how proud they are of the accomplishments of their young people.

Mr. Speaker, Little League Baseball is the world’s largest organized youth sports program with a million adult volunteers throughout the United States and in dozens of other countries. No other youth sport comes close to having the same level of participation.

On August 28, 2006, the Columbus Northern Little League team defeated the Kawaguchi Little League team of Japan by a score of 2-1. Both teams played an excellent game and represented their country and their league well.

In the end, the Columbus Northern Little League team concluded its season with an impressive record of 20 wins and only one loss. Columbus Northern is Georgia’s second team to win the Little League World Series.

The 11 young men of the Columbus Northern team should be proud of their accomplishment. Pitcher and Lyle Carter made history by striking out 11 batters and became the first pitcher in history to win four times in the Little League World Series.

Walker knocked a two-out pitch over the right field fence for the two runs that won the game over Japan.

Manager Randy Morris and Coach Richard Carter deserve recognition for guiding these young and committed players to victory.

Mr. Speaker, while we congratulate the Columbus Northern team, and while I urge passage of H. Res. 991, I can tell you there is no better sight to see during spring or summer, when you can see groups of young people out participating in an organized sport with their parents and neighbors and friends watching.

I want to thank you, Mr. Speaker, if we had more Little League teams, we would have fewer young people in juvenile delinquency settings, and our prisons could get emptied down, if not out.

Again I commend the Columbus Northern team and especially all of the coaches and volunteers and people of the community who really made it possible.

Mr. Speaker, I yield back the balance of my time.

Mr. WESTMORELAND. Mr. Speaker, I would like to thank my colleague for those kind words and remarks. The gentleman is exactly right about the number of youth that should be playing Little League.

Mr. Speaker, I yield 4 minutes to the gentleman from Georgia (Mr. GINGREY).

Mr. GINGREY. Mr. Speaker, I thank my colleague. I am sitting here listening to the two gentlemen. I am ready to grab my hat and glove and hat and furthermore take me off the streets so I can go out and play ball again.

But they are absolutely right. This is a fantastic achievement from this team from Columbus, Georgia. I am especially proud to share a few moments, because I have part of Columbus in my district. This team is from Representative WESTMORELAND’s district, but what a great community Columbus is, Muscogee County, and the great people there. I know they are so proud of this young ball team and the coaches.

Of course we have already mentioned names. I am sure that one of those names is the one from Japan to join in that victory lap. That is the kind of sportsmanship that is developed by these men and women that volunteer their time to work with our youth and achieve such great results.

Mr. Speaker, this Little League team and congressional resolution. Congressman WESTMORELAND, mentioned that we had another team from Georgia. Indeed, back in 1983, and my nurse,
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I was, of course, in medical practice at the time. Her son was the third baseman on that team.

And he today is a medical doctor, a radiologist. But he was a great little ball player. And I think one of the players on that team was a dominant pitcher just like in this year; they take them to victory. He ultimately was a major league baseball pitcher.

But what happens with most of these kids, of course, is that they go on to other careers, like Adam Olmsted, Ken and I say, as I say, a doctor now. And they go on to very successful careers. And it is not often that they go on to become Major League Baseball players.

But the ideals, the sportmanship, the determination, the relationship they have with their teammates is the thing that they learn, that they take with them through life. And it makes their lives successful no matter what endeavor they pursue.

So I want to commend these young players at Georgia Tech halftime, University of Georgia halftime. I want to say to any of them that go on and play college baseball, do not go to Auburn or Alabama just to cross the river. Stay in Columbus, go to LaGrange College, University of Georgia, Bulldoggers, Georgia Tech, Kennesaw State University. We have got some great baseball teams in Georgia, and that is where we want them to play.

Mr. DAVIS of Illinois. Mr. Speaker, I ask unanimous consent to reclaim my time and then to yield such time as he might need and use to another son of Georgia (Mr. BISHOP).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. BISHOP of Georgia. Mr. Speaker, I thank the gentleman for yielding.

I rise today certainly in support of H. Res. 991, with my other colleagues from Georgia, and with great pride of the 2006 Little League World Champions, the Northern Little League team of Columbus, Georgia.

The victory by our Northern Little Leaguers over the undefeated Kawaguchi City team representing the country of Japan makes them only the second team from Georgia to win a World Championship. While a team from Marietta, Georgia won in 1983, our team is only the second team from Georgia to ever qualify for this event in the entire 60-year history, and we are very proud of that.

As a Member of Congress representing Columbus and Muscogee County, where most of the young men live, I cannot tell you how proud we are of these fine, young men and the character and discipline that they exhibited.

The entire city, the surrounding area, our State and, indeed, people all over the country were thrilled by the success of our young people. The Northern Little League players are not only world champions, they are certainly hometown heroes, and they are celebrities. You should have seen them with the class and dignity as they spoke with the media, as they commended their opponents and as they prepared for their victory. They proudly signed the thousands of autographs surrounding the celebration of their victory.

These young men represented the city of Columbus, they represented the State of Georgia, and they represented the United States of America in the finest tradition of Little League and what it stands for and for what it represents: teamwork, sportsmanship, and camaraderie. We are proud of them.

The spirit of sportmanship was no more apparent than it was this year. After they won the game, and you have heard, the entire Columbus team walked over to the opponents’ dugout and beckoned for them to join them in taking the victory lap around the field. It really was those bumpy and tears to our eyes to see side by side those two teams scoop up dirt from the infield to keep as souvenirs.

I also want to pay tribute to the parents and the coaches of these young men. You pay tribute to a Little League baseball player, for that matter, football, soccer or other sports, has to know and appreciate the love and the commitment that is needed.

Let me pay tribute to the dedicated fans in Columbus, of whom took the 500-mile trip to Williamsport from Columbus to support our team, as well as the other Little League teams in the Columbus area, and the many volunteers, sponsors and supporters who have dedicated themselves to Little League sports year after year.

Throughout the World Series, it was clear that Northern was well-schooled and well-prepared which, in large part, points to the hard work and the dedication of the team’s manager, Randy Morris, and coach, Richard Carter.

It was the team itself who had to put it all together on the field, and I would like to pay special tribute to each one of the team members individually, including Brady Hamilton, No. 6; Ryan Lang, No. 18; Josh Lester, No. 4, the most valuable player; Matthew Hollis, No. 10; Patrick Stallings, No. 25; Mason Meyers, No. 16; Kyle Rovig, No. 8; Matthew Kuhlenberg, No. 7; Cody Walker, No. 21; Kyle Hunter, No. 19; and J.T. Phillips, No. 22.

Babe Ruth once said that, “Baseball was, is and always will be to me the best game in the world.” Indeed, for the millions of Little League fans around the world, the 2006 Little League Championship game will go down as one of the best single games in the history of the event.

We are so proud of our Little Leaguers. Northern Little League, congratulations for a job well done.

Mr. WESTMORELAND. Mr. Speaker, I have no more speakers. I want to urge all Members to support the adoption of H. Res. 991, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Georgia (Mr. WESTMORELAND) that the House suspend the rules and agree to the resolution.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

LANCE CORPORAL ROBERT A. MARTINEZ POST OFFICE BUILDING

Mr. WESTMORELAND. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5108) to designate the facility of the United States Postal Service located at 1213 East Houston Street in Cleveland, Texas, as the “Lance Corporal Robert A. Martinez Post Office Building”.

The Clerk read as follows:

H. Res. 991

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.

Sections 1. LANCE CORPORAL ROBERT A. MARTINEZ POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 1213 East Houston Street in Cleveland, Texas, shall be known and designated as the “Lance Corporal Robert A. Martinez Post Office Building”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the “Lance Corporal Robert A. Martinez Post Office Building”.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Georgia (Mr. WESTMORELAND) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from Georgia.

GENERAL LEAVE

Mr. WESTMORELAND. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days within which to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. WESTMORELAND. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, a native Texan, Robert Martinez, known as Robbie, was a young Marine with the 2nd Battalion, 7th Marine Regiment, 1st Marine Division. He was based at the Marine Corps Air Ground and Combat Center in Twentynine Palms, California.

Lance Corporal Martinez was a dedicated soldier who wanted nothing more than to serve his country and make a difference in the world. Upon commencement of his senior year of high school, he had already signed up for the
Marines. Two days after his high school graduation, in 2003, he left for basic training.

Before his second deployment, Lance Corporal Martinez was stationed for 7 months in Iraq on the border of Syria. It was late in his second deployment to Iraq in the city of Fallujah when he and nine fellow Marines were killed by an improvised explosive device. The date of this attack was December 1, 2005; and, tragically, he was only weeks from returning home to his family and friends.

In honor of this soldier’s great courage and patriotism, which will not be forgotten, I ask all Members to join me in supporting H.R. 5108.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I might consume.

Mr. Speaker, H.R. 5108, introduced by Representative Poe, designates the facility of the United States Postal Service located at 1213 East Houston Street in Cleveland, Texas, as the Lance Corporal Robert A. Martinez Post Office Building.

This measure was unanimously reported by the Government Reform Committee on September 21, 2006.

A native of Texas, Robert Martinez was a young Marine serving his second deployment to Iraq where he was killed by an improvised explosive device on December 1, 2005, while conducting combat operations in Fallujah, Iraq.

Mr. Speaker, here is another instance where a young person who had completed one tour of duty, engaged in his second tour, gave the very best and the most that one could possibly give, and that is his life, for the benefit of creating, hopefully, a different and a better world. I can think of no better way to remember him than to have people in his community and in his hometown know of his diligence, of his exploits and of his courage than to name a post office in his honor.

Mr. Speaker, I have no further requests for time, and I yield back the balance of our time.

Mr. WESTMORELAND. Mr. Speaker, I yield as much time as he may consume.

Mr. POE. Mr. Speaker, I appreciate the opportunity to speak on this very important bill. I appreciate my friend from Georgia and friend from Illinois for helping sponsor this bill.

Mr. Speaker, we name buildings and monuments and libraries and roads after Presidents and generals, statesmen. But, today, I hope that we name a post office after a young 20-year-old who wore the American military uniform.

Mr. Speaker, the great General Douglas MacArthur of World War II once commented, “I have just returned from visiting the Marines at the front, and there is not a finer organization in the world” than the Marine Corps.

Lance Corporal Robert “Robbie” Alexander Martinez was a member of this fine fighting organization; and, as mentioned, he was killed in December, 2005, while fighting and serving our Nation in Iraq. He volunteered to join the Marines, and he volunteered to go to Iraq. He was a member of the 2nd Battalion, 7th Marine Regiment, the 1st Marine Division, based at the Marine Air Corps Ground and Combat Center, Twentynine Palms, California.

Lance Corporal Martinez was 20 years of age when he died. He was on his second tour of Iraq, and he had spent 7 months on the Syrian border. He went to Iraq and Fallujah after 2004, and then he and nine other Marines were killed last December when a roadside bomb exploded next to them.

Lance Corporal Martinez was scheduled to come home to Texas within a week of his death, but at the last minute his tour was extended for over a month and a half.

Mr. Speaker, I yield the balance of my time.

President Ronald Reagan once said, “Some people live an entire lifetime and wonder if they have ever made a difference in the world, but the Marines don’t have that problem.” Fine words from our former President.

Lance Corporal Martinez was working to make a difference in the world when he gave his life, and his bravery and dedication, his patriotism will not ever be forgotten by his friends, certainly not by his family, and all freedom-loving people throughout this world.

His Nation made the call, and he responded without hesitation, and he served his country with honor and distinction. He wanted to be in the Marines since he was 12 years of age.

So, Mr. Speaker, I ask for the adoption of this bill to name this small post office in Cleveland, Texas, after one of the sons of America.

Mr. WESTMORELAND. Mr. Speaker, we have no other speakers, and I urge all Members to support the passage of H.R. 5108. I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Georgia (Mr. WESTMORELAND) that the House suspend the rules and pass the bill, H.R. 5108.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

□ 1630

OLDER AMERICANS ACT
AMENDMENTS OF 2006

Mr. MCEKON. Mr. Speaker, I move to suspend the rules and pass the bill (H. R. 6197) to amend the Older Americans Act of 1965 to authorize appropriations for fiscal years 2007 through 2011, and for other purposes.

The Clerk read as follows:

H. R. 6197

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Older Americans Act Amendments of 2006”.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—GENERAL PROVISION

Sec. 101. Definitions.

Sec. 201. Elder abuse prevention and services.

Sec. 202. Functions of the Assistant Secretary.

Sec. 203. Federal agency consultation.

Sec. 204. Administration.

Sec. 205. Evaluation.

Sec. 206. Reports.

Sec. 207. Contracting and grant authority; private pay relationships; appropriate use of funds.

Sec. 208. Nutrition education.

Be it enacted...
Sec. 209. Pension counseling and information programs.

TITLE III—GRANTS FOR STATE AND COMMUNITY PROGRAMS ON AGING
Sec. 301. Purpose; administration.
Sec. 302. Definitions.
Sec. 303. Authorities of appropriations; uses of funds.
Sec. 304. Allotments.
Sec. 305. Organization.
Sec. 306. Area plans.
Sec. 307. State plans.
Sec. 308. Payments.
Sec. 309. Nutrition services incentive program.
Sec. 310. Contributions.
Sec. 311. Supportive services and senior centers.
Sec. 312. Nutrition services.
Sec. 313. Congregate nutrition program.
Sec. 314. Home delivered nutrition services.
Sec. 315. Criteria.
Sec. 316. Nutrition.
Sec. 317. Study of nutrition projects.
Sec. 318. Sense of Congress recognizing the contribution of nutrition to the health of older individuals.
Sec. 319. Improving indoor air quality in buildings where older individuals congregate.
Sec. 320. Caregiver support program definitions.
Sec. 321. Caregiver support program.
Sec. 322. National innovation.

TITLE IV—ACTIVITIES FOR HEALTH, INDEPENDENCE, AND LONGEVITY
Sec. 401. Title.
Sec. 402. Grant programs.
Sec. 403. Career preparation for the field of aging.
Sec. 404. Health care service demonstration projects in rural areas.
Sec. 405. Technical assistance and innovation to improve transportation for older individuals.
Sec. 406. Demonstration, support, and research projects for multigenerational activities and civic engagement activities.
Sec. 407. Native American programs.
Sec. 408. Multidisciplinary centers and multidisciplinary systems.
Sec. 409. Community innovations for aging in place.
Sec. 410. Responsibilities of Assistant Secretary.

TITLE V—OLDER AMERICAN COMMUNITY SERVICE IMPLEMENTATION PROGRAM
Sec. 501. Community Service Senior Opportunities Act.
Sec. 502. Effective date.

TITLE VI—NATIVE AMERICANS
Sec. 601. Clarification of maintenance requirement.
Sec. 602. Native Americans caregiver support program.

TITLE VII—ALLOTMENTS FOR VULNERABLE ELDER RIGHTS PROTECTION ACTIVITIES
Sec. 701. Vulnerable elder rights protection activities.
Sec. 702. Elder abuse, neglect, and exploitation.
Sec. 703. Native American organization programs.
Sec. 704. Elder justice programs.
Sec. 705. Rule of construction.

TITLE VIII—FEDERAL YOUTH DEVELOPMENT COUNCIL
Sec. 801. Short title.
Sec. 802. Establishment and membership.
Sec. 803. Duties of Council.
Sec. 804. Coordination with existing interagency coordination entities.
Sec. 805. Assistance of staff.
Sec. 806. Powers of the Council.
Sec. 807. Report.
Sec. 808. Terminating.
Sec. 809. Authorization of appropriations.

TITLE IX—CONFORMING AMENDMENTS
Sec. 901. Conforming amendments to other Acts.
to direct and control the individual’s receipt of such services, are assessed by the area agency on aging (or other agency designated by the area agency on aging) involved.

(D) Data on individuals enrolled under subparagraph (C), the area agency on aging (or other agency designated by the area agency on aging) develops together with such individual and the individual’s family, caregiver (as defined in paragraph (18)(B)), or legal representative—

(i) a plan of services for such individual that specifies which services such individual will be provided; and

(ii) a determination of the role of family members (and others whose participation is sought by such individual) in providing services under such plan.

(ii) a budget for such services; and

(E) the area agency on aging or State agency provides for oversight of such individual’s self-directed receipt of services, including steps to ensure the quality of services provided and the appropriate use of funds under this Act.

(52) The term ‘self-neglect’ means an adult’s self-determination, due to physical or mental impairment or diminished capacity, to perform essential self-care tasks including—

(A) obtaining essential food, clothing, shelter, or other self-care essentials;

(B) obtaining goods and services necessary to maintain physical health, mental health, or general safety; or

(C) maintaining personal financial affairs.

(53) The term ‘State system of long-term care’ means the Federal, State, and local programs and activities administered by a State that provide, support, or facilitate access to long-term care for individuals in such State.

(54) The term ‘integrated long-term care’—

(A) means items and services that consist of—

(i) with respect to long-term care—

(1) long-term care items or services provided under a State plan for medical assistance under the Medicaid program established under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.), including nursing facility care and community-based services, personal care services, and case management services provided under the plan; and

(2) any other supports, items, or services that are available under any federally funded long-term-care program; and

(ii) with respect to other health care, items and services covered under—

(I) the Medicare program established under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.);

(II) the State plan for medical assistance under the Medicaid program or

(III) any other federally funded health care program; and

(B) includes items or services described in subparagraph (A) that are provided under a public or private managed care plan or through any other service provider.

(b) REDESIGNATION AND REORDERING OF DEFINITIONS.—Section 102 of the Older Americans Act of 1965 (42 U.S.C. 3020) is amended—

(1) in subsection (a)—

(1) in paragraph (5), by inserting “assistive technology,” after “housing;”;

(B) by striking paragraph (12) and inserting the following—

(12)(A) consult and coordinate activities with the Administrator of the Centers for Medicare & Medicaid Services and the heads of other Federal entities and programs to develop awareness of programs providing benefits affecting older individuals; and

(B) carry on a continuing evaluation of the programs and activities relating to the objectives of this Act, with particular attention to the impact of the programs and activities carried out under—

(i) titles XVIII and XIX of the Social Security Act (42 U.S.C. 1395 et seq., 1396 et seq.);

(ii) the Age Discrimination in Employment Act of 1967 (29 U.S.C. 621 et seq.); and

(iii) the National Housing Act (12 U.S.C. 1701 et seq.) relating to housing for older individuals and the setting of standards for the licensing of nursing homes, intermediate care homes, and other facilities providing care for such individuals;

(C) by striking paragraph (20) and inserting the following—

(20)(A) encourage, and provide technical assistance to, States, area agencies on aging, and service providers to carry out outreach and enrollment efforts through the establishment of clearinghouses and clearinghouse on best practices and cost-effective methods for finding and enrolling older individuals, to help inform and enroll older individuals with the greatest economic need, who may be eligible to participate, but who are not participating, in Federal and State programs providing benefits for which the individuals are eligible, including—

(i) supplemental security income benefits under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.), or assistance under a State plan program under such title;

(ii) medical assistance under title XIX of such Act (42 U.S.C. 1396 et seq.);

(iii) benefits under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.); or

(iv) benefits under any other applicable program; and

(B) at the election of the Assistant Secretary and in cooperation with related Federal agency partners administering the Federal programs, training and technical assistance to build awareness of programs providing benefits affecting older individuals with greatest economic need and enroll the individuals in the programs;

(iv) maintain and update web-based decision support and enrollment tools, and integrated, person-centered systems, designed to inform older individuals about the full range of benefits for which the individuals may be eligible under Federal and State programs;

(v) utilize cost-effective strategies to find older individuals with greatest economic need and enroll the individuals in the programs;

(vi) develop and maintain an information clearinghouse on best practices and cost-effective methods for finding and enrolling older individuals, to help inform and enroll older individuals with the greatest economic need in the programs for which the individuals are eligible; and

(vi) provide, in collaboration with related Federal agency partners administering the Federal programs, training and technical assistance on effective outreach, screening, enrollment, and follow-up strategies;”;

(D) in paragraph (21)  

(i) in subsection (D)—

(I) by striking ‘‘gaps in’’; and

TITLIE II—ADMINISTRATION ON AGING

SECTION 201. ELDER ABUSE PREVENTION AND SERVICES.

Section 201 of the Older Americans Act of 1965 (42 U.S.C. 3020) as amended by adding at the end the following:

(p)(1) The Assistant Secretary is authorized to designate within the Administration a person to have responsibility for elder abuse prevention and services.

(2) It shall be the duty of the Assistant Secretary, acting through the person designated to have responsibility for elder abuse prevention and services—

(A) to develop objectives, priorities, policy, and a long-range plan for—

(i) facilitating the development, implementation, and continuous improvement of a coordinated, multidisciplinary elder justice system in the United States;

(ii) providing Federal leadership to support State efforts in carrying out elder justice programs and activities relating to—

(I) elder abuse prevention, detection, treatment, intervention, and response;

(II) training of individuals regarding the matters described in subclause (I); and

(III) the development of a State comprehensive elder justice system, as defined in section 752(b);

(iii) establishing Federal guidelines and disseminating information for uniform data collection and reporting by States;

(iv) working with States, the Department of Justice, and other Federal entities to annually collect, maintain, and disseminate data relating to elder abuse, neglect, and exploitation, to the extent practicable;

(v) establishing an information clearinghouse to collect and disseminate information concerning best practices and resources for training, technical assistance, and other activities to assist States and community-based programs to prevent and address elder abuse, neglect, and exploitation;

(vi) conducting research related to elder abuse, neglect, and exploitation;

(vii) providing technical assistance to States and other eligible entities that provide or fund the provision of the services described in title VII;

(viii) carrying out a study to determine the national incidence and prevalence of elder abuse, neglect, and exploitation in all settings; and

(ix) promoting collaborative efforts and diminishing duplicative efforts in the development and carrying out of elder justice programs at the Federal, State, and local levels; and

(B) to assist States and other eligible entities under title VII to develop strategic plans to better coordinate elder justice activities, research, and training;

(2) The Secretary, acting through the Assistant Secretary, may issue such regulations as may be necessary to carry out this subsection and section 752.

(q)(1) The Assistant Secretary may designate an elder or employee who shall be responsible for the administration of mental health services authorized under this Act.

(2) The Assistant Secretary shall—

(A) encourage and provide technical assistance to States, area agencies on aging, and other public and private State and community-based organizations, including faith-based organizations and coalitions, to serve as a clearinghouse on best practices and cost-effective methods for finding and enrolling older individuals, to help inform and enroll older individuals with the greatest economic need, who may be eligible to participate, but who are not participating, in Federal and State programs providing benefits for which the individuals are eligible, including—

(i) supplemental security income benefits under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.), or assistance under a State plan program under such title;

(ii) medical assistance under title XIX of such Act (42 U.S.C. 1396 et seq.);

(iii) benefits under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.); or

(iv) benefits under any other applicable program; and

(B) at the election of the Assistant Secretary, acting through the Assistant Secretary, and in cooperation with related Federal agency partners administering the Federal programs, training and technical assistance to build awareness of programs providing benefits affecting older individuals with greatest economic need and enroll the individuals in the programs;

(i) maintain and update web-based decision support and enrollment tools, and integrated, person-centered systems, designed to inform older individuals about the full range of benefits for which the individuals may be eligible under Federal and State programs;

(ii) utilize cost-effective strategies to find older individuals with greatest economic need and enroll the individuals in the programs;

(iii) create and support efforts for Aging and Disability Resource Centers, and other public and private State and community-based organizations, including faith-based organizations and coalitions, to serve as a clearinghouse on best practices and cost-effective methods for finding and enrolling older individuals, to help inform and enroll older individuals with the greatest economic need in the programs for which the individuals are eligible; and

(iv) develop and maintain an information clearinghouse on best practices and cost-effective methods for finding and enrolling older individuals, to help inform and enroll older individuals with the greatest economic need in the programs for which the individuals are eligible; and

(v) provide, in collaboration with related Federal agency partners administering the Federal programs, training and technical assistance on effective outreach, screening, enrollment, and follow-up strategies;”;

(D) in paragraph (21)  

(i) in subsection (D)—

(I) by striking ‘‘gaps in’’; and

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(II) by inserting “(including services that would permit such individuals to receive long-term care in home and community-based settings)” after “individuals”; and

(ii) in subparagraph (E), by striking “and” at the end; and

(E) in paragraph (27)—

(i) in subparagraph (B), by adding “and” at the end;

(ii) by striking subparagraph (D); and

(F) by adding at the end following:

“(28) make available to States, area agencies on aging, service providers, and other Federal, State, and local entities and organizations that are involved in providing services to individuals and as appropriate the following:

(A) to provide, operate, and evaluate programs that serve as visible and trusted sources of information and technical assistance to support the provision of evidence-based disease prevention and health promotion services;

(B) to develop, in collaboration with the Administration on Aging, Centers for Medicare & Medicaid Services, and other Federal, State, and local entities, a system to assist in such planning;

(C) to provide coordinated and streamlined access to publicly supported long-term care options so that consumers can obtain the care they need through a single intake, assessment, and eligibility determination process;

(D) to help individuals to plan for their future long-term care needs; and

(E) to assist (in coordination with the entities identified in subsection (B)) in identifying and preparing for institutional placement, to permit such individuals to receive long-term care in home and community-based settings, including selecting, budgeting for, and purchasing home and community-based long-term care and supportive services; and

(5) the Committee shall meet not less than once each year.

(c) The Assistant Secretary, in consultation with the Commissioner of Social Security, shall establish an Interagency Coordinating Committee on Aging (referred to in this subsection as the Committee) to facilitate, in coordination with the Federal entities identified in subsection (a), the provision of service coordination matters (referred to in this paragraph as a ‘representative’ of the individual), to direct and control the receipt of supportive services provided; or

(i) for the individual to direct and control the receipt of supportive services provided; or

(ii) as appropriate, for a person who was appointed by the individual, or is legally acting on the individual’s behalf, in order to represent or advise the individual in financial or other matters (referred to in this paragraph as a ‘representative’ of the individual), to direct and control the receipt of those services; and

(2) by adding at the end:

“(C) assist an older individual (or, as appropriate, a representative of the individual) to develop a plan for long-term support, including selecting, budgeting for, and purchasing home and community-based long-term care and supportive services; and

(3) by adding at the end following:

“(b) To promote the development and implementation of comprehensive, coordinated systems at Federal, State, and local levels that enable older individuals to receive long-term care in home and community-based settings, including evidence-based programs; and

(2) by striking subsections (b) (c), and inserting the following:

(i) in subparagraph (B), by adding “and” at the end;

(ii) by striking subparagraph (D); and

(iii) by adding at the end following:

“(A) to serve as visible and trusted sources of information on the full range of long-term care options, including both institutional and home and community-based care, which are available in the community;

(B) to provide personalized and consumer-friendly assistance to empower individuals to make informed decisions about their care options;

(C) to provide coordinated and streamlined access to all publicly supported long-term care options so that consumers can obtain the care they need through a single intake, assessment, and eligibility determination process;

(D) to help individuals to plan for their future long-term care needs; and

(E) to assist (in coordination with the entities identified in subsection (B)) in identifying and preparing for institutional placement, to permit such individuals to receive long-term care in home and community-based settings, including selecting, budgeting for, and purchasing home and community-based long-term care and supportive services; and

(3) The Secretary of Health and Human Services shall...

(4) For purposes of this subsection, a term shall be a period of more than once each year.

(5) The Committee shall meet not less often than once each year.

“(c) The Assistant Secretary, in consultation with the Chief Executive Officer of the Corporation for National and Community Service, shall...

(6) The Committee shall...

(7) The Committee shall...
"(6) The Committee shall—

(A) share information with and establish an ongoing system to improve coordination among Federal agencies with responsibility for programs for older individuals and recommend improvements to such system with an emphasis on—

(i) improving access to programs and services; and

(ii) maximizing the impact of federally funded programs and services for older individuals by increasing the efficiency, effectiveness, and delivery of such programs and services;

(iii) planning and preparing for the impact of demographic changes on programs and services for older individuals; and

(iv) reducing or eliminating areas of overlap and duplication by Federal agencies in the provision and accessibility of such programs and services;

(B) identify, promote, and implement (as appropriate), best practices and evidence-based programs and services to assist older individuals in meeting their housing, health care, and other supportive service needs, including—

(i) consumer-directed care models for home- and community-based care and supportive services that link housing, health care, and other supportive services and that facilitate aging in place, enabling older individuals to maintain their homes and communities as the individuals age; and

(ii) innovations in technology applications (including assistive technology devices and assistive technology services) that give older individuals access to information on available services or that help in providing services to older individuals;

(C) conduct and disseminate information about older individuals and the programs and services available to the individuals to ensure that the individuals can access comprehensive information;

(D) work with the Federal Interagency Forum on Aging-Related Statistics, the Bureau of the Census, and member agencies to ensure the continued collection of data relating to the housing, health care, and other supportive service needs of older individuals and to support efforts to identify and address unmet needs;

(E) actively seek input from and consult with nongovernmental experts and organizations, including public health interest and research groups and foundations about the activities described in subparagraphs (A) through (F);

(F) identify any barriers and impediments, including barriers and impediments in statutory and regulatory law, to the access and use by older individuals of federally funded programs and services; and

(G) work with States to better provide housing, health care, and other supportive services to older individuals by—

(i) holding meetings with State agencies; and

(ii) providing ongoing technical assistance to States about better meeting the needs of older individuals; and

(iii) working with States to designate liaison persons at the State agencies, from the State agencies, to the Committee.

(7) Not later than 90 days following the end of each term, the Committee shall prepare an annual report to the Committee on Finan-

cial Services of the House of Representa-

tives, the Committee on Education and the Workforce of the House of Representatives, the Committee on Appropriations, the House of Representatives, the Committee on Ways and Means of the House of Repre-

sentatives, the Committee on Banking, Housing and Urban Affairs of the Senate, the Committee on Health, Education, Labor, and Pensions of the Senate, and the Special Committee on Aging of the Senate, a report that—

(A) describes the activities and accomplishes of the Committee in

(i) establishing and maintaining such coordination of federally funded programs and services for older individuals; and

(ii) meeting the requirements of paragraph (6); and

(B) incorporates an analysis from the head of each agency that is a member of the interagency coordinating committee established under paragraph (6) that describes the barriers and impediments, including barriers and impediments in statutory and regulatory law (as the chairperson of the Com-

mittee) and the access and use by older individuals of programs and services administered by such agency; and

(C) makes such recommendations as the chairman determines to be appropriate for actions to meet the needs described in paragraph (6) and for coordinating programs and services designed to meet those needs.

(B) On the request of the Committee, any Federal Government employee may be de-

tached to the Committee without reimburse-

ment, and such detail shall be without inter-

ruption or loss of civil service status or privi-

lege.

SEC. 204. ADMINISTRATION.

Section 205 of the Older Americans Act of 1965 (42 U.S.C. 3016) is amended—

(1) by amending subparagraph (A) in paragraph (1) to read as follows:

(i) in subparagraph (C), by adding ‘‘and’’ at the end;

(ii) in subparagraph (D), by striking ‘‘; and’’ and inserting ‘‘; and shall be used to meet the needs of older individuals;’’;

(iii) in subparagraph (E), by striking ‘‘and’’ and inserting ‘‘; and’’;

(ii) in subparagraph (B), by striking ‘‘; and’’ and inserting ‘‘; and’’;

(iii) by striking subparagraph (F); and

(B) in paragraph (2)—

(i) in subparagraph (A)—

(I) by amending clause (i) to read as follows:

(1) ‘‘designing, implementing, and evalu-

ating evidence-based programs to support

improved nutrition and regular physical ac-

tivity for older individuals;’’;

(II) by amending clause (ii) to read as follows:

(2) ‘‘conducting outreach and dissemi-

nating evidence-based information to nutri-

tion service providers about the benefits of

healthful diets and regular physical activity,

including information about the most cur-

rent Dietary Guidelines for Americans pub-

lished under section 301 of the National Nu-

trition Monitoring and Related Research Act of 1990 (7 U.S.C. 5841) and the Food Guidance System of the Department of Agriculture, and advances in nutrition science;’’;

(III) in clause (vii), by striking ‘‘and’’ at the end, and

(iv) by striking clause (vii) and inserting the following:

(viii) disseminating guidance that de-

scribes strategies for improving the nutri-

tional quality of meals provided under title

III, including strategies for increasing the

consumption of whole grains, lowfat dairy

products, fruits, and vegetables;

(ix) developing and disseminating guide-

lines for conducting nutrient analyses of

meals provided under subparts 1 and 2 of part

C of title III, including guidelines for aver-

aging key nutrients over an appropriate pe-

riod of time; and

(x) providing technical assistance to the

regionally coordinated program with respect to each duty described in clauses (i) through (ix);’’;

and

(ii) by amending subparagraph (C)(i) to read as follows:

(i) ‘‘have expertise in nutrition, energy bal-

ance, and meal planning; and’’.

SEC. 205. EVALUATION.

The first sentence of section 206(g) of the Older Americans Act of 1965 (42 U.S.C. 3017(g)) is amended to read as follows: ‘‘From the amount appropriated for each fiscal year to carry out title III, the Secretary may use such sums as may be necessary, but not more than 1 percent of such amount, for purposes of conducting evaluations under this section, either directly or through grants or contracts.’’.

SEC. 206. REPORTS.

Section 207(b)(2) of the Older Americans Act of 1965 (42 U.S.C. 3018(b)(2)) is amended—

(1) in subparagraph (B), by striking ‘‘Labor and inserting ‘‘the Workforce’’; and

(2) in subparagraph (C), by striking ‘‘Labor and Human Resources’’ and inserting ‘‘Health, Education, Labor, and Pensions’’.

SEC. 207. CONTRACTING AND GRANT AUTHORITY: PRIVATE PAY RELATIONSHIPS; APPROPRIATE USE OF FUNDS.

Section 212 of the Older Americans Act of 1965 (42 U.S.C. 3020c) is amended to read as follows:

(a) IN GENERAL.—Subject to subsection (b), this Act shall not be construed to pre-

vent a recipient, including a State agency or area agency on aging (as ap-

propriate), best practices and evidence-based program and service models to assist older individuals in meeting their housing, health care, and other supportive service needs, including—

(i) consumer-directed care models for home- and community-based care and supportive services that link housing, health care, and other supportive services and that facilitate aging in place, enabling older individuals to maintain their homes and communities as the individuals age; and

(ii) innovations in technology applications (including assistive technology devices and assistive technology services) that give older individuals access to information on available services or that help in providing services to older individuals;

(C) conduct and disseminate information about older individuals and the programs and services available to the individuals to ensure that the individuals can access comprehensive information;

(D) work with the Federal Interagency Forum on Aging-Related Statistics, the Bureau of the Census, and member agencies to ensure the continued collection of data relating to the housing, health care, and other supportive service needs of older individuals and to support efforts to identify and address unmet needs;

(E) actively seek input from and consult with nongovernmental experts and organizations, including public health interest and research groups and foundations about the activities described in subparagraphs (A) through (F);

(F) identify any barriers and impediments, including barriers and impediments in statutory and regulatory law, to the access and use by older individuals of federally funded programs and services; and

(G) work with States to better provide housing, health care, and other supportive services to older individuals by—

(i) holding meetings with State agencies;

(ii) providing ongoing technical assistance to States about better meeting the needs of older individuals; and

(iii) working with States to designate liaisons, from the State agencies, to the Committee.

(b) APPLICABILITY.—Paragraph (a) applies only to—

(1) a regional office of the Administration; and

(2) a grantee that the cost is reimbursed to the recipient.

(c) EXCLUSION.—(1) Notwithstanding paragraph (a), this Act shall not be construed to pre-

vent a recipient, including a State agency or area agency on aging (as appropriate), from entering into or entering into an agreement with a profit-making organization for the recipient to provide services to individuals or entities not otherwise receiving services under this Act, provided that

(i) if funds provided under this Act to such recipient are initially used by the recipient to pay part or all of a cost incurred by the recipient in developing and carrying out such agreement, such agreement guarantees that the cost is reimbursed to the recipient;

(ii) if such agreement provides for the provision of 1 or more services, of the type provided under this Act by or on behalf of such recipient, to an individual or entity seeking to receive such services—

(A) the individuals and entities may only purchase such services at their fair market rate;

(B) all costs incurred by the recipient in providing such services (and not otherwise reimbursed under this paragraph or any other provision of this Act) are reimbursed to such recipient; and

(C) the recipient reports the rates for providing such services under such agreement to the Secretary of Health and Human Services, which rates are consistent with the prevailing market rate for provision of such services in the relevant geographic area as determined by the State agency or area agency on aging (as applicable); and

(2) any amount of payment to the recipi-

ent under the agreement that exceeds reim-

bursement under this subsection of the recipi-

te’s costs is used to provide, or support the provision of, services under this Act.

(b) APPLICABILITY.—An agreement described in sub-

section (a) may not—

(1) be made without the prior approval of the State agency (or, in the case of a grantee under title VI, the prior approval of the Assistant Secretary, after timely submission of all relevant documents related to the agreement including information on all costs associated therewith; and

(2) directly or indirectly provide for, or have the effect of, paying, reimbursing, sub-

sidizing, or otherwise compensating an indi-

vidual or entity in an amount that exceeds the fair market value of the services subject to such agreement;
“(3) result in the displacement of services otherwise available to an older individual with greatest social need, an older individual with greatest economic need, or an older individual whose welfare is at risk for institutional placement; or

“(4) in any other way compromise, undermine, or be inconsistent with the objective of serving older individuals, as determined by the Assistant Secretary.

“(c) MONITORING AND REPORTING.—To ensure that any agreement described in subsection (a) complies with the requirements of this section and other applicable provisions of this Act, the Assistant Secretary shall develop and implement uniform monitoring and reporting requirements consistent with the provisions of subparagraphs (A) through (E) of section 339(a)(15) in consultation with the State agencies and area agencies on aging. The Assistant Secretary shall annually prepare and submit to the chairpersons and ranking members of the appropriate committees of Congress a report analyzing all such agreements, and the costs incurred and services provided under the agreements. This report shall contain information on the number of the agreements, summaries of all the agreements, and information on the type of organizations participating in the agreements, types of services provided under the agreements, the net proceeds from, and documentation of funds spent and reimbursed, under the agreements.

“(d) REIMBURSEMENT.—All reimbursements made under this section shall be made in a timely manner, according to standards specified by the Assistant Secretary.

“(e) Cost.—In this section, the term ‘cost’ means an expense, including an administrative expense, incurred by a recipient in developing, reviewing, or entering into an agreement described in subsection (a), whether the recipient contributed funds, staff time, or other plant, equipment, or services to meet the expenses.

SEC. 208. NUTRITION EDUCATION.

Section 214 of the Older Americans Act of 1965 (42 U.S.C. 3020e) is amended to read as follows:

“SEC. 214. NUTRITION EDUCATION.

“The Assistant Secretary, in consultation with the Secretary of Agriculture, shall conduct outreach and provide technical assistance to State agencies and organizations that serve older individuals to assist such agencies and organizations to carry out integrated health promotion and disease prevention programs that—

“(1) are designed for older individuals; and

“(2) include—

“(A) nutrition education;

“(B) physical activity; and

“(C) other activities to modify behavior and to improve health literacy, including providing information on optimal nutrient intake, nutrition education and nutrition assessment and counseling, in accordance with section 339(c)(2).

SEC. 209. PENSION COUNSELING AND INFORMATION PROGRAMS.

Section 215 of the Older Americans Act of 1965 (42 U.S.C. 3020e–1) is amended—

“(1) in subsection (e)(1)(J), by striking “and low income retirees” and inserting “low-income retirees, and older individuals with limited English proficiency”;

“(2) in subsection (f), by striking paragraph (2) and inserting—

“(2) The ability of the entity to perform effective outreach to affected populations, particularly populations with limited English proficiency; and other populations that are identified as in need of special outreach.”;

“(3) in subsection (h)(2), by inserting “(including individuals with limited English proficiency)” after “individuals”.

SEC. 210. AUTHORIZATION OF APPROPRIATIONS.

Section 266 of the Older Americans Act of 1965 (42 U.S.C. 3020f–5) is amended—


“(2) in subsections (b) and (c), by striking “year” and all that follows through “years 2007, 2008, 2009, 2010, and 2011”;

“TITLE III—GRANTS FOR STATE AND COMMUNITY PROGRAMS ON AGING

SEC. 201. PURPOSE; ADMINISTRATION.

Section 301(a)(2) of the Older Americans Act of 1965 (42 U.S.C. 3021(a)(2)) is amended—

“(1) by striking at the end of—

“(A) the term ‘family caregiver’ means an adult family member, or another individual, who is an informal provider of in-home and community care to an older individual or to an individual with Alzheimer’s disease or a related disorder with neurological and or- ganic brain impairment who receives care required to remain in the community, and

“(2) by redesignating paragraphs (2), (3), and (4) as paragraphs (4), (2), and (3), respectively;

“(3) by adding at the end the following:

“(4) The term ‘family caregiver’ means an adult family member, or another individual, who is an informal provider of in-home and community care to an older individual or to an individual with Alzheimer’s disease or a related disorder with neurological and organic brain impairment who receives care required to remain in the community;

“SEC. 202. DEFINITIONS.

Section 302 of the Older Americans Act of 1965 (42 U.S.C. 3021) is amended—

“(1) by adding at the end the following:

“(d) ‘The term ‘family caregiver’ means an adult family member, or another individual, who is an informal provider of in-home and community care to an older individual or to an individual with Alzheimer’s disease or a related disorder with neurological and organic brain impairment who receives care required to remain in the community, and

“(2) by redesignating paragraphs (2), (3), and (4) as paragraphs (4), (2), and (3), respectively; and

“(3) by moving paragraph (4), as so redesignated, to the end of the section.

SEC. 203. AUTHORIZATION OF APPROPRIATIONS; USES OF FUNDS.

Section 303 of the Older Americans Act of 1965 (42 U.S.C. 3023) is amended—

“(1) in subsections (a)(1), (b), and (d), by striking “year 2001” and all that follows through “years 2007, 2008, 2009, 2010, and 2011”; and

“(2) in subsection (e)—

“(A) in paragraph (1) by striking “$125,000,000” and all that follows and inserting “$180,000,000 for fiscal year 2007”; and

“(B) in paragraph (2), by striking “such sums” and all that follows and inserting “$166,500,000 for fiscal year 2008, $173,000,000 for fiscal year 2009, $180,000,000 for fiscal year 2010, and $176,000,000 for fiscal year 2011.”;

“(C) in paragraph (3)—

“(i) by striking “2001—” and all that follows through “2011—”;

“(ii) by striking “shall” and inserting “may”; and

“(iii) by striking “section 376” and inserting “section 411(a)(1)”.

SEC. 204. ALLOTMENTS.

Section 304(a)(3)(D) of the Older Americans Act of 1965 (42 U.S.C. 3023a(3)(D)) is amended—

“(1) by striking—

“(D)(i) No State shall be allotted less than the total amount allotted to the State for fiscal year 2006;

“(ii) No State shall receive a percentage increase in an allotment, above the State’s fiscal year 2006 allotment, that is less than the percentage increase above the fiscal year 2006 allotments for all of the States;

“(III) for fiscal year 2009, 10 percent of the percentage increase above the fiscal year 2006 allotments for all of the States; and

“(IV) For fiscal year 2010, 5 percent of the percentage increase above the fiscal year 2009 allotments for all of the States.”.

SEC. 305. ORGANIZATION.

Section 305(a) of the Older Americans Act of 1965 (42 U.S.C. 3025(a)) is amended—

“(1) by striking “(A) by striking “(with particular attention to low-income minority individuals and older individuals residing in rural areas)” and inserting—

“(B) participating in any State government activities concerning long-term care, including reviewing and commenting on any rules, regulations, and policies related to long-term care;”;

“(C) conducting analyses and making recommendations with respect to strategies for modifying the State system of long-term care to better—

“(i) respond to the needs and preferences of older individuals and family caregivers;

“(ii) facilitate the provision, by service providers, of long-term care in home and community-based settings; and

“(iii) target services to individuals at risk for institutional placement, to permit such individuals to remain in home and community-based settings;”;

“(D) implementing (through area agencies on aging, service providers, and other entities as the State determines to be appropriate) evidence-based programs to assist older individuals and their family caregivers in learning about and making behavioral changes intended to reduce the risk of injury, disease, and disability among older individuals; and

“(E) providing for the availability and distribution (through public education campaigns, Aging and Disability Resource Centers, and other appropriate means) of information relating to—

“(i) the need to plan in advance for long-term care; and

“(ii) the full range of available public and private long-term care (including integrated
Section 306. Area Plans.

Section 306 of the Older Americans Act of 1965 (42 U.S.C. 3026) is amended—

(1) in subsection (A) in paragraph (1)—

(i) by striking ‘‘(with particular attention to low-income minority individuals and older individuals residing in rural areas)’’ and inserting ‘‘(with particular attention to low-income older individuals, including low-income minority older individuals, older individuals with limited English proficiency, and older individuals residing in rural areas)’’;

(ii) by striking ‘‘(with particular attention to low-income minority individuals) and inserting ‘‘(with particular attention to low-income older individuals, including low-income minority older individuals, older individuals with limited English proficiency, and older individuals residing in rural areas)’’;

(2) in paragraph (2)(A)—

(i) by inserting ‘‘(including integrated long-term care programs, options, service providers, and resources)’’ after ‘‘(with particular attention to low-income older individuals, including low-income minority older individuals, older individuals residing in rural areas)’’; and

(ii) by inserting ‘‘the number of older individuals at risk for institutional placement residing in such area, after ‘‘(individuals) residing in rural areas)’’; and

(3) in paragraph (4) in subparagraph (A)—

(i) by inserting ‘‘(with particular attention to low-income minority individuals) and inserting ‘‘(with particular attention to low-income older individuals, including low-income minority older individuals, older individuals residing in rural areas)’’;

(ii) by inserting ‘‘the number of older individuals at risk for institutional placement residing in such area, after ‘‘(individuals) residing in rural areas)’’; and

(iii) by inserting ‘‘(including integrated long-term care programs, options, service providers, and resources)’’ after ‘‘(with particular attention to low-income older individuals, including low-income minority older individuals, older individuals residing in rural areas)’’;

(4) in subparagraph (B)—

(i) by inserting ‘‘(including integrated long-term care programs, options, service providers, and resources)’’ after ‘‘(with particular attention to low-income older individuals, including low-income minority older individuals, older individuals residing in rural areas)’’;

(ii) by inserting ‘‘the number of older individuals at risk for institutional placement residing in such area, after ‘‘(individuals) residing in rural areas)’’; and

(iii) by inserting ‘‘(including integrated long-term care programs, options, service providers, and resources)’’ after ‘‘(with particular attention to low-income older individuals, including low-income minority older individuals, older individuals residing in rural areas)’’;

(iv) by inserting ‘‘the number of older individuals at risk for institutional placement residing in such area, after ‘‘(individuals) residing in rural areas)’’; and

(v) by inserting ‘‘(including integrated long-term care programs, options, service providers, and resources)’’ after ‘‘(with particular attention to low-income older individuals, including low-income minority older individuals, older individuals residing in rural areas)’’;

(5) in paragraph (5), by inserting ‘‘and individuals at risk for institutional placement’’; and

(E) in paragraph (6)—

(i) in subparagraph (C)—

(i) by inserting ‘‘(with particular attention to low-income minority individuals) and inserting ‘‘(with particular attention to low-income older individuals, including low-income minority older individuals, older individuals with limited English proficiency, and older individuals residing in rural areas)’’;

(ii) by inserting ‘‘the number of older individuals at risk for institutional placement residing in such area, after ‘‘(individuals) residing in rural areas)’’; and

(iii) by inserting ‘‘(including integrated long-term care programs, options, service providers, and resources)’’ after ‘‘(with particular attention to low-income older individuals, including low-income minority older individuals, older individuals residing in rural areas)’’;

(6) in paragraph (6), by striking ‘‘(with particular attention to low-income minority individuals) and inserting ‘‘(with particular attention to low-income older individuals, including low-income minority older individuals, older individuals with limited English proficiency, and older individuals residing in rural areas)’’;

(7) provide that the area agency on aging shall, consistent with this section, facilitate the area-wide development and implementation of a comprehensive, coordinated system of providing long-term care in home and community-based settings, in a manner responsive to the needs and preferences of older individuals and their family caregivers, by—

(A) collaborating, coordinating activities, and consulting with other local public and private agencies and organizations responsible for administering programs, benefits, and services related to providing long-term care;

(B) conducting analyses and making recommendations with respect to strategies for modifying the local system of long-term care to better—

(i) respond to the needs and preferences of older individuals and family caregivers;

(ii) facilitate the provision, by service providers, of long-term care in home and community-based settings; and

(iii) target services to older individuals at risk for institutional placement, to permit such individuals to remain in home and community-based settings;

(C) implementing, through the agency or service providers, evidence-based programs to assist older individuals and their family caregivers in learning about and making behavioral changes intended to reduce the risk of injury, disease, and disability among older individuals; and

(D) providing for the availability and distribution (through public education campaigns, Aging and Disability Resource Centers, the area agency on aging itself, and other appropriate means) of information relating to—

(i) the need to plan in advance for long-term care; and

(ii) the full range of available public and private long-term care (including integrated long-term care programs, options, service providers, and resources);—

(8) by redesignating paragraph (14) as paragraph (15); and

(H) by redesignating paragraph (16) as paragraph (14); and

(i) by adding to the end the following:—

(15) provide that the area agency on aging shall, consistent with this section, facilitate the area-wide development and implementation of a comprehensive, coordinated system of providing long-term care in home and community-based settings, in a manner responsive to the needs and preferences of older individuals and their family caregivers, by—

(A) collaborating, coordinating activities, and consulting with other local public and private agencies and organizations responsible for administering programs, benefits, and services related to providing long-term care;

(B) conducting analyses and making recommendations with respect to strategies for modifying the local system of long-term care to better—

(i) respond to the needs and preferences of older individuals and family caregivers;

(ii) facilitate the provision, by service providers, of long-term care in home and community-based settings; and

(iii) target services to older individuals at risk for institutional placement, to permit such individuals to remain in home and community-based settings;

(C) implementing, through the agency or service providers, evidence-based programs to assist older individuals and their family caregivers in learning about and making behavioral changes intended to reduce the risk of injury, disease, and disability among older individuals; and

(D) providing for the availability and distribution (through public education campaigns, Aging and Disability Resource Centers, the area agency on aging itself, and other appropriate means) of information relating to—

(i) the need to plan in advance for long-term care; and

(ii) the full range of available public and private long-term care (including integrated long-term care programs, options, service providers, and resources);—

(9) by redesignating paragraph (14) as paragraph (15); and

(H) by redesignating paragraph (16) as paragraph (14); and

(i) by adding to the end the following:—

(15) provide that the area agency on aging shall, consistent with this section, facilitate the area-wide development and implementation of a comprehensive, coordinated system of providing long-term care in home and community-based settings, in a manner responsive to the needs and preferences of older individuals and their family caregivers, by—

(A) collaborating, coordinating activities, and consulting with other local public and private agencies and organizations responsible for administering programs, benefits, and services related to providing long-term care;

(B) conducting analyses and making recommendations with respect to strategies for modifying the local system of long-term care to better—

(i) respond to the needs and preferences of older individuals and family caregivers;

(ii) facilitate the provision, by service providers, of long-term care in home and community-based settings; and

(iii) target services to older individuals at risk for institutional placement, to permit such individuals to remain in home and community-based settings;

(C) implementing, through the agency or service providers, evidence-based programs to assist older individuals and their family caregivers in learning about and making behavioral changes intended to reduce the risk of injury, disease, and disability among older individuals; and

(D) providing for the availability and distribution (through public education campaigns, Aging and Disability Resource Centers, the area agency on aging itself, and other appropriate means) of information relating to—

(i) the need to plan in advance for long-term care; and

(ii) the full range of available public and private long-term care (including integrated long-term care programs, options, service providers, and resources);—

(9) by redesignating paragraph (14) as paragraph (15); and

(H) by redesignating paragraph (16) as paragraph (14); and

(i) by adding to the end the following:—

(15) provide that the area agency on aging shall, consistent with this section, facilitate the area-wide development and implementation of a comprehensive, coordinated system of providing long-term care in home and community-based settings, in a manner responsive to the needs and preferences of older individuals and their family caregivers, by—

(A) collaborating, coordinating activities, and consulting with other local public and private agencies and organizations responsible for administering programs, benefits, and services related to providing long-term care;
(4) by redesignating paragraph (14) as paragraph (15);  
(5) by inserting after paragraph (13) the following:  
"(14) The plan shall, with respect to the fiscal year preceding the fiscal year for which such plan is prepared—  
(A) identify the number of low-income minority older individuals in the State, including the number of low-income minority older individuals with limited English proficiency; and  
(B) describe the methods used to satisfy the service needs of the low-income minority older individuals described in subparagraph (A), including the plan to meet the needs of low-income minority older individuals, including low-income minority older individuals, older individuals with limited English proficiency, and older individuals residing in rural areas;  

(6) in paragraph (16)(A)—  
(A) in clauses (ii) and (iii), by striking "(with particular attention to low-income minority individuals and older individuals residing in rural areas)" each place it appears and inserting "(with particular attention to low-income older individuals, including low-income minority older individuals, older individuals with limited English proficiency, and older individuals residing in rural areas)";  

(B) in clause (vi), by striking "or related" and inserting "and related"; and  
(7) by adding at the end the following:  
"(27) The plan shall provide assurances that area agencies on aging will provide, to the extent feasible, for the furnishing of services under this Act, consistent with self-directed care.  

(28)(A) The plan shall include, at the election of the State, an assessment of how prepared the State is, under the State's statewide emergency preparedness plan, for any anticipated change in the number of older individuals during the 10-year period following the fiscal year for which the plan is submitted.  

(B) such plan may include—  
(i) the projected change in the number of older individuals in the State;  
(ii) an analysis of how such change may affect such individuals, including individuals with low incomes, individuals with greatest economic need, minority older individuals, older individuals residing in rural areas, and older individuals with limited English proficiency;  

(iii) an analysis of how the programs, policies, and services provided by the State can be improved, including coordinating with area agencies on aging, and how resources can be adjusted to meet the needs of the changing population of older individuals;  

(iv) an analysis of how the change in the number of individuals age 85 and older in the State is expected to affect the need for support services.  

(29) The plan shall include information detailing how the State will coordinate activities, and develop long-range emergency preparedness plans, with area agencies on aging, local emergency response agencies, religious institutions, local governments, State agencies responsible for emergency preparedness, and any other institutions that have responsibility for disaster relief service delivery.  

(30) The plan shall include information describing the involvement of the head of the State agency in the development, revision, and implementation of emergency preparedness plans, including the State Public Health Emergency Preparedness and Response Plan.".

SEC. 308. PAYMENTS.  
Section 308(b)(2) of the Older Americans Act of 1965 (42 U.S.C. 3030d(b)(2)) is amended by striking "the non-Federal share required prior to fiscal year 1981" and inserting "10 percent of the cost of the services specified in such section 304(d)(1)(D)."

SEC. 309. NUTRITION SERVICES INCENTIVE PROGRAM.  
Section 309 of the Older Americans Act of 1965 (42 U.S.C. 3030d) is amended—  
(1) in subsection (b), by adding at the end the following:  
"(3) State agencies that elect to make grants and enter into contracts for purposes of this section shall promptly and equitably disburse amounts received under this subsection to the recipients of the grants and contracts."

(2) in subsection (c)—  
(A) in paragraph (1), by inserting "(including bonus commodities)" after "commodities;"  

(B) in paragraph (2), by inserting "(including bonus commodities)" after "commodities;"  

(C) in paragraph (3), by inserting "(including bonus commodities)" after "products;"  

(D) by adding at the end the following:  
"(4) Among the commodities provided under this subsection, the Secretary of Agriculture shall give special emphasis to foods of high nutritional value to support the health of older individuals. The Secretary of Agriculture, in consultation with the Assistant Secretary, is authorized to prescribe the terms and conditions governing the provision of commodities under this subsection.

(3) in subsection (d), to read as follows:  
"(d)(1) Amounts provided under subsection (b) shall be available only for the purchase, by State agencies, recipients of grants and contracts from the State agencies (as applicable), and title VI grantees, of United States agricultural commodities and other foods for their respective nutrition projects, subject to paragraph (2).  

(2) An entity specified in paragraph (1) may, at the election of the entity, use part or all of the amounts received by the entity under subsection (b) to pay a school food authority (within the meaning of the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.) to obtain United States agricultural commodities for such entity's nutrition projects, in accordance with an agreement between the entity and the school food authority, under which such payments—  
(A) shall cover the cost of such commodities;  

(B) may cover related services incurred by the school food authority, including the cost of transporting, distributing, processing, storing, and handling such commodities;  

(4) in subsection (e), by striking "2001" and inserting "2007"; and  

(5) in subsection (f)—  
(A) in the matter preceding paragraph (1), by striking "the Secretary of Human and Social Services and the Assistant Secretary of the Secretary and the Secretary of Agriculture"; and  

(B) by striking paragraphs (1) and (2) and inserting the following:  
"(1) school food authorities participating in programs authorized under the Richard B. Russell National School Lunch Act within the geographic area served by each such State agency, area agency on aging, and provider; and  

(2) Public school agencies that have the capability to support the State agencies, area agencies on aging, and providers under subsection (c)."

SEC. 310. CONSUMER CONTRIBUTIONS.  
Section 315 of the Older Americans Act of 1965 (42 U.S.C. 3030e) is amended—  
(1) in subsection (b)—  
(A) in paragraph (1)—  

(i) by striking "provided that" and inserting "it;" and  

(ii) by adding at the end the following:  
"Such contributions shall be encouraged for individuals whose self-declared income is at or above 185 percent of the poverty line at contribution levels based on the actual cost of services;"; and  

(B) in paragraph (4)(E), by inserting "and to supplement (not supplant) funds received under this Act" after "green;"  

(2) in subsection (c)(2), by striking "(with particular attention to low-income minority individuals and older individuals residing in rural areas)" and inserting "(with particular attention to low-income minority individuals, older individuals with limited English proficiency, older individuals with limited English proficiency, minority older individuals, minority older individuals in the State, in-"  

cluding low-income minority older individuals, older individuals with limited English proficiency, and older individuals residing in rural areas); and  

(3) in subsection (d), by striking "(with particular attention to low-income minority older individuals and older individuals residing in rural areas)" and inserting "(with particular attention to low-income minority older individuals, minority older individuals in the State, in-".

SEC. 311. SUPPORTIVE SERVICES AND SENIOR CENTERS.  
Section 321(a) of the Older Americans Act of 1965 (42 U.S.C. 3030d(a)) is amended—  
(1) in paragraph (8), by inserting "(including mental health screening)" after "screening;"  

(2) in paragraph (11), by striking "services" and inserting "service and assistance (including provision of assistive technology services and assistive technology services and assistance devices)";  

(3) in paragraph (14)(B) by inserting "(including mental health after "health;"  

(4) in paragraph (21)—  
(A) by striking "school-age children" and inserting "students;" and  

(B) by inserting "services for older individuals with limited English proficiency and after "including;"  

(5) in paragraph (22) by striking the period at the end and inserting a semicolon;  

(6) by redesignating paragraph (23) as paragraph (25); and  

(7) by inserting after paragraph (22) the following:  
"(23) services designed to support States, area agencies on aging, and local service programs in carrying out living activities for older individuals with respect to mental health services, including outreach for, education concerning, and screening for such services, and referral to such services for treatment;  

(24) activities to promote and disseminate information about life-long learning programs, including opportunities for distance learning; and;".

SEC. 312. NUTRITION SERVICE.  
After the part heading of part C of title III of the Older Americans Act of 1965 (42 U.S.C. 3030c et seq.), insert the following:  
"SEC. 330. PURPOSES.  
The purposes of this part are—  
(1) to reduce hunger and food insecurity;  

(2) to promote socialization of older individuals; and  

(3) to promote the health and well-being of older individuals by assisting such individuals to gain access to nutrition and other disease prevention and health promotion services to delay the onset of adverse health conditions resulting from poor nutritional health or sedentary behavior."

SEC. 313. CONGRESSIONAL NUTRITION PROGRAM.  
Section 331 of the Older Americans Act of 1965 (42 U.S.C. 3030i) is amended—  
(1) by striking "projects—" and inserting "projects that—;"
(2) in paragraph (1), by striking “which,”;

(3) in paragraph (2), by striking “which”;

and

(4) by striking paragraph (3), and inserting the following:

“(3) provide nutrition education, nutrition counseling, and other nutrition services, as appropriate, based on the needs of meal participants who provide—

“(A) encourage individuals who distribute nutrition services under subpart 2 to provide, to homebound older individuals, available medical information approved by health care providers through informational brochures and information on how to get vaccines, including vaccines for influenza, pneumonia, and shingles, in the individuals’ community;

SEC. 314. HOME DELIVERED NUTRITION SERVICES.

Section 336 of the Older Americans Act of 1965 (42 U.S.C. 3030s) is amended to read as follows:

“SEC. 336. PROGRAM AUTHORIZED.

“The Assistant Secretary shall establish and continue a program to make grants to States under State plans approved under section 307 for the establishment and operation of nutrition projects for older individuals that provide—

“(1) on 5 or more days a week (except in a rural area where such frequency is not feasible (as defined by the Assistant Secretary by rule) and a lesser frequency is approved by the State agency) at least 1 home delivered meal per day, which may consist of hot, cold, frozen, dried, canned, fresh, or supplemental meals and any additional meals that the recipient of a grant or contract under this subpart elects to receive; and

“(2) nutrition education, nutrition counseling, and other nutrition services, as appropriate, based on the needs of meal recipients.’’.

SEC. 315. CRITERIA.

Section 337 of the Older Americans Act of 1965 (42 U.S.C. 3030q) is amended to read as follows:

“SEC. 337. CRITERIA.

“The Assistant Secretary, in consultation with recognized experts in the fields of nutrition science, dietetics, meal planning and food service management, and aging, shall develop minimum criteria of efficiency and quality for the furnishing of home delivered meal services for projects described in section 336.”

SEC. 316. NUTRITION.

Section 339 of the Older Americans Act of 1965 (42 U.S.C. 3030q–21) is amended—

(1) in paragraph (1), to read as follows:

“(1) a description of a dietitian or other individual with equivalent education and training in nutrition science, or if such an individual is not available, an individual with comparable expertise in the planning of nutritional services, and;”;

and

(2) in paragraph (2)—

(A) in subparagraph (A)—

(i) in clause (i), to read as follows:

““(i) comply with the most recent Dietary Guidelines for Americans, published by the Secretary and the Secretary of Agriculture, and;”;

(ii) in clause (ii)(I), by striking “daily recommended dietary allowances as” and inserting “dietary reference intakes”;

(B) in subparagraph (D), by inserting “joint” after “encourages”;

(C) in subparagraph (G), to read as follows:

“(G) ensures that meal providers solicit the advice and expertise of—

“(I) a dietitian or other individual described in paragraph (1),

“(II) meal participants, and

“(III) other individuals knowledgeable with regard to the needs of older individuals, “;

and

(D) in subparagraph (H), by striking “and accompany”;

(E) in subparagraph (I), by striking “and” and

(F) by striking subparagraph (J) and inserting the following:

“(J) a description of nutrition screening and nutrition education, and nutrition assessment and counseling if appropriate, and

“(K) encourage individuals who distribute nutrition services under subpart 2 to provide, to homebound older individuals, available medical information approved by health care providers through informational brochures and information on how to get vaccines, including vaccines for influenza, pneumonia, and shingles, in the individuals’ community;”

SEC. 317. STUDY OF NUTRITION PROJECTS.

(a) STUDY.—

(1) IN GENERAL.—The Assistant Secretary shall make nutrition-related grants to carry out a program to make grants to States under State plans approved under section 336 for the establishment and operation of nutrition projects for older individuals that provide—

“(1) on 5 or more days a week (except in a rural area where such frequency is not feasible (as defined by the Assistant Secretary by rule) and a lesser frequency is approved by the State agency) at least 1 home delivered meal per day, which may consist of hot, cold, frozen, dried, canned, fresh, or supplemental meals and any additional meals that the recipient of a grant or contract under this subpart elects to receive; and

“(2) nutrition education, nutrition counseling, and other nutrition services, as appropriate, based on the needs of meal recipients.’’.

(b) REPORTS.—Such study shall, to the extent data are available, include—

(A) an evaluation of the effect of the nutrition projects authorized by such Act on—

(1) improvement of the health status, including nutritional status, of participants in the projects;

(2) prevention of hunger and food insecurity of the participants; and

(3) continuation of the ability of the participants to live independently;

(B) a cost–benefit analysis of nutrition projects authorized by such Act, including the potential to affect costs of the Medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.); and

(C) an analysis of how and recommendations for how nutrition projects authorized by such Act may be modified to improve the outcomes described in subparagraph (A), including recommendations for improving the nutritional quality of the meals provided through the projects and undertaking other potential strategies to improve the nutritional status of the participants.

SEC. 318. SENSE OF CONGRESS RECOGNIZING THE CONTRIBUTION OF NUTRITION TO THE HEALTH OF OLDER ADULTS.

(a) FINDINGS.—Congress finds that—

(1) good health and, a diet based on the Dietary Guidelines for Americans may reduce the risk of chronic diseases such as cardiovascular disease, osteoporosis, diabetes, macular degeneration, and cancer;

(2) the American Dietetic Association and the American Academy of Family Physicians have estimated that the percentage of older adults who are malnourished is estimated at 20 to 60 percent for those who are in home care and at 40 to 85 percent for those who are in nursing homes;

(3) the Institute of Medicine of the National Academy of Sciences has estimated that approximately 40 percent of community–residing persons age 65 and older have inadequate nutrient intakes;

(4) older adults are susceptible to nutrient deficiencies for a number of reasons, including a reduced ability to utilize nutrients, difficulty chewing, and loss of appetite;

(5) while diet is the preferred source of nutrition, evidence suggests that the use of a single daily multivitamin–mineral supplement may be an effective way to add nutritional deficiencies to the elderly population, especially the poor; and

(6) the Dietary Guidelines for Americans state that multivitamin–mineral supplement be useful by filling a specific identified nutrient gap that cannot be or is not otherwise being met by the individual’s intake of food.

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

(1) meal programs funded by the Older Americans Act of 1965 contribute to the nutritional health of older adults;

(2) when the nutritional needs of older adults are not fully met by diet, use of a single, daily multivitamin–mineral supplement health may prevent nutritional deficiencies common in many older adults;

(3) use of a single, daily multivitamin–mineral supplement can be a safe and inexpensive strategy to help ensure the nutritional health of older adults; and

(4) nutrition service providers under the Older Americans Act of 1965 should consider whether individuals with equivalent education, congregate and home–delivered meal programs would benefit from a single, daily multivitamin–mineral supplement that is in compliance with applicable government quality standards and provides at least ¼ of the essential vitamins and minerals at 100 percent of the daily value levels as determined by the Commissioner of Food and Drugs.

SEC. 319. IMPROVING INDOOR AIR QUALITY IN BUILDINGS WHERE OLDER INDIVIDUALS CONgregate.

Section 361 of the Older Americans Act of 1965 (42 U.S.C. 3030m) is amended by adding at the end the following:

“(c) The Assistant Secretary shall work in consultation with qualified experts to provide information on methods of improving indoor air quality in buildings where older individuals congregate.’’.

SEC. 320. CAREGIVER SUPPORT PROGRAM DEFINITIONS.

Section 320 of the National Family Caregiver Support Act (42 U.S.C. 3030s) is amended—

(1) in paragraph (1), by inserting “who is an individual with a disability” after “age”;

(2) in paragraph (9)—

(A) by striking “a child by blood or marriage” and inserting “a child by blood, marriage, or adoption”;

(B) by striking “55” and inserting “55”;

(C) by inserting before “In this paragraph” the following: ‘‘(a) IN GENERAL.—’’;

(4) by striking paragraph (2); and

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

and

(6) by adding at the end the following:

“(b) RULE.—In providing services under this subpart—

“(1) for family caregivers who provide care for individuals with Alzheimer’s disease and related disorders with neurological and or–

27 transmids dysfunction the State involved shall give priority to caregivers who provide care for older individuals with such disease or disorder;

and

(2) for grandparents or older individuals who are relative caregivers, the State in–

30 volved shall give priority to caregivers who provide care for children with severe disabilities.”

SEC. 321. CAREGIVER SUPPORT PROGRAM.

Section 373 of the National Family Caregiver Support Act (42 U.S.C. 3030s–1) is amended—

(1) in subsection (b)(3), by striking “care–

35 givers to assist” and all that follows through the end and inserting the following: ‘‘assist
the caregivers in the areas of health, nutrition, and financial literacy, and in making decisions and solving problems relating to their caregiving roles;'';

(2) training and technical assistance to support States, area agencies on aging, and organizations receiving grants under title VI, in engaging in community planning activities;

(3) the development, implementation, and assessment of technology-based service models and best practices, to support the use of health monitoring and assessment technologies, communication devices, assistive technologies, and other technologies that may enable family, professional caregivers to frail older individuals residing in home and community-based settings or rural areas;

(4) demonstration projects of national significance to promote quality and continuous improvement in the support provided to fam-
ily and other informal caregivers of older indi-
viduals through such grant or contract to carry out a demonstration project, or to provide technical assistance to agencies providing services under title III and by assisting in coordinating public and community transportation services; and

(5) providing innovative opportunities for older individuals to transportation services not provided under title III.

(6) the development, implementation, and assessment of technology-based service}

(SEC. 402. GRANT PROGRAMS.

Section 411 of the Older Americans Act of 1965 (42 U.S.C. 3032) is amended—

(1) in subsection (a), by striking “(A)” and inserting “(A) efforts to improve the quality of life and caregiving for older people;”; and

(2) in subsection (b), by striking “(A)” and inserting “(A) efforts to improve the quality of life and caregiving for older people;”.

(SEC. 403. CAREER PREPARATION FOR THE FIELD OF AGING.

Section 412(a) of the Older Americans Act of 1965 (42 U.S.C. 3032a(a)) is amended to read as follows:

“(a) GRANTS.—The Assistant Secretary shall make grants to institutions of higher education, including historically Black col-
leges or universities, Hispanic-serving institu-
tions, and Hispanic Centers of Excellence in

(SEC. 404. HEALTH CARE SERVICE DEMON-

stration Projects in Rural Areas.

Section 414 of the Older Americans Act of 1965 (42 U.S.C. 3032c) is amended—

(1) in subsection (a), by striking “(A)” and inserting “(A) providing comprehensive services in exchange for the services;”;

(2) in subsection (b), by striking “(A)” and inserting “(A) providing comprehensive services in exchange for the services;”.

(SEC. 405. TECHNICAL ASSISTANCE AND INNOVA-

TION TO IMPROVE TRANSPORTATION FOR OLDER INDIVIDUALS.

Section 416 of the Older Americans Act of 1965 (42 U.S.C. 3032e) is amended—

(1) in subsection (a), by striking “(A)” and inserting “(A) providing comprehensive services in exchange for the services;”;

(2) in subsection (b), by striking “(A)” and inserting “(A) providing comprehensive services in exchange for the services;”.

(SEC. 406. DEMONSTRATION, SUPPORT, AND RE-

search Projects for Multigenerational and Civic Engagement Activities.

Section 417 of the Older Americans Act of 1965 (42 U.S.C. 3032f) is amended to read as follows:

“(a) GRANTS AND CONTRACTS.—The Assistant Secretary shall award grants and enter into contracts with eligible organizations to carry out projects that—

(1) provide opportunities for older individuals to participate in multigenerational activities and civic engagement activities designed to address critical community needs, and use the full range of available and experience of older individuals, including demon-

(SEC. 407. DEMONSTRATION, SUPPORT, AND RE-

search Projects for Multigenerational and Civic Engagement Activities.

(a) GRANTS AND CONTRACTS.—The Assistant Secretary shall award grants and enter into contracts with eligible organizations to carry out projects that—

(1) provide opportunities for older individuals to participate in multigenerational activities and civic engagement activities designed to address critical community needs, and use the full range of available and experience of older individuals, including demon-

(SEC. 408. GRANT PROGRAMS.

Section 421 of the Older Americans Act of 1965 (42 U.S.C. 3032) is amended—

(1) in subsection (a), by striking “(A)” and inserting “(A) training and technical assistance to support States, area agencies on aging, and organizations receiving grants under title VI, in engaging in community planning activities;”;

(2) in subsection (b), by striking “(A)” and inserting “(A) training and technical assistance to support States, area agencies on aging, and organizations receiving grants under title VI, in engaging in community planning activities;”.

(SEC. 409. CAREER PREPARATION FOR THE FIELD OF AGING.

Section 422 of the Older Americans Act of 1965 (42 U.S.C. 3032a) is amended to read as follows:

“(a) GRANTS.—The Assistant Secretary shall make grants to institutions of higher education, including historically Black col-
leges or universities, Hispanic-serving institu-
tions, and Hispanic Centers of Excellence in

“(1) eligible organizations with a demonstrated record of carrying out multigenerational activities or civic engagement activities;

“(2) eligible organizations proposing multigenerational activity projects that will serve older individuals and communities with the greatest need (with particular attention in clauses (A) and (B) to low-income minority individuals, older individuals with limited English proficiency, older individuals residing in rural areas, and low-income minority communities);

“(3) eligible organizations proposing civic engagement projects that will serve communities with the greatest need; and

“(4) after the capacities to develop meaningful roles and assignments that the time, skills, and experience of older individuals to serve public and nonprivate nonprofit organizations.

“(d) APPLICATION. — To be eligible to receive a grant or enter into a contract under subsection (a), an organization shall submit an application to the Assistant Secretary at such time, in such manner, and accompanied by such information as the Assistant Secretary may require.

“(e) ELIGIBLE ORGANIZATIONS. — Organizations eligible to receive a grant or enter into a contract under subsection (a) shall be organizations that provide opportunities for older individuals to participate in activities described in subsection (a)(1), shall be organizations that provide opportunities for older individuals to participate in activities described in subsection (a)(1),(2) shall be organizations with the capacity to conduct the coordination, promotion, and facilitation described in subsection (a)(2), through the use of multigenerational coordinators.

“(f) LOCAL EVALUATION AND REPORT. —

“(1) EVALUATION. — Each organization receiving a grant or a contract under subsection (a) to carry out a project described in subsection (a) shall evaluate the multigenerational activities or civic engagement activities carried out under the project to determine—

“(A) the effectiveness of the activities involved;

“(B) the impact of such activities on the community being served and the organization participating.

“(C) the impact of such activities on older individuals involved in such project.

“(2) REPORT. — The organization shall submit a report to the Assistant Secretary containing the evaluation not later than 6 months after the expiration of the period for which the grant or contract is in effect.

“(g) REPORT TO CONGRESS. — Not later than 6 months after the Assistant Secretary receives the reports described in subsection (f)(2), the Assistant Secretary shall prepare and submit to the Speaker of the House of Representatives and the President pro tempore of the Senate a report that assesses the evaluations and that includes, at a minimum—

“(1) the names or descriptive titles of the projects funded under subsection (a);

“(2) a description of the nature and operation of the projects;

“(3) the names and addresses of organizations that conducted the projects;

“(4) in the case of projects carried out under subsection (a)(1), a description of the methods and success of the projects in recruiting older individuals as employees and as volunteers to participate in the projects;

“(5) in the case of projects carried out under subsection (a)(1), a description of the success of the projects in retaining older individuals participating in the projects as employees and volunteers;

“(6) in the case of projects carried out under subsection (a)(1), the rate of turnover of older individual employees and volunteers in the projects;

“(7) a strategy for disseminating the findings resulting from the projects described in paragraph (6);

“(8) any policy change recommendations relating to the projects.

“(h) DEFINITIONS. —

“(1) MULTIGENERATIONAL ACTIVITY. — The term ‘multigenerational activity’ means an activity that provides an opportunity for interaction between or among individuals of different generations, including activities connecting older individuals and youth in a child care program, a youth day care program, an educational assistance program, an at-risk youth intervention program, a juvenile delinquency treatment program, a before- or after-school program, a library program, or after school program.

“(2) MULTIGENERATIONAL COORDINATOR. —

“The term ‘multigenerational coordinator’ means a person who—

“(A) builds the capacity of public and nonprofit organizations to develop meaningful roles and assignments, that use the time, skill, and experience of older individuals to serve those organizations; and

“(B) nurtures productive, sustainable working relationships between—

“(i) individuals from the generations with older individuals;

“(ii) individuals in younger generations.”

SEC. 407. NATIVE AMERICANS.

Section 418a(2)(B)(ii) of the Older Americans Act (42 U.S.C. 3032h(a)(2)(B)(ii)) is amended by inserting “(including mental health)” after “health.”

SEC. 408. MULTIDISCIPLINARY CENTERS AND MULTIDISCIPLINARY SYSTEMS.

Section 419 of the Older Americans Act of 1965 (42 U.S.C. 3032h) is amended—

“(1) in section (a), by striking the title and inserting the following:

“SEC. 419. MULTIDISCIPLINARY CENTERS AND MULTIDISCIPLINARY SYSTEMS.”

“(2) in section (b), by redesigning subparagraphs (A) through (G) of clause (i) through (vii), respectively;

“(B) in subsection (b)(1), by redesigning subparagraphs (A) and (B) of clause (i) through (vii), respectively;

“(C) in subsection (b)(2), by redesigning subparagraphs (A) and (B) of clause (i) through (vii), respectively;

“(D) in subsection (b)(3), by redesigning subparagraphs (A) and (B) of clause (i) through (vii), respectively;

“(E) in subsection (b)(4), by redesigning subparagraphs (A) and (B) of clause (i) through (vii), respectively;

“(F) in subsection (b)(5), by redesigning subparagraphs (A) and (B) of clause (i) through (vii), respectively;

“(G) in subsection (b)(6), by redesigning subparagraphs (A) and (B) of clause (i) through (vii), respectively;

“(H) in subsection (b)(7), by redesigning subparagraphs (A) and (B) of clause (i) through (vii), respectively;

“(I) by inserting “the benefits of prevention and treatment of mental disorders in older individuals” for “services... to older individuals”;

“(J) in subsection (b)(8), by deleting the period at the end; and

“(K) by adding at the end the following:

“(ii) increase public awareness regarding the benefits of prevention and treatment of mental disorders in older individuals;

“(ii) reduce the stigma associated with mental disorders in older individuals and other barriers to the diagnosis and treatment of the disorders; and

“(iii) reduce age-related prejudice and discrimination regarding mental disorders in older individuals.

“(2) APPLICATION. — To be eligible to receive a grant under this subsection for a State, a State agency shall submit an application to the Assistant Secretary at such time, in such manner, and containing such information as the Assistant Secretary may require.

“(3) STATE ALLOCATION AND PRIORITIES. — A State agency that receives funds through a grant made under this subsection shall allocate the funds to area agencies on aging to carry out this subsection in planning and service areas in the State. In allocating the funds, the State agency shall give priority to planning and service areas in the State—

“(A) that are medically underserved; and

“(B) in which there are large numbers of older individuals.

“(4) AREA COORDINATION OF SERVICES WITH OTHER PROVIDERS. — In carrying out this subsection, to more efficiently and effectively deliver services to older individuals, each agency on aging shall—

“(A) coordinate services described in subparagraphs (A) and (B) of paragraph (1) with such services or similar or related services of other community agencies, and voluntary organizations; and

“(B) to the greatest extent practicable, integrate outreach and educational activities with such activities of existing (as of the date of the integration) social service and health care (including mental health) providers serving older individuals in the planning and service area involved.

“(5) RELATIONSHIP TO OTHER FUNDING SOURCES.—Funds made available under this subsection shall supplement, and not supplant, Federal, State, local, or any funds expended by a State or unit of general purpose local government (including an area agency
on aging) to provide the services described in subparagraphs (A) and (B) of paragraph (1).

‘‘(6) DEFINITION.—In this subsection, the term ‘mental health screening and treatment services’ means mental health screening, diagnostic services, care planning and oversight, therapeutic interventions, and referrals, that are:

(i) provided pursuant to evidence-based intervention and treatment protocols (to the extent such protocols are available) for mental disorders prevalent in older individuals; and

(ii) coordinated and integrated with the services of social service and health care (including mental health) providers in an area in order to:

(I) improve patient outcomes; and

(ii) ensure, to the maximum extent feasible, the continuing independence of older individuals who are residing in the area.’’.

SEC. 409. COMMUNITY INNOVATIONS FOR AGING IN PLACE.

Part A of title IV of the Older Americans Act of 1965 (42 U.S.C. 3031 et seq.) is amended by adding at the end the following:

‘‘SEC. 422. COMMUNITY INNOVATIONS FOR AGING IN PLACE.

‘‘(a) DEFINITIONS.—In this section:

‘‘(1) ELIGIBLE ENTITY.—The term ‘eligible entity’ means:

(A) a nonprofit health or social service organization, a community-based nonprofit organization, an area agency on aging, an American Indian tribal organization, a tribal organization, or another entity that—

(i) the Assistant Secretary determines to be appropriate to carry out a project under this section; and

(ii) demonstrates a record of, and experience in, providing or administering group and individual health and social services for older individuals;

(B) does not include an entity providing housing under the congregate housing services program carried out under section 802 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8011) or the multi-family service coordinator program carried out under section 802(g) of the Housing Act of 1959 (42 U.S.C. 170q(g));

‘‘(2) NATURALLY OCCURRING RETIREMENT COMMUNITY.—The term ‘Naturally Occurring Retirement Community’ means a community that coordinates contiguous service areas in which older individuals, which may include a residential building, a housing complex, an area (including a rural area) of single family residences, or a geographic area composed of age-integrated housing—

(A) where—

(i) 40 percent of the heads of households are older individuals; or

(ii) a critical mass of older individuals exists, based on local factors that, taken in total, reflect that the community is an organization to achieve efficiencies in the provision of health and social services to older individuals living in the community; and

(B) that is not an institutional care or assisted living setting.

‘‘(b) GRANTS.—

‘‘(1) IN GENERAL.—The Assistant Secretary shall make grants, on a competitive basis, to eligible entities to develop and carry out model aging in place projects. The projects shall promote aging in place for older individuals (including such individuals who reside in Naturally Occurring Retirement Communities), in order to sustain the independence of older individuals. A recipient of a grant under this subsection shall identify innovative strategies for providing, and linking older individuals to programs and services that provide, comprehensive and coordinated mental health services in order to improve the quality of life of older individuals and support aging in place.

‘‘(2) GRANT PERIODS.—The Assistant Secretary shall make the grants for periods of 3 years.

‘‘(c) APPLICATIONS.—

‘‘(1) IN GENERAL.—To be eligible to receive a grant under subsection (b) for a project, an eligible entity shall submit an application to the Assistant Secretary at such time, in such manner, and containing such information as the Assistant Secretary may require.

‘‘(2) CONTENTS.—The application shall include—

(A) a detailed description of the project, including:

(i) a description of the project and services in or in close proximity to a place where a large proportion of older individuals has aged in place and resided, such as a Naturally Occurring Retirement Community.

(B) a description of proposed actions by the entity to prevent the duplication of services described in subparagraph (d) and support the goal of this section to promote aging in place;

(C) a description of how the entity will cooperate, and coordinate planning and services (including any formal agreements), with agencies and organizations that provide publicly supported services for older individuals in the project area, including the State agency and agencies on aging with planning and service areas in the project area;

(D) an assurance that the entity will seek to establish cooperative relationships with other nonprofit or-for-profit organizations, including those identified in subparagraph (d); and

(E) a description of how the entity will support the goal of this section to promote aging in place; and

(F) a description of how the entity will cooperate, and coordinate planning and services (including any formal agreements), with agencies and organizations that provide publicly supported services for older individuals in the project area, including the State agency and agencies on aging with planning and service areas in the project area;

(G) an assurance that the entity will seek to establish cooperative relationships with other nonprofit or-for-profit organizations, including those identified in subparagraph (d); and

(H) a description of the protocol for referral of residents who may require long-term care services, including coordination with local agencies, including area agencies on aging and Aging and Disability Resource Centers that serve as single points of entry to public services;

(I) a description of how the entity will offer opportunities for older individuals to be involved in the governance, oversight, and operation of the project;

(J) an assurance that the entity will submit to the Assistant Secretary such evaluations and reports as the Assistant Secretary may require; and

(K) a plan for long-term sustainability of the project.

‘‘(d) USE OF FUNDS.—An eligible entity that receives a grant under subsection (b) shall use the funds made available through the grant to—

(A) ensure access by older individuals in the project area to community-based health and social services consisting of—

(i) case management, case assistance, and social work services; (ii) health care management and health care assistance, including disease prevention and health promotion services; (iii) education, socialization, and recreational activities; and

(iv) volunteer opportunities for project participants;

(B) conduct outreach to older individuals within the project area; and

(C) develop and implement innovative, comprehensive, and cost-effective approaches for the delivery of community-based health and social services, including those identified in subparagraph (d), which may include mental health services, for eligible older individuals.

‘‘(e) COORDINATION.—An eligible entity receiving a grant under subsection (b) for a project shall coordinate activities with organizations providing services funded under title III to support such services for or facilitate the delivery of such services to eligible older individuals served by the project.

‘‘(f) PREFERENCE.—In carrying out an aging in place project, an eligible entity shall, to the extent practicable, serve a community of low-income individuals and operate or locate the project and services in or in close proximity to a location where a large proportion of older individuals has aged in place and resided, such as a Naturally Occurring Retirement Community.

‘‘(g) FUNDING.—Funds made available to an eligible entity under subsection (b) shall be used to supplement, not supplant, any Federal, State, or other funds otherwise available to the entity to provide health and social services to eligible older individuals.

‘‘(h) COMPETITIVE GRANTS FOR TECHNICAL ASSISTANCE.—

‘‘(1) GRANTS.—The Assistant Secretary shall (or shall make a grant, on a competitive basis, to an eligible nonprofit organization, to enable the organization to—

(A) provide technical assistance to recipients of grants under subsection (b); and

(B) carry out other duties, as determined by the Assistant Secretary.

‘‘(2) ELIGIBLE ORGANIZATION.—To be eligible to receive a grant under this subsection, an organization shall be a nonprofit organization (including a partnership of nonprofit organizations), that—

(A) has experience and expertise in providing technical assistance to a range of entities (including a partnership of nonprofit organizations), including those identified in subparagraph (d); and

(B) has demonstrated knowledge and expertise in community-based health and social services.

‘‘(3) APPLICATION.—To be eligible to receive a grant under this subsection, an organization (including a partnership of nonprofit organizations) shall submit an application to the Assistant Secretary at such time, in such manner, and containing such information as the Assistant Secretary may require, including an assurance that the organization will submit to the Assistant Secretary such evaluations and reports as the Assistant Secretary may require.

‘‘(4) REPORT.—The Assistant Secretary shall annually prepare and submit a report to Congress that shall include—

(i) the findings resulting from the evaluations of the model projects conducted under this section;

(ii) a description of recommended best practices regarding carrying out health and social service projects for older individuals aging in place; and

(iii) recommendations for legislative or administrative action, as the Assistant Secretary determines appropriate.’’.

September 28, 2006
grams, and of how the evaluation relates to analysis of such services, projects, and programs and in the strategic plan of the Administration before the period at the end.

TITLE V—OLDER AMERICAN COMMUNITY SERVICE EMPLOYMENT PROGRAM

SEC. 501. COMMUNITY SERVICE OPPORTUNITIES ACT.

Title V of the Older Americans Act of 1965 (42 U.S.C. 3056 et seq.) is amended to read as follows:

"TITLE V—COMMUNITY SERVICE SENIOR OPPORTUNITIES ACT"

SEC. 501. SHORT TITLE.

This title may be cited as the Community Service Senior Opportunities Act.

SEC. 502. OLDER AMERICAN COMMUNITY SERVICE EMPLOYMENT PROGRAM.

(a) IN GENERAL.

(1) Establishment of program.—To foster individual economic self-sufficiency and promote useful opportunities in community service activities (which shall include community service employment) for unemployed low-income persons who are age 55 or older, particularly persons who have poor employment prospects, and to increase the number of persons who will provide the benefits of unsubsidized employment in both the public and private sectors, the Secretary of Labor (referred to in this title as the 'Secretary') may establish an Older American community service employment program.

(2) Use of appropriated amounts.—Amounts appropriated to carry out this title shall be used only to carry out the provisions contained in this title.

(b) Grant authority.

(1) Projects.—To carry out this title, the Secretary may make grants to public and nonprofit private agencies and organizations, agencies of a State, and tribal organizations to carry out the program established under subsection (a). Such grants may provide for the payment of costs, as provided in subsection (c), of projects developed by such organizations in cooperation with the Secretary in order to make such program effective or to supplement such program. The Secretary shall make the grants from allotments authorized in section 512 of the Older American Community Service Act of 1965 (29 U.S.C. 2801 et seq.), including utilizing the one-stop delivery system of the local workforce investment areas involved to recruit eligible individuals to ensure that the maximum number of eligible individuals will have an opportunity to participate in the project.

(2) Will coordinate activities with training and other services provided under title I of the Workforce Investment Act of 1998 (29 U.S.C. 2801 et seq.), including utilizing the one-stop delivery system of the local workforce investment areas involved in recruitment of eligible individuals to ensure that the maximum number of eligible individuals will have an opportunity to participate in the project; and

(3) Will ensure that, to the extent feasible, such project will serve the needs of minority and Indian eligible individuals, eligible individuals with limited English proficiency, and eligible individuals with greater economic need, at least in proportion to their numbers in the area served and take into consideration their rates of poverty and unemployment;

(c) Will prepare an assessment of the participants' skills and talents and their needs for services, except to the extent such project has, for the participant involved, recently prepared an assessment of such skills and talents, and such needs, pursuant to another employment or training program (such as a program under the Workforce Investment Act of 1998 (29 U.S.C. 291 et seq.), or the One-Stop Workforce Investment Act of 2000 (29 U.S.C. 2801 et seq.), or part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.)) and will prepare a related service strategy;

(d) Will provide training and employment counseling to eligible individuals based on strategies that identify appropriate employ opportunities and the need for supportive services, developed as a result of the assess and service strategy provided for in clause (1), and provide other appropriate information regarding such project; and

(e) Will provide counseling to participants on their progress toward their objectives and satisfying their need for support services;

(f) Will provide appropriate services for participants, or refer the participants to appropriate services, through the one-stop delivery system of the local workforce investment areas involved as established under section 13(c) of the Workforce Investment Act of 1998 (29 U.S.C. 2813(c)), and will be involved in the planning and operations of such system pursuant to a memorandum of understanding with the local workforce investment area designated in accordance with section 121(c) of such Act (29 U.S.C. 2811(c));

(g) Will post in such project workplace a notice, and will make available to each person associated with such project a written explanation—

(i) clarifying the law with respect to pol

(ii) containing the address and telephone number of the Inspector General of the Department of Labor, to whom questions regarding the application of such chapter may be addressed;

(iii) providing information about the availability of such chapter, including any information available through the One-Stop System of the local workforce investment area designated in accordance with section 13(c) of the Workforce Investment Act of 1998 (29 U.S.C. 2813(c)), and the Small Business Administration (20 U.S.C. 2801 et seq.), if section 6(a)(1) of such Act (29 U.S.C. 2806(a)(1)) applies to the applicant and if the participant were not exempt under section 13(c) of such Act (29 U.S.C. 2813(c)), if section 6(a)(1) of such Act (29 U.S.C. 2806(a)(1)) applies to the applicant and if the participant were not exempt under section 13(c) of such Act (29 U.S.C. 2813(c)), if section 6(a)(1) of such Act (29 U.S.C. 2806(a)(1)) applies to the applicant and if the participant were not exempt under section 13(c) of such Act (29 U.S.C. 2813(c)), if section 6(a)(1) of such Act (29 U.S.C. 2806(a)(1)) applies to the applicant and if the participant were not exempt under section 13(c) of such Act (29 U.S.C. 2813(c)), if section 6(a)(1) of such Act (29 U.S.C. 2806(a)(1)); and

(j) Will ensure that such project meets the needs for services, except to the extent such project has, for the participant involved, recently prepared an assessment of such skills and talents, and such needs, pursuant to another employment or training program (such as a program under the Workforce Investment Act of 1998 (29 U.S.C. 291 et seq.), or the One-Stop Workforce Investment Act of 2000 (29 U.S.C. 2801 et seq.), or part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.)) and will prepare a related service strategy;

(k) Will provide training and employment counseling to eligible individuals based on strategies that identify appropriate employ opportunities and the need for supportive services, developed as a result of the assess and service strategy provided for in clause (1), and provide other appropriate information regarding such project; and

(l) Will provide appropriate services for participants, or refer the participants to appropriate services, through the one-stop delivery system of the local workforce investment areas involved as established under section 13(c) of the Workforce Investment Act of 1998 (29 U.S.C. 2813(c)), and will be involved in the planning and operations of such system pursuant to a memorandum of understanding with the local workforce investment area designated in accordance with section 121(c) of such Act (29 U.S.C. 2811(c));

(m) Will post in such project workplace a notice, and will make available to each person associated with such project a written explanation—

(i) clarifying the law with respect to pol

(ii) containing the address and telephone number of the Inspector General of the Department of Labor, to whom questions regarding the application of such chapter may be addressed;

(iii) providing information about the availability of such chapter, including any information available through the One-Stop System of the local workforce investment area designated in accordance with section 13(c) of the Workforce Investment Act of 1998 (29 U.S.C. 2813(c)), and the Small Business Administration (20 U.S.C. 2801 et seq.), if section 6(a)(1) of such Act (29 U.S.C. 2806(a)(1)) applies to the applicant and if the participant were not exempt under section 13(c) of such Act (29 U.S.C. 2813(c)), if section 6(a)(1) of such Act (29 U.S.C. 2806(a)(1)) applies to the applicant and if the participant were not exempt under section 13(c) of such Act (29 U.S.C. 2813(c)), if section 6(a)(1) of such Act (29 U.S.C. 2806(a)(1)); and

(n) Will ensure that such project meets the needs for services, except to the extent such project has, for the participant involved, recently prepared an assessment of such skills and talents, and such needs, pursuant to another employment or training program (such as a program under the Workforce Investment Act of 1998 (29 U.S.C. 291 et seq.), or the One-Stop Workforce Investment Act of 2000 (29 U.S.C. 2801 et seq.), or part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.)) and will prepare a related service strategy;
and subcontractors) and affiliates of such enti-
ties receive an amount of the administra-
tive cost allocation determined by the Sec-
tary, in consultation with grantees, to be suf-
ficient for the costs of:

(2) REGULATIONS.—The Secretary may es-

tablish, issue, and amend such regulations as

may be necessary to effectively carry out this

section.

(3) ASSESSMENT AND SERVICE STRATE-

GIES.—

(A) PREPARED UNDER THIS ACT.—An as-

sessment and service strategy required by para-

graph (1)(N) to be prepared for an eligi-

ble individual shall satisfy any condition for an

assessment and service strategy or indi-

vidual employment plan for an adult partic-

ipant under subtitle B of title I of the Work-


seq.), in order to determine whether such eli-

gible individual also qualifies for intensive

or training services described in section

134(d) of such Act (29 U.S.C. 286a(d)).

(B) PREPARED UNDER WORKFORCE IN-

VESTMENT ACT OF 1998.—An assessment and

service strategy or individual employment plan

prepared under subtitle B of title I of the Work-


seq.) shall be used to comply with the require-

ment specified in subparagraph (A).

(c) FEDERAL SHARE AND USE OF FUNDS.

(1) FEDERAL SHARE.—The Secretary may

pay a Federal share not to exceed 90 percent

of the cost of any project for which a grant

is made under subsection (b), except that the

Secretary may pay all of such cost if such pro-

ject is—

(A) an emergency or disaster project; or

(B) a project located in an economically

depressed area determined by the Sec-

retary in consultation with the Secretary of

Commerce and the Secretary of Health and

Human Services.

(2) NON-FEDERAL SHARE.—The non-Federal

share shall be in cash or in kind. In deter-

mining the amount of the non-Federal share, the

Secretary may attribute fair market value to services and facilities contributed from non-Federal sources.

(3) USE OF FUNDS FOR ADMINISTRATIVE

costs.—(1) the grant amount to be paid under this sub-

section by the Secretary for a project, not to exceed 13.5 percent shall be available for any fiscal year to pay the ad-

ministrative costs of such project, except that—

(A) the Secretary may increase the amount available to pay the administrative costs to an amount not to exceed 15 percent of the grant amount; (B) in the case of a grant made under subsection (b)(4), the portion of the grant amount designated for the provision of services described in clause (ii) of section 134(b)(4) of such Act or for the provision of services described in clause (ii) of section 134(n) of such Act may be used under this subsection by the Secretary for providing services described in subparagraph (A)(i) of that section; or (C) the costs of performing general admin-

istrative activities, the costs of providing personnel, procurement, purchasing, property management, accounting, and payroll systems, and the costs of systems development, and operating costs of such systems.

(5) NON-FEDERAL SHARE OF ADMINISTRA-

TIVE COSTS.—To the extent practicable, an entity that obtains approval for a request described in subparagraph (A) shall provide for the costs of general administrative activities, the costs of providing personnel, procurement, purchasing, property management, accounting, and payroll systems, and the costs of systems development, and operating costs of such systems.

(6) USE OF FUNDS FOR WAGES AND BENEFITS

AND PROGRAMMATIC ACTIVITY COSTS. —

(A) IN GENERAL.—Amounts made avail-

able under this title that are not used to pay the administrative costs shall be used for the costs of pro-

grammatic activities, including the costs of

(i) participant wages, such benefits as are

required by law (such as workers’ compensa-

tion or unemployment compensation), the con-

struction of work-related facilities, the provi-

sion of such facilities, the payment of per-

sonnel-related and nonpersonnel-related

placement goals, and costs associated with the

placement goals, and costs associated with achieving unsubsidized employment positions in the project or the

other operation requirements imposed by the

Secretary;

(ii) the number of community service em-

ployment positions in the project or the

number of minority eligible individuals par-

ticipating in the project will decline if the amount available to pay the administrative costs is not increased; or

(iii) the size of the project is so small that the amount of administrative costs incurred to carry out the project necessarily exceeds 13.5 percent of the grant amount;

the Secretary shall increase the amount available for such fiscal year to pay the ad-

ministrative costs to an amount not to exceed 15 percent of the grant amount.

(B) ADMINISTRATIVE COSTS.—For purposes

of this title, administrative costs are the costs of

accounting, budgeting, and financial management;

(iii) procurement and purchasing;

(iv) property management;

(v) personnel management;

(vi) payroll functions;

(vii) coordinating the resolution of find-

ings arising from audits, reviews, investiga-

tions, and incident reports;

(vii) audits;

(viii) general legal services;

(ix) developing systems and procedures, including information systems, required for admin-

istrative functions;

(x) preparing administrative reports; and

(xi) other activities necessary for the gen-

eral administration of Federal and non-

Federal government funds and associated programs.

(B) THE COSTS OF PERFORMING OVERSIGHT

AND MONITORING RESPONSIBILITIES RELATED TO ADMIN-

ISTRATIVE FUNCTIONS.

(2) NON-FEDERAL SHARE.—The non-Federal

share shall be in cash or in kind. In deter-

mining the amount of the non-Federal share, the

Secretary may attribute fair market value to services and facilities contributed from non-Federal sources.

(3) USE OF FUNDS FOR ADMINISTRATIVE

costs.—(1) the grant amount to be paid under this sub-

section by the Secretary for a project, not to exceed 13.5 percent shall be available for any fiscal year to pay the ad-

ministrative costs of such project, except that—

(A) the Secretary may increase the amount available to pay the administrative costs to an amount not to exceed 15 percent of the grant amount if the Secretary deter-

mines, based on information submitted by the

grantee under subsection (b), that such increas-

e is necessary to carry out such project; and

(B) if the grantee under subsection (b) de-

monstrates to the Secretary that—

(i) administrative cost increases are being incurred in necessary program components, including liability insurance, payments for workers’ compensation, costs associated with achieving unsubsidized employment placement goals, and costs associated with other operation requirements imposed by the Secretary;

(ii) the number of community service em-

ployment positions in the project or the

number of minority eligible individuals par-

ticipating in the project will decline if the amount available to pay the administrative costs is not increased; or

(iii) the size of the project is so small that the amount of administrative costs incurred to carry out the project necessarily exceeds 13.5 percent of the grant amount;

the Secretary shall increase the amount available for such fiscal year to pay the ad-

ministrative costs to an amount not to exceed 15 percent of the grant amount.

(ii) participant training (including the payment of reasonable costs of instructors, classroom rental, training supplies, mate-

rials, equipment, supplies, and necessary travel expenses), which may be provided prior to or subsequent to placement and which may be provided on the job, in a classroom setting, or pursuant to other ap-

propriate arrangements;

(iii) job placement assistance, including job development and job search assistance;
"(D) REPORT.—Each grantee under subsection (b) shall annually prepare and submit to the Secretary a report documenting the grantee’s use of funds for activities described in clauses (i) through (y) of subparagraph (A)."

"(d) PROJECT DESCRIPTION.—Whenever a grantee conducts a project within a planning and service area in a State, such grantee shall conduct such project in consultation with the area agency on aging of the planning and service area and shall submit to the State agency and the area agency on aging a description of such project to be conducted in the State, including the location of the project, 90 days prior to undertaking the project and public comments, and according to guidelines the Secretary shall issue to assure efficient and effective coordination of projects under this title.

"(e) PILOT, DEMONSTRATION, AND EVALUATION PROJECTS.

"(1) IN GENERAL.—The Secretary, in addition to exercising any other authority contained in this title, shall use funds reserved under section 506(a)(1) to carry out demonstration projects, pilot projects, and evaluation projects, for the purpose of developing and implementing techniques and approaches, and demonstrating the effectiveness of the techniques and approaches, in addressing the employment and training needs of eligible individuals. The Secretary shall enter into such agreements with States, public agencies, nonprofit private organizations, or private business concerns, as may be necessary, to conduct the projects authorized by this subsection. To the extent practicable, the Secretary shall provide an opportunity, prior to the development of a demonstration or pilot project, for the appropriate area agency on aging to submit comments on such a project in order to ensure coordination of activities under this title.

"(2) PROJECTS.—Such projects may include—

"(A) activities linking businesses and eligible individuals, including activities providing to assistance to businesses to promote their participation in the program under this title;

"(B) demonstration projects and pilot projects, as described in subparagraph (A), for which older individuals or other eligible individuals (but targeted to eligible individuals) only if such demonstration projects and pilot projects are designed to assist in developing and implementing techniques and approaches in addressing the employment and training needs of eligible individuals;

"(C) demonstration projects and pilot projects, as described in subparagraph (B), for which businesses and businesses to promote their participation in the program under this title;

"(D) dissemination of best practices relating to employment of eligible individuals; and

"(F) evaluation of the activities authorized under this title.

"(3) CONSULTATION.—To the extent practicable, each grantee under this subsection shall consult with appropriate area agencies on aging and with other appropriate agencies and entities to promote coordination of activities under this title.

"SEC. 503. ADMINISTRATION.

"(a) STATE PLAN.—

"(1) GOVERNOR.—For a State to be eligible to receive an allotment under section 506, the Governor of the State shall submit to the Secretary for consideration and approval, a single State plan (referred to in this title as a State plan) that outlines a 4-year strategy for the statewide provision of community service employment and other authorized activities for eligible individuals under this title. The plan shall contain such provisions as the Secretary may require, consistent with this title, including a description of the provisions the Governor shall make the State plan available for public comment. The Secretary, in consultation with the Assistant Secretary, shall review the plan and make a written determination with findings and a decision regarding the plan.

"(2) RECOMMENDATIONS.—In developing the State plan prior to its submission to the Secretary, the Governor shall seek the advice and recommendations of—

"(A) individuals representing the State agency and the area agencies on aging in the State; and

"(B) individuals representing public and nonprofit private agencies and organizations providing employment services, including each grantee operating a project under this title in the State.

"(3) COMMENTS.—Any State plan submitted by the Governor in accordance with paragraph (1) shall be accompanied by copies of public comments relating to the plan received pursuant to paragraph (7), and a summary of the comments.

"(4) PLAN PROVISIONS.—The State plan shall include—

"(A) the relationships that the number of eligible individuals in each area bears to the total number of eligible individuals, respectively, in the State;

"(B) the relative distribution of eligible individuals residing in rural and urban areas in the State; and

"(C) the relative distribution of—

"(i) eligible individuals who are individuals with greatest economic need;

"(ii) eligible individuals who are minority individuals;

"(iii) eligible individuals who are limited English proficient; and

"(iv) eligible individuals who are individuals with disabilities.

"(2) RECOMMENDATIONS.—In developing the State plan prior to its submission to the Secretary, the Governor shall seek the advice and recommendations of—

"(A) the relationship that the number of eligible individuals in each area bears to the total number of eligible individuals, respectively, in the State;

"(B) the relative distribution of eligible individuals residing in rural and urban areas in the State; and

"(C) the relative distribution of—

"(i) eligible individuals who are individuals with greatest economic need;

"(ii) eligible individuals who are minority individuals;

"(iii) eligible individuals who are limited English proficient; and

"(iv) eligible individuals who are individuals with disabilities.

"(D) PROVISIONS.—In developing the State plan prior to its submission to the Secretary, the Governor shall seek the advice and recommendations of—

"(A) the relationship that the number of eligible individuals in each area bears to the total number of eligible individuals, respectively, in the State;

"(B) the relative distribution of eligible individuals residing in rural and urban areas in the State; and

"(C) the relative distribution of—

"(i) eligible individuals who are individuals with greatest economic need;

"(ii) eligible individuals who are minority individuals;

"(iii) eligible individuals who are limited English proficient; and

"(iv) eligible individuals who are individuals with disabilities.

"(E) EVALUATION.—The Governor of the State in which projects are proposed to be conducted under such grant shall be afforded a reasonable opportunity to submit to the Secretary—

"(A) recommendations regarding the anticipated effect of each such project upon the overall distribution of enrollment positions under this title in the State (including such distribution among urban and rural areas) and in number of positions to be provided by all grantees in the State;

"(B) any recommendations for redistribution of positions to underserved areas as vacancies occur in previously encumbered positions in other areas; and

"(C) in the case of any increase in funding that may be available for use in the State under this title for the fiscal year, any recommendations for distribution of newly available positions in excess of those available during the preceding year to underserved areas.

"(6) DISRUPTIONS.—In developing a plan or considering a recommendation under this section, the Governor shall avoid disruptions in the provision of services for participants to the greatest possible extent.

"(7) DETERMINATION; REVIEW.—

"(A) DETERMINATION.—In order to effectively carry out this title, each State shall make the State plan available for public comment. The Secretary, in consultation with the Assistant Secretary, shall review the plan and make a written determination with findings and a decision regarding the plan.

"(B) REVIEW.—The Secretary may review, on the Secretary’s own initiative or at the request of any public or private agency or organization or of any agency of the State, the distribution of projects carried out under this title in the State, including the distribution between urban and rural areas in the State. For each proposed reallocation of positions in the State, the Secretary shall give notice and opportunity for public comment.

"(B) EXEMPTION.—The grantees that serve eligible individuals who are older Indians or Pacific Island and Asian Americans with funds reserved under section 506(a)(3) may not be required to participate in the State planning processes described in this section but shall collaborate with the Secretary to develop a plan for projects and services to eligible individuals who are Indians or Pacific Islanders and Asian Americans.

"(b) COORDINATION WITH OTHER FEDERAL PROGRAMS.

"(1) IN GENERAL.—The Secretary and the Assistant Secretary shall coordinate the program carried out under this title with programs carried out under other titles of this Act, to increase employment opportunities available to older individuals.

"(2) PROGRAMS.

"(A) IN GENERAL.—The Secretary shall coordinate programs carried out under this title with programs carried out under the Workforce Investment Act of 1998 (29 U.S.C. 2801 et seq.), the Community Services Block Grant Act (42 U.S.C. 9901 et seq.), the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.), the Carl D. Perkins Career and Technical Education Act of 2000 (29 U.S.C. 1201 et seq.), and the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4950 et seq.). The Secretary shall coordinate the administration of this title with the administration of other titles of this Act by the Assistant Secretary to increase the likelihood that eligible individuals for whom employment opportunities under this title are available shall be served under such titles receive such services.

"(B) USE OF FUNDS.—
(1) **Prohibition.**—Funds appropriated to carry out this title may not be used to carry out any program under the Workforce Investment Act of 1998, the Community Services Block Grant Act of 1981, the Rural Developing Act of 1973, the Carl D. Perkins Career and Technical Education Act of 2006, the National and Community Service Act of 1990, or the Domestic Assistance Act of 1961.

(2) **Joint activities.**—Clause (i) shall not be construed to prohibit carrying out projects under this title jointly with programs, projects, or activities under any Act specified in clause (i), or from carrying out projects under this title.

(3) **Informational materials on affirmative action and coordination requirements of this title.**—The Secretary shall consult and cooperate with the Secretary of Labor to promote and coordinate efforts to carry out projects under this title jointly with programs, projects, or activities under any Act specified in clause (i), or from carrying out projects under this title.

(4) **Consultation and coordination with certain activities.**—The Secretary shall consult and cooperate with the Secretary of Health and Human Services on matters relating to the availability of assistance under this title and in promoting the identification and coordination of activities carried out under this title.

(5) **Use of services, equipment, personnel, and facilities.**—In carrying out this title, the Secretary may use the services, equipment, personnel, and facilities of Federal and other agencies, with their consent, with or without reimbursement, and on a similar basis cooperate with public and nonprofit private agencies and organizations in the use of services, equipment, personnel, and facilities.

(6) **Payments.**—Payments under this title may be made in advance or by way of reimbursement and in such installments as the Secretary may determine.

(7) **Delegation of functions.**—The Secretary shall not delegate any function of the Secretary under this title to any other Federal officer or entity.

(8) **C O N S I D E R A T I O N S.**

(a) **Monitoring.**—The Secretary shall monitor projects for which grants are made under this title to determine whether the grantee has fulfilled its responsibilities and to understand their rights under the Age Discrimination in Employment Act of 1967 (29 U.S.C. 621 et seq.) and to ensure compliance with the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.), and the Age Discrimination in Employment Act of 1967 (29 U.S.C. 621 et seq.).

(b) **Payments.**—Payments under this title may be made in advance or by way of reimbursement and in such installments as the Secretary may determine.

(c) **Delegation of functions.**—The Secretary shall not delegate any function of the Secretary under this title to any other Federal officer or entity.

(9) **CONSIDERATIONS.**

(a) **Monitoring.**—The Secretary shall monitor projects for which grants are made under this title to determine whether the grantee has fulfilled its responsibilities and to understand their rights under the Age Discrimination in Employment Act of 1967 (29 U.S.C. 621 et seq.) and to ensure compliance with the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.), and the Age Discrimination in Employment Act of 1967 (29 U.S.C. 621 et seq.).

(b) **Payments.**—Payments under this title may be made in advance or by way of reimbursement and in such installments as the Secretary may determine.

(c) **Delegation of functions.**—The Secretary shall not delegate any function of the Secretary under this title to any other Federal officer or entity.

(d) **Considerations.**—The Secretary shall consider the following in making grants and subgrants and contracts under this title:

(1) **General.**—The Secretary shall ensure that grant applications are evaluated in a manner that takes into account the ability of the grantee to attract and retain qualified employees, the quality of the project description, and the extent to which the project is likely to be implemented.

(2) **Coordination.**—The Secretary shall ensure that grant applications are evaluated in a manner that takes into account the ability of the grantee to attract and retain qualified employees, the quality of the project description, and the extent to which the project is likely to be implemented.
title under national grants from the Secretary in all of the States.

(2) HOLD HARMLESS.—If such amount provided under subsection (c) is—

(A) greater than the amount necessary to maintain the fiscal year 2000 level of activities, allotments for grantees that operate under this title under national grants from the Secretary in all State shall be proportional to the amount necessary to maintain their fiscal year 2000 level of activities, or 

(B) greater than the amount necessary to maintain the fiscal year 2000 level of activities, no State shall be provided a percentage increase above the amount necessary to maintain the fiscal year 2000 level of activities for grantees that operate under this title under national grants from the Secretary in the States.

(3) REDUCTION.—Allotments for States not affected by paragraphs (1) and (2)(B) shall be reduced proportionally to satisfy the conditions in such paragraphs.

(e) ALLOTMENTS FOR GRANTS TO STATES.—From the amount provided for grants to States under subsection (c), the Secretary shall allot for the State grantees in each State that is less than 1 per capita income in any State and in all States, and the Puerto Rico shall be 75 percent; the District of Columbia and the Commonwealth of Puerto Rico and the Outlying Areas, and the State of Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the United States Virgin Islands, and the Secretary shall allot for the State grantees in all States, except as follows:

(1) MINIMUM ALLOTMENT.—No State shall be provided an amount under this subsection that is less than 1 per cent of the amount provided under subsection (c) for State grantees in all of the States.

(2) HOLD HARMLESS.—If such amount provided under subsection (c) is—

(A) equal to or less than the amount necessary to maintain the fiscal year 2000 level of activities, allotments for State grantees in each State shall be proportional to the amount necessary to maintain their fiscal year 2000 level of activities; or

(B) greater than the amount necessary to maintain the fiscal year 2000 level of activities, no State shall be provided a percentage increase above the amount necessary to maintain the fiscal year 2000 level of activities for State grantees in the State that bears the same ratio to the sum of the number of individuals age 55 or older in the State and the allotment percentage of such State bears to the sum of the corresponding products for all States, except as follows:

(1) MINIMUM ALLOTMENT.—No State shall be provided an amount under this subsection that is less than 1 per cent of the amount provided under subsection (c) for State grantees in all of the States.

(2) HOLD HARMLESS.—If such amount provided under subsection (c) is—

(A) equal to or less than the amount necessary to maintain the fiscal year 2000 level of activities, allotments for State grantees in each State shall be proportional to the amount necessary to maintain their fiscal year 2000 level of activities, or

(B) greater than the amount necessary to maintain the fiscal year 2000 level of activities, no State shall be provided a percentage increase above the amount necessary to maintain the fiscal year 2000 level of activities for State grantees in the State that is less than 30 percent of the percentage increase above the amount necessary to maintain the fiscal year 2000 level of activities for public and private nonprofit agency and organization grantees that operate under this title under national grants from the Secretary in all of the States.

(3) REDUCTION.—Allotments for States not affected by paragraphs (1) and (2)(B) shall be reduced proportionally to satisfy the conditions in such paragraphs.

(f) ALLOTMENT PERCENTAGE.—For purposes of subsections (d) and (e) and this subsection:

(1) the allotment percentage of each State shall be 100 percent less that percentage that bears the same ratio to 50 per cent as the per capita income of such State bears to the per capita income of the United States, except that—

(A) the allotment percentage shall be not more than 75 percent and not less than 53 percent; and

(B) the allotment percentage for the District of Columbia and the Commonwealth of Puerto Rico shall be 75 percent.

(2) the number of individuals age 55 or older in any State and in all States, and the per capita income in any State and in all States shall be estimated by the Secretary on the basis of the most satisfactory data available to the Secretary; and

(3) for the purpose of determining the allotment percentage, the term ‘United States’ means the 50 States, and the District of Columbia.

(g) DEFINITIONS.—In this section:

(1) COST PER AUTHORIZED POSITION.—The term ‘cost per authorized position’ means the sum of—

(A) the hourly minimum wage rate specified in section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)), multiplied by the number of hours equal to the product of 21 hours and 52 weeks;

(B) an amount equal to 11 percent of the amount specified under subparagraph (A), for the purpose of covering Federal payments for fringe benefits for each position;

(C) an amount determined by the Secretary, for the purpose of covering Federal payments for the remainder of all other program and administrative costs.

(2) FISCAL YEAR 2000 LEVEL OF ACTIVITIES.—The term ‘fiscal year 2000 level of activities’ means—

(A) with respect to public and nonprofit private agency and organization grantees that operate under this title under national grants from the Secretary, their level of activities for fiscal year 2000;

(B) with respect to State grantees, their level of activities for fiscal year 2000.

(3) REDUCTION.—In local workforce investment where more than 1 grantee under this title provides services, the grantees shall—

(1) coordinate their activities related to the one-stop delivery systems; and

(2) be signatories of a memorandum of understanding established under section 121(c) of the Workforce Investment Act of 1998 (29 U.S.C. 2811(b)(1)) in the one-stop delivery system established under section 134(c) of such Act (29 U.S.C. 286(c)) for the appropriate local workforce investment areas, and shall carry out the responsibilities relating to such partners.

(2) DETERMINATION.—In local workforce investment where more than 1 grantee under this title provides services, the grantee shall—

(1) coordinate their activities related to the one-stop delivery systems; and

(2) be signatories of a memorandum of understanding established under section 121(c) of the Workforce Investment Act of 1998 (29 U.S.C. 2811(b)(1)) in the one-stop delivery system established under section 134(c) of such Act (29 U.S.C. 286(c)) for the appropriate local workforce investment areas, and shall carry out the responsibilities relating to such partners.

(3) TREATMENT OF ASSISTANCE.—Assistance provided under this title shall not be considered to be financial assistance described in section 265a(h)(1)(A) of the Immigration Act of 1977 (7 U.S.C. 2011 et seq.).

(4) MeASURES AND INDICATORS.—The Secretary shall establish and implement, after consultation with grantees, their state and local partner agencies under this title, States, and other individual, area agencies on aging, and other organizations serving older individuals, core measures of performance and additional indicators of performance for each grantee for projects and services carried out under this title. The core measures of performance and additional indicators of performance shall be applicable to each grantee under this title without regard to whether such grantee operates the program directly or through subcontract, grants, or agreements with other entities.

(5) CONTENT.—(A) COMPOSITION OF MEASURES AND INDICATORS.—

(i) MEASURES.—The core measures of performance established by the Secretary in accordance with paragraph (1) shall consist of core indicators of performance specified in subsection (b)(1) and the expected levels of performance applicable to each core indicator of performance.

(ii) ADDITIONAL INDICATORS.—Additional indicators of performance established by the Secretary in accordance with paragraph (1) shall be the additional indicators of performance specified in subsection (b)(2).

(6) MEASURES REPORT.—To carry out the Secretary’s responsibilities for reporting in section 503(g), the Secretary shall require the State agency for each State that receives funds under this title to report at the beginning of each fiscal year on such State’s compliance with section 503(b). Such report shall include the names and geographic location of all projects and programs assisted under this title, and carried out in the State and the amount allocated to each such project under section 506.

(7) Employment assistance and federal housing and food stamp programs.

(Funds received by eligible individuals from employment assistance programs established under this title shall not be considered to be income of such individuals for purposes of the eligibility of such individuals for food assistance programs, the amounts determined by the Secretary to be made available to such individuals to participate in any housing program for which Federal funds may be available or for any income determination under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.).
shall be consistent with the requirements of subparagraph (E). Funds may not be awarded under the grant until such agreement is reached. At the conclusion of negotiations concerning such a grant, the Secretary shall make available for public review the final negotiated expected levels of performance for each grantee, including any comments submitted by the grantee regarding the grantee’s satisfaction with the negotiated levels.

"(D) ADJUSTMENT.—The expected levels of performance described in subparagraph (C) applicable to a grantee shall be adjusted after the agreement under subparagraph (C) has been reached only with respect to the following factors:

(i) High rates of unemployment or of poverty or participation in the program of block grants to States for temporary assistance for needy families established under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), in the areas served by a grantee, relative to other areas of the State involved or Nation.

(ii) Significant downturns in the areas served by the grantee or in the national economy.

(iii) Significant numbers or proportions of participants with 1 or more barriers to employment, including individuals described in subsection (a)(3)(B)(ii) or (b)(2) of section 518, served by a grantee relative to such numbers for grantees serving other areas of the State or Nation.

(iv) Changes in Federal, State, or local minimum wage requirements.

(v) The changing of scale for the provision of community service employment and other authorized activities in the areas served by the grantee.

(E) EVALUATION.—(1) LEVEL OF PERFORMANCE.—For all grantees, the Secretary shall establish an expected level of performance of not less than the percentage specified in clause (i) (adjusted in accordance with subparagraph (D)) for the entry into unsubsidized employment core indicator of performance described in subsection (b)(1)(B).

(ii) REQUIRED PLACEMENT PERCENTAGES.—The minimum percentage for the expected level of performance for the entry into unsubsidized employment core indicator of performance described in subsection (b)(1)(B) is—

(I) 21 percent for fiscal year 2007;

(II) 22 percent for fiscal year 2008;

(III) 23 percent for fiscal year 2009;

(IV) 24 percent for fiscal year 2010; and

(V) 25 percent for fiscal year 2011.

(2) NATIONAL GRANTEES.—(I) IN GENERAL.—(A) A national grantee shall, after each year of failing to meet the expected levels of performance described in subparagraph (A)(ii), the Secretary shall provide technical assistance to the grantee to meet the expected levels of performance and achieve the applicable percentage.

(B) TECHNICAL ASSISTANCE AND CORRECTIVE ACTION PLAN.—(i) IN GENERAL.—If the Secretary determines that the grantee, for program year 2006—

(III) 25 percent for fiscal year 2011.

(2) LIMITATION.—An agreement to be evaluated and to report information on the additional indicators of performance shall be a requirement for application for, and a condition of, all grants authorized by this title.

(b) INDICATORS OF PERFORMANCE.—

(1) CORE INDICATORS.—The core indicators of performance described in subsection (a)(2)(A)(i) shall consist of—

(A) retention in unsubsidized employment for 1 year;

(B) satisfaction of the participants, employers, and their host agencies with their experiences and the services provided;

(C) any other indicators of performance that the Secretary determines to be appropriate to evaluate services and performance.

(2) ADDITIONAL INDICATORS.—The additional indicators of performance described in subsection (a)(2)(A)(ii) shall consist of—

(A) retention in unsubsidized employment for 1 year;

(B) satisfaction of the participants, employers, and their host agencies with their experiences and the services provided;

(C) any other indicators of performance that the Secretary determines to be appropriate to evaluate services and performance.

(d) DEFINITIONS OF INDICATORS.—The Secretary, after consultation with national and State grantees, representatives of business and labor organizations, and providers of services, shall, by regulation, issue definitions of the indicators of performance described in paragraph (3) to be used by all grantees under this title.

(e) EVALUATION.—The Secretary shall—

(i) annually evaluate, and publish and make available for public review information on, the actual performance of each grantee with respect to the levels achieved for each of the core indicators of performance, compared to the applicable percentage specified in subsection (a)(2)(C) (including any adjustments to such levels made in accordance with subsection (a)(2)(D)) for the core indicators of performance described in subsection (b)(1)(B).

(f) TECHNICAL ASSISTANCE AND CORRECTIVE ACTIONS.—(1) IN GENERAL.—If the Secretary determines that a State fails to meet the expected levels of performance described in subparagraph (A) for 3 consecutive program years (beginning with program year 2007), the Secretary shall provide for the conduct by the State of a competition to award the funds allotted to the State under section 506(e) for the first full program year following the Secretary’s determination.

(2) SPECIAL RULE FOR ESTABLISHMENT AND IMPLEMENTATION.—The Secretary shall establish and implement the core measures of performance and additional indicators of performance described in this section, including all required indicators described in subsection (b), not later than July 1, 2007.

(g) IMPACT ON GRANT COMPETITION.—The Secretary may not publish a notice announcing a grant competition under this title, and solicit proposals for grants, until the day that is the later of—

(i) the date on which the Secretary implements the core measures of performance and additional indicators of performance described in this section; and


SEC. 514. COMPETITIVE REQUIREMENTS RELATING TO GRANT AWARDS.

(a) PROVISIONS. —

(1) INITIAL APPROVAL OF GRANT APPLICATIONS.—From the funds available for national grants under section 506(d), the Secretary shall award grants under section 502(b) to eligible applicants, through a competitive process that emphasizes making performance requirements, to carry out programs under this title for not more than 4 years, except as provided in paragraph (2). The Secretary may not conduct a grant competition under this title until the day described in section 513(e).

(2) CONTINUATION OF APPROVAL BASED ON PERFORMANCE.—If the recipient of a grant made under paragraph (1) meets the expected levels of performance described in section 513(d)(2)(A) for each year of such 4-year period with respect to a project, the Secretary may award a grant under section 502(b) to the recipient to carry out such project beyond such 4-year period for 1 additional year without regard to such process.

(b) ELIGIBLE APPLICANTS.—An applicant shall be eligible to receive a grant under section 502(b) in accordance with subsections (a), (c), and (d).
section 516. SENSE OF CONGRESS.

"(a) IN GENERAL.—There are authorized to be appropriated to carry out this title such sums as may be necessary for fiscal years 2007, 2008, 2009, 2010, and 2011.

"(b) OBLIGATION.—Amounts appropriated under this subsection for any fiscal year shall be available for obligation during the annual period that begins on July 1 of the calendar year immediately following the beginning of such fiscal year and that ends on June 30 of the following calendar year. The Secretary may extend the period during which such amounts may be obligated or expended in the case of a particular organization or agency that receives funds under this title if the Secretary determines that such extension is necessary to ensure the effective use of such funds by such organization or agency.

"(c) RECAPTURING FUNDS.—At the end of the program year, the Secretary may recapture any unexpended funds for the program and reobligate such funds within the 2 succeeding program years for:

"(1) incentive grants to entities that are State grantees or national grantees under section 502(b);

"(2) technical assistance; or

"(3) grants or contracts for any other activity under this title.

SEC. 518. DEFINITIONS AND RULE.

"(a) DEFINITIONS.——For purposes of this title:

"(1) COMMUNITY SERVICE.—The term 300 community service' means—

"(A) social, health, welfare, and educational services (including literacy tutoring, legal and other counseling services and assistance, including tax counseling and assistance and financial counseling, and library, recreational, and other similar services;

"(B) conservation, maintenance, or restoration of natural resources;

"(C) community betterment or beautification;

"(D) antipollution and environmental quality efforts;

"(E) weatherization activities;
TITLE VII—ALLOTMENTS FOR VULNERABLE ELDER RIGHTS PROTECTION ACTIVITIES

SEC. 701. VULNERABLE ELDER RIGHTS PROTECTION ACTIVITIES.

Section 702 of the Older Americans Act of 1965 (42 U.S.C. 3058a) is amended by striking “2001” each place it appears and inserting “2007” in its stead.

SEC. 702. ELDER ABUSE, NEGLECT, AND EXPLOITATION.

Section 721 of the Older Americans Act of 1965 (42 U.S.C. 3058b) is amended—

(1) in subsection (a), by striking “programs for the prevention of” and inserting “programs to”; and—

(2) by redesignating paragraphs (2) through (8) as paragraphs (3) through (9), respectively.

(b) REGULATIONS AND EXPECTED LEVELS OF PERFORMANCE.

(1) ELIGIBLE INDIVIDUALS.

(A) IN GENERAL.—The term ‘eligible individual’ means an individual who is age 65 or older and who has a low income (including any such individual whose income is not more than 130 percent of the poverty line), excluding an income that is unemployment compensation, a benefit received under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.), a payment made to or on behalf of veterans or former members of the Armed Forces under the laws administered by the Secretary of Veterans Affairs, or 25 percent of a benefit received under title II of the Social Security Act (42 U.S.C. 401 et seq.), subject to subsection (b).

(B) PARTICIPATION.

(i) EXCLUSION.—Notwithstanding any other provision of this Act, the term ‘eligible individual’ does not include an individual who has participated in projects under this title for a period of 18 months in the aggregate (whether not consecutive) after July 1, 2007 unless the period was increased as described in clause (i).

(ii) INCREASED PERIODS OF PARTICIPATION.—The Secretary shall authorize a grantee for a project to increase the period of participation described in clause (i), pursuant to a request submitted by the grantee, for individuals who—

(I) have a severe disability;

(II) are frail or are age 75 or older;

(III) meet the eligibility requirements related to age for, but do not receive, benefits under title II of the Social Security Act (42 U.S.C. 401 et seq.);

(IV) live in an area with persistent unemployment and are individuals with severely limited employment prospects; or

(V) have limited English proficiency or low literacy skills.

(iv) INCOME.—In this section, the term ‘income’ means income received during the 12-month period ending on the date an eligible individual submits an application to participate in a project carried out under this title by such grantee.

(2) ELIGIBLE ORGANIZATIONS.

(A) IN GENERAL.—The term ‘eligible organization’ means an organization or group of individuals, including a response from individuals in social services, health care, public safety, and legal havens (at home or elsewhere), that recognizes autonomy and self-determination, and havens (at home or elsewhere), that recognizes autonomy and self-determination, and

(B) providing training, technical assistance, and other methods of support to groups carrying out multidisciplinary efforts at the State (referred to in some States as ‘State Work Groups’);

(D) broadening and studying various models for bringing a coordinated multidisciplinary and interdisciplin ary response to elder abuse, neglect, and exploitation, including a response from individuals in social services, health care, public safety, and legal disciplines;

(E) establishing a State coordinating council, which shall identify the individual State’s needs and provide the Assistant Secretary with information and recommendations relating to efforts by the State to combat elder abuse, neglect, and exploitation;

(F) by redesignating paragraphs (2) through (8) as paragraphs (3) through (9), respectively.

(b) CLARIFICATION.

(1) DEFINITION.—In this subsection, the term ‘covered year’ means fiscal year 2006 or a subsequent fiscal year.

(2) CONSORTIA OF TRIBAL ORGANIZATIONS.

If a tribal organization receives a grant under this part for fiscal year 1991 as part of a consortium, the Assistant Secretary shall consider the tribal organization to have received a grant under this part for fiscal year 1991 for purposes of paragraphs (a) and (b), and shall apply the provisions of subsections (a) and (b)(1) (under the conditions described in subsection (b)) to the tribal organization for each subsequent year in which the tribal organization submits an application under this part, even if the tribal organization submits—

(A) a separate application from the remaining members of the consortium; or

(B) an application as 1 of the remaining members of the consortium.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to grants awarded under part A of title VI of the Older Americans Act of 1965 (42 U.S.C. 3057b et seq.) during the grant period beginning April 1, 2006, and all subsequent grant periods.

SEC. 602. NATIVE AMERICANS CAREGIVER SUPPORT PROGRAM.

Section 643 of the Older Americans Act of 1965 (42 U.S.C. 3057n) is amended—

(1) in paragraph (1), by striking “2001” and inserting “2007” and

(2) in paragraph (3), by striking “$5,000,000” and all that follows through the period at the end and inserting “$6,500,000 for fiscal year 2007, $6,800,000 for fiscal year 2008, $7,200,000 for fiscal year 2009, $7,500,000 for fiscal year 2010, and $7,900,000 for fiscal year 2011.”.
SEC. 705. RULE OF CONSTRUCTION.

Subtitle C of title VII of the Older Americans Act of 1965 (42 U.S.C. 3058bb et seq.) is amended by adding at the end the following:

"SEC. 765. RULE OF CONSTRUCTION.

"Nothing in this title shall be construed to interfere with or abridge the right of an older individual to practice the individual's religion through reliance on prayer alone for healing, in a case in which a decision to so practice the religion—

"(1) is contemporaneous or expressed by the older individual—

"(A) either orally or in writing;

"(B) with respect to a specific illness or injury that the older individual has at the time of the decision; and

"(C) when the older individual is competent to make the decision;

"(2) is made prior to the occurrence of the illness or injury in a living will, health care proxy, or other advance directive document that is validly executed and applied under State law.
(1) ensuring communication among agencies administering programs designed to serve youth, especially those in disadvantaged situations;
(2) assessing the needs of youth, especially those in disadvantaged situations, and those who work with youth, and the quantity and quality of Federal programs offering services, opportunities, and opportunities to help youth in their educational, social, emotional, physical, vocational, and civic development, in coordination with the Federal Interagency Forum on Child and Family Statistics;
(3) recommending quantifiable goals and objectives for programs;
(4) making recommendations for the allocation of resources in support of such goals and objectives;
(5) identifying possible areas of overlap or duplication in the purpose and operation of programs serving youth and recommending ways to better facilitate the coordination and consultation among, and improve the efficiency and effectiveness of, such programs;
(6) identifying target populations of youth who are disproportionately at risk and assisting agencies in focusing additional resources on such youth;
(7) developing a plan, including common indicators of youth well-being that are consistent with those indicators tracked by the Federal Interagency Forum on Child and Family Statistics, and assisting Federal agencies, at the request of 1 or more such agencies, in determining whether they are meeting the goals and objectives described in paragraph (3);
(8) assisting Federal agencies, at the request of 1 or more such agencies, in collaborating—
(A) model programs and demonstration projects focusing on special populations, including youth in foster care and migrant youth;
(B) projects to promote parental involvement; and
(C) projects that work to involve young people in service programs;
(9) soliciting and documenting ongoing input and recommendations from—
(A) youth, especially youth in disadvantaged situations;
(B) national youth development experts, researchers, community-based organizations, including faith-based organizations, foundations, business leaders, youth service providers, and teachers; and
(C) State and local government agencies, particularly agencies serving children and youth; and
(10) working with Federal agencies—
(A) to promote high-quality research and evaluation, identify and replicate model programs and promising practices, and provide technical assistance relating to the needs of youth; and
(B) to coordinate the collection and dissemination of youth services-related data and research.
(b) TECHNICAL ASSISTANCE.—The Council may provide technical assistance to a State at the request of a State to support a State-funded council for coordinating State youth efforts.

SEC. 804. COORDINATION WITH EXISTING INTERAGENCY COORDINATION ENTITIES.
In carrying out the duties described in section 803, the Council shall coordinate the efforts of the Council with other Federal, State, and local coordinating entities in order to complement and not duplicate efforts, including the following:
(1) Coordinating with the Federal Interagency Forum on Child and Family Statistics, established by Executive Order No. 13045 (42 U.S.C. 3311 note); relating to protection of children from environmental health risks and safety risks), on matters pertaining to data collection.
(2) Coordinating with the United States Interagency Council on Homelessness, established under the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11311), on matters pertaining to homelessness.

SEC. 805. ASSISTANCE OF STAFF.
(a) GENERAL.—The Chairperson is authorized to employ up to 3 individuals to have responsibility for assisting in carrying out the duties of the Council under this title.
(b) STAFF OF FEDERAL AGENCIES.—Upon request of the Council, the head of any Federal agency shall provide the Council with whatever information the Chairperson determines appropriate.

SEC. 806. POWERS OF THE COUNCIL.
(a) MAILS.—The Council may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.
(b) ADMINISTRATIVE SUPPORT SERVICES.—The Administrator of General Services shall provide to the Council—
(1) administrative support services for the Council; and
(2) such clerical, transcription, and custodial services as the Chairperson determines appropriate.

SEC. 807. REPORT.
(a) INTERIM REPORT.—Not later than 1 year after the first meeting of the Council, the Council shall transmit to the relevant committees of Congress an interim report of the findings of the Council.
(b) FINAL REPORT.—Not later than 2 years after the first meeting of the Council, the Council shall transmit to the relevant committees of Congress a final report of the Council's findings and recommendations, which report shall—
(1) include a comprehensive list of recent research and statistics by various Federal agencies on the overall well-being of youth;
(2) include the assessment of the needs of youth and those who serve youth;
(3) include a summary of the plan described in section 803(a)(7); and
(4) recommend ways to coordinate and improve Federal training and technical assistance, information sharing, and communications among the various Federal programs and agencies serving youth, as the Chairperson determines appropriate.
(5) include recommendations to better integrate and coordinate policies across agencies at the Federal, State, and local levels, including any programs Cloud any program that the Chairperson determines appropriate, if any, for legislation and administrative actions;
(6) include a summary of actions the Council has taken at the request of Federal agencies to facilitate collaboration and coordination on youth serving programs and the results of those collaborations, if available;
(7) include a summary of the action the Council has taken at the request of States to provide technical assistance under section 803(b), if applicable; and
(8) include a summary of the input and recommendations from the groups identified in section 803(a)(9).

SEC. 808. TERMINATION.
The Council shall terminate 60 days after transmitting the final report under section 807(b).
supports to help older individuals avoid institutional care; strengthen health and nutrition programs while ensuring no State loses a dime as they operate these programs; improves educational and volunteer services; encourages wealthy seniors to pay for many of their programs; this maximizes the taxpayer investment for low-income seniors; increases the Federal, State, and local coordination; and reforms employment-based training for older Americans.

With these employment-based training programs, to reflect the changing nature of the Older Americans Act and our senior population, I am also pleased this House-Senate agreement requires Federal grant competitions and encourages grantees to establish partnerships with private-sector businesses. These partnerships will help provide participants on-the-job training and aid individuals in achieving their goal of attaining unsubsidized employment.

At the same time, the agreement does not lose sight of the valuable community service aspect of the program and requires at least half of all subsidized employment-based training to provide community service.

I would also like to commend my committee colleague, Mr. OSBORNE, for his work on this legislation, the Federal Youth Coordination Act, that we have been able to incorporate into this agreement. Over the last four decades, there has been a growing Federal involvement and a rapid growth in funds aimed to address numerous problems of youth, from substance abuse and violence to teen pregnancy and hunger. Mr. OSBORNE has taken the lead in the effort to evaluate, coordinate, and improve these programs. Under his legislation, the Federal Youth Development Council will be charged with doing just that.

At a time when so many in Washington feel the need to establish new program after new program, I appreciate this effort to take a step back and review what is already out there before we add even more layers of bureaucracy.

Mr. Speaker, as I did in June, when the House passed its initial version of this Older Americans Act reauthorization, I close by thanking all Americans who work or volunteer to support our country’s senior citizens. This strong and vital network is made possible because of selfless volunteers who deliver meals to homebound seniors, offer companionship, assist with activities of daily living, and provide many other necessary supports that help older Americans remain healthy and fulfilled.

This House-Senate agreement is designed to support them, and I believe it is a positive reflection of their good work. And with that, I urge my colleagues to join me in supporting this measure.

Mr. Speaker, I reserve the balance of my time.

Mr. HINOJOSA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 6197, the Older Americans Act Amendments of 2006. This bipartisan, bicameral legislation addresses one of the top priorities of the aging community, as articulated in last December’s White House Conference on Aging: the reauthorization of the Older Americans Act.

I would like to commend the staff on both sides of the aisle and both sides of the Capitol for their diligent work to get this bill ready for our consideration. It took a great deal of patience and perseverance. I would especially like to commend the efforts of Kate Houston on the majority side for all of her hard work and service to this committee. On this side of the aisle, I would especially like to thank Ricardo Martinez for his work in keeping the process moving.

Aging is a fact of life. However, through the establishment of Social Security, Medicare, and the enactment of the Older Americans Act, living in poverty no longer is a fact of aging. From 1959 to 2002, the percentage of older people living in poverty fell from 35 percent down to 10 percent.

The Older Americans Act of 1965 is the landmark legislation that articulated our commitment as a Nation. The act begins with a declaration of objectives which includes the following: “Retirement in health, honor, dignity, after years of contribution to the economy.” This is a statement of our national obligations to older Americans.

The Older Americans Act represents our commitment to meeting that obligation. This law provides for support services, such as transportation, housekeeping, and personal care. It provides nutrition services both in the home and in community settings. It provides preventive health services and supports family caregivers. Finally, it protects the rights of vulnerable older Americans by combating consumer fraud and protecting seniors from abuse.

The bill before us reauthorizes all of the core programs in the Older Americans Act. It promotes greater access to services for individuals who are more comfortable in a language other than English. It maintains the structure of the Senior Community Service Employment Program and reaffirms the dual purpose of the program’s employment and community service. It provides for greater flexibility to provide additional training to hard-to-serve populations to improve their employment outcomes.

It strengthens the very successful family caregivers program. It provides greater choices in health nutrition education so that our seniors can remain at home and in their communities. It promotes financial literacy for family caregivers and seniors so that older Americans’ physical and mental health is not jeopardized by poor financial health. It strengthens our system of protecting older Americans from abuse.

Finally, it recognizes that seniors are a growing resource for the aging network and for our communities in general. We must continue to look for ways to leverage our older citizens’ talents and desires to continue to make a difference.

This legislation has the support of the aging community. More than anything else, they are asking us to complete this work before we leave town in the next few days. Today, we move one step closer to this goal. It is my hope that once we send this legislation to the President for his signature, we will not relegate the Older Americans Act to the back burner. I hope that our resources will match our rhetoric and the policy goals laid out in this legislation.

As we have worked in a bipartisan manner to craft a reauthorization bill, I hope that as we move forward with the appropriations process, when we return after the elections, we will remember that the Older Americans Act programs are cost effective. We know that every dollar spent providing a meal or supporting seniors so that they can remain at home and in their communities not only improves their quality of life but saves entitlement spending for long-term care. Mr. Speaker, that is the genius of the Older Americans Act. It is incumbent upon all of us to step up and invest in these programs.

It has been a pleasure working with my friend and colleague, the chairman of our Select Education Committee, PAT TIBERI from Ohio. He is fair and listens and is willing to find a way to make things work, as we found in this legislation. I urge all my colleagues to support this legislation. It is something we can be proud of.

Mr. Speaker, I reserve the balance of my time.

Mr. McKEON. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio (Mr. TIBERI), the subcommittee chairman.

Mr. TIBERI. Mr. Speaker, I want to thank Chairman McKEON and Mr. HINOJOSA for all the work they both have done to make this an even better product today. Your leadership has been crucial to this process. I am proud, Mr. Speaker, of the bipartisan and bicameral process from both sides of the Capitol in coming up with a piece of legislation during this time of year that is endorsed by the majority of both parties and a majority here in the United States House of Representatives.

This has been a product of many months of hard work to reauthorize the Older Americans Act. The chairman and the ranking member of the subcommittee overviewed the legislation quite well, so I will not repeat what they said. But we heard from national, State, and local stakeholders, we heard from constituents and seniors themselves. This legislation is a product that the vast aging network in America can be proud of as this reauthorization passes this House today.
Mr. Speaker, I rise in strong support of H.R. 6197, the Older Americans Act. I was very pleased to see the interests of those in our society reach the House floor today.

Mr. HINOJOSA. Mr. Speaker, I wish to thank the gentleman from Illinois (Mr. DAVIS), who serves on the Education Committee and the Government Reform Committee and is a valued and very important member of our committee.

Mr. DAVIS of Illinois. Mr. Speaker, I want to thank the gentleman from Texas for his yielding. I also want to commend Chairman MCKEON and Ranking Member MILLER for the tremendous display of bipartisanship which brought this legislation to the floor. I also want to congratulate Chairman TIBERI and Member HINOJOSA for the tremendous work they were able to do in subcommittee and all of the processing that actually took place.

Mr. Speaker. I rise in strong support of H.R. 6197, the Older Americans Act. I was very pleased to see the interests that I expressed included in the final outcome of the legislation. We were able to include kinship caregivers have an opportunity to participate at an earlier age, expanded from 60 to 55. We were also able to work with Mr. EHLERS and make sure that there was serious consideration given to the mental health needs of seniors.

It is obvious that this is a very good piece of legislation, and it is a good note for us to be preparing to leave on, because it means that we have looked after the interests of those in our society reaching their golden years. I have been told that you can measure the greatness of a society by how well it takes care of its young, how well it takes care of its old, and how well it takes care of those who have difficulty looking after themselves. This legislation does indeed look after the older members of our society.

I thank again the Education Committee for an outstanding job, and I want to thank my staff person who worked with the committee, Dr. Jill Hunter-Williams, to make sure our interests were totally displayed. It has been a pleasure to see the process.

Mr. MCKEON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I mentioned earlier in my comments that added to the Older Americans Act we have included a bill that is sponsored by our colleague here, Mr. OSBORNE. I failed to mention that this committee that this legislation establishes, the Federal Youth Coordination Act, establishes a Youth Coordinating Council. This council that this legislation sets up will be named the Tom Osborne Coordinating Council. Mr. OSBORNE will be leaving the committee at the end of this session. We will miss him greatly.

Mr. Speaker, I am happy to yield 5 minutes to the gentleman from Nebraska (Mr. OSBORNE).

Mr. OSBORNE. I want to thank you, Mr. Chairman, for those kind words, and thank you so much for your assistance in this matter. I would like to also thank Subcommittee Chairman TIBERI and Mr. HINOJOSA for their work.

I would like to particularly address title VIII of the Older Americans Act, entitled “The Federal Youth Coordination Act,” which has been referred to previously. I, along with PETE HOEKSTRA, Mr. PAYNE and Mr. FORD, introduced the Federal Youth Coordination Act at the request of many organizations such as America’s Promise, American Youth Policy Forum, Campfire USA, Learn and Serve America, Volunteers of America, Big Brothers and Big Sisters, and the Child Welfare League of America.

These groups were united in feeling that something needed to be done concerning the large number of youth-serving programs in the Federal Government. So these groups believe that young people could be better served if Federal youth-serving programs were coordinated, better targeted and streamlined; and we really appreciated that help.

The Federal Youth Coordination Act establishes a council chaired by the Secretary of Health and Human Services composed of representatives of youth-serving agencies within the Federal Government. So the Federal Youth Coordination Act is established to serve more children more effectively.

The council will also provide help to states and local governments that have difficulty looking after their young people. The council will also seek to coordinate these different programs.

The purpose is, number one, to eliminate duplication and waste, which sometimes we have in government.

The Second Amendment to the Constitution requires that each program has measurable, quantifiable goals. When representatives or other people evaluate a program, how do they know it is accomplishing what it was designed to do? So often there is something called “mission creep,” where a program is established to serve one particular program, and it isn’t long before it is off in another direction.

Third, to verify that each program serves the purpose for which it was intended.

Fourth, to ensure communication between agencies regarding youth-serving programs.

The council must meet quarterly and file an interim and a final report with congressional committees with jurisdiction over youth-serving programs. The report will provide critical information about programs in order to serve more children more effectively.

I would especially like to thank the leadership of the committee, Mr. LEADER BOEHNER, Chairman MCKEON, and Ranking Member MILLER for all of their help; also members of the staff, Whitney Rhoades, Kate Houston, Rich Stombres, Susan Ross, Denise Forte and Brady Young; also over in the Senate side, Norm COLEMAN, Debbie Stabenow and their Senate staffers. And especially I would like to mention Erin Duncan on my staff, who spent the better part of 2 years working on this legislation.

So, again, Mr. Chairman, thank you so much for your help, and I believe that this will be a great program for so many young people, and we appreciate all that you have done.

Mr. HINOJOSA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Chairman, I want to say that it was a pleasure to work with our chairman, Mr. BUCK MCKEON, and with our ranking member, GEORGE MILLER, on this legislation. I appreciate all of the effort that they made so that we would wind up with an excellent piece of legislation.

Mr. Speaker, I yield back the balance of my time.

Mr. MCKEON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to recognize the hard work of my staff, Kate Houston, Stephanie Milburn, Rich Stombres and Taylor Hansen for the work they have done on this, along with the Democratic staffers on the other side of the aisle.

Mr. HOLT. Mr. Speaker, I rise in support of the reauthorization of the Older American Act. I would like to thank Congressmen BUCK MCKEON, PAT TIBERI, GEORGE MILLER and RUBEN HINOJOSA for their hard work reauthorizing this act.

Since originally enacted in 1965, the Older Americans Act has been an important vehicle by which senior citizens in need have received nutritional support, community service employment, pension counseling services, protections against neglect and abuse, and many other services.

Nutrition services through Title III of the Older Americans Act, such as the “Meals on Wheels” program, are essential in helping senior citizens who cannot prepare their own food to still have access to convenient and nutritious meals. The program serves those most in need, such as the aged, the less affluent, those who live alone, and members of minority groups.

I was pleased that I was able to amend the Seniors Independence Act during mark-up to stop the Department of Labor from using an unfair calculation of income to determine eligibility for Title V seniors community service employment programs, SCSEP. In January 2005,
the Department of Labor issued a “Training and Employment Guidance Letter” that unilaterally changed the eligibility criteria for Title V. Instead of discounting certain forms of income like veterans’ compensation, Social Security Disability Insurance, unemployment compensation, and a portion of traditional Social Security benefits, the new regulations mandated inclusion of that income, thus making fewer seniors eligible for vital services. It would be inconsistent to state that the program targets persons with greatest economic need and persons who are disabled, and then use their Social Security income or disability benefits to exclude them from participation. It would also be a mistake to hold someone’s service in the Armed Forces against them in determining their eligibility for employment assistance. The amendment that I offered in the Education and the Workforce Committee restores the eligibility criteria to the pre-2005 levels, and it was unanimously agreed to. I thank Chairman McCrory and the rest of the committee for their help and cooperation on this issue.

Furthermore, I have advocated for Naturally Occurring Retirement Communities, NORCs, to be included in the legislation. NORCs supported by the older Americans act would provide technical assistance to target supportive services to assist the millions of older adults living in naturally occurring retirement communities throughout the country to maintain their independence and quality of life.

NORC supportive service programs are intended to increase efficiencies in the delivery of services to large populations of older adults living alone and to reduce redundancies in the delivery of those services. They are also intended to empower older adults, and the communities within which they live, to determine the types of programs and services that they wish to receive—thus building supportive and responsive communities.

For millions of older adults, NORCs are becoming the retirement homes of choice and necessity. According to AARP, upwards of one-third of the older adult population is living in a NORC setting. With the retirement of the baby boomers over the next 20 or 30 years, the NORC supportive service programs are intended to increase the efficiency of the delivery of services to this population increases, more services will be required to ensure their independence.

I will continue to ensure that necessary funds are allocated, so that New York is not penalized because of the redistribution of funds under the Older Americans Act Amendments of 2006. We must not allow meals and services to be taken away from elderly people in one State to give to elderly people in another State.

I hope my colleagues will join me in preserving this much-needed program for American seniors everywhere.

Mr. McCrory. Mr. Speaker, I submit for the RECORD the following correspondence between Chairman Bill Thomas of the Committee on Ways and Means and myself.


Hon. HOWARD P. ‘‘BUCK’’ MCKEON, Chairman, Committee on Education and the Workforce, Rayburn House Office Building, Washington, DC.

Dear Chairman McCrory: I am writing in regard to H.R. 6197, the ‘‘Older Americans Act Amendments of 2006,’’ which was referred to the Committee on Education and the Workforce and is scheduled for floor consideration on Thursday, September 28, 2006.

As you know, the Committee on Ways and Means has jurisdiction over matters concerning the Social Security Act. Section 203 of the bill impacts the Social Security Administration and the U.S. Department of Health and Human Services, and thus falls within the jurisdiction of the Committee on Ways and Means. However, in order to expedite this bill for floor consideration, the Committee will forgo action on this bill. This is being done with the understanding that it does not in any way prejudice the Committee with respect to the appointment of conferees or its jurisdictional prerogatives on this or similar legislation.

I would appreciate your response to this letter, confirming this understanding with respect to H.R. 6197, and would ask that a copy of your response be included in the Congressional Record during floor consideration.

Best regards,

BILL THOMAS,
Chairman.


Chairman Bill Thomas, Committee on Ways and Means, Longworth HOB, Washington, DC.

Dear Chairman Thomas: Thank you for your recent correspondence on the consideration of H.R. 6197, the ‘‘Older Americans Act Amendments of 2006,’’ Section 203 of the bill establishes the Interagency Coordinating Committee on Aging to improve coordination among agencies with responsibility for programs and services for older individuals. The coordinating committee impacts the Social Security Administration and the U.S. Department of Health and Human Services, and thus falls within the shared jurisdiction of our two committees.

I appreciate your assistance in expediting the consideration of this bill and your willingness to forgo action on this bill. I agree that this procedure in no way diminishes or alters the jurisdictional interest of the Committee on Ways and Means and I support your request for conferees on those provisions within your committee’s jurisdiction.

Finally, I will include your letter and this response in the Congressional Record during consideration of H.R. 6197 on the House floor.

Sincerely,

HOWARD P. ‘‘BUCK’’ MCKEON,
Chairman.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. McCrory) that the House suspend the rules and pass the bill, H.R. 6197.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. McCrory, Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 6197.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 5825, ELECTRONIC SURVEILLANCE MODERNIZATION ACT

Mr. PUTNAM (during consideration of H.R. 6197), from the Committee on Rules, submitted a privileged report (Rept. No. 109-696) on the resolution (H. Res. 1032) providing for consideration of the bill (H.R. 5825) to update the Foreign Intelligence Surveillance Act of 1978, which was referred to the House Calendar and ordered to be printed.

APPOINTMENT OF CONFEREES ON H.R. 4954, SECURITY AND ACCOUNTABILITY FOR EVERY PORT ACT

Mr. King of New York. Mr. Speaker, I ask unanimous consent to take from the Speaker’s table the bill (H.R. 4954) to improve maritime and cargo security through advanced layered defenses, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

MOTION TO INSTRUCT OFFERED BY MR. THOMPSON OF MISSISSIPPI

Mr. THOMPSON of Mississippi. Mr. Speaker, I offer a motion to instruct conferees.

The Clerk read as follows:

Mr. Thompson of Mississippi moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the Senate amendment to the bill H.R. 4954 be instructed to agree to the
Mr. THOMPSON of Mississippi (during the reading). Mr. Speaker, I ask unanimous consent that the motion to instruct be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

The SPEAKER pro tempore. Pursuant to clause 7 of rule XXII, the gentleman from Mississippi (Mr. THOMPSON) and the gentleman from New York (Mr. KING) each will control 30 minutes.

The Chair recognizes the gentleman from Mississippi.

Mr. THOMPSON of Mississippi. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of this motion to instruct conferences. By passing this motion, we will ensure that the House conferees take seriously our Nation’s efforts to secure the national transportation infrastructure.

We have seen a lot of piecemeal legislation out of the House of Representatives. Just last week, Republicans tried to shortchange the American people on border security by authorizing a fence without sufficient funds to build it. Some folks seem to think that piecemeal legislation will do just fine in time for the election. We have a chance here today to ensure that piecemeal and politics do not prevail over security and doing what is right by the American people.

We have the choice: we can partially secure or fully secure the national transportation infrastructure. This choice should be a no-brainer. That is why I encourage this body to support this motion to instruct. This motion incorporates many of the important security measures passed by the Senate, but neglected by the House.

Among other things, Mr. Speaker, this motion would instruct conferences to support improvements to security for America’s seaports and mass transit and rail systems. We know about the very real threat to our rail and mass transit systems. We remember what happened in Tokyo, Mumbai, London, and Spain. We mourn the hundreds of innocent civilians that have been killed and wounded by terrorist attacks on a major rail system.

But despite all of this, Mr. Speaker, the 109th Congress has not adequately focused on rail and public transportation security. Similarly, the administration has not yet accepted that rail and public transportation is a Federal responsibility.

At a congressional hearing on March 29, Tracy Henke of DHS told Mr. Thomas of Congress that “aviation security by law is a Federal responsibility. That is not the case for transit security.” Quite simply, this administration has flawed vision of securing America.

The Senate put up a way to solve some of these issues, and the sensible thing to do is to support these solutions. It helps our communities for Congress to support vulnerability assessments for freight and passenger rail transportation. It is good policy to require the submission of prioritized recommendations for improving rail security in a report to Congress. It makes good sense for the government to use its information assets for allocating grants and establishing security improvement priorities, and it makes sense to study the costs and feasibility of required security screening for passengers, baggage, and cargo on passenger trains.

It is also good for our Nation’s security, Mr. Speaker, to create a rail security R&D program to improve freight and intercity passenger rail security. It makes sense to reduce the vulnerability of train stations and equipment to explosives and hazardous chemicals, biological and radioactive substances.

Democrats, Mr. Speaker, offered many of these provisions in the Rail and Public Transportation Security Act of 2006, and I am glad to see that they found their way to the floor today.

Another transportation mode that we should instruct conferences on is aviation security. Last week, the terrorist plot to destroy 10 planes bound for this country. Next time we might not be so lucky. We know that aviation remains a major target for terrorists, so we should absolutely ensure that the House conferees do not ignore improvements to aviation security. Anything less would shortchange our communities and our safety.

This motion to instruct, Mr. Speaker, would instruct conferences to retain language adopted in the Senate that will ensure that TSA has enough screeners to keep our aviation system secure.

There is little justification for an arbitrary 45,000 screener cap. Such a cap ties the hands of TSA just as it is trying to expand its activities in the airport to include behavioral recognition and the checking of identification against boarding passes. TSA should not be boot-strapped by this arbitrary cap.

The Senate approach of dealing with this issue is an important one that we should accept.

In sum, Mr. Speaker, this motion instructs conferees to take a total and complete approach to transportation and maritime security. Mr. Speaker, I urge the Senate to continue to piecemeal security legislation. Just as we can’t secure our borders with a small fence, we can’t secure our homeland without focusing on all major threats. But how can we go back to our constituents and say we didn’t secure our transportation system when we had a chance? This body can do better, and this motion will make sure we put America’s security first. I urge all Members to support it.

I reserve the balance of my time.

Mr. KING of New York. Mr. Speaker, I rise in opposition to the motion to instruct. But let me say at the outset that I commend the gentleman from Mississippi for the cooperation he has given throughout this legislative process.

I want to commend Ms. HARMAN, Ms. SANCHEZ, and certainly Mr. LUNGREN, who are the prime movers of this legislation at the subcommittee and committee level.

Several points have to be made. The first is port security bill is completed. None of the items referenced by the gentleman from Mississippi relate to port security. Port security matters have been resolved.

Among other things, the port security legislation will provide $400 million in grants for U.S. ports.

It requires scanning of all containers coming to the U.S. for radiation at the Nation’s 22 top ports, which covers 98 percent of containers entering the United States.

It sets a firm timetable for implementing the Transportation Worker Identification Card, TWIC, and requires a program to scan 100 percent of cargo at three foreign seaports. Using the results of this pilot, the bill requires a widespread implementation.

Mr. Speaker, many of the items or a number of the items referenced in the motion to instruct, taken by themselves, many Members on this side, including myself, would agree to. Also, for instance, with reference to title 6 in the National Alert System, we have reached agreement on that. That was included in the final legislation.

On matters such as 1103, that is redundant in certain respects with the FEMA reforms which have been already approved by the conference committee and are included in the Homeland Security appropriations bill. There are other matters such as section 1104, which I strongly support and I am still hoping can be included in the final package. We are working toward that, and we are negotiating. There are other items also that are still on the table and we are trying to find accord on.

Having said that, I think it is important to note, for instance, with the...
transportation provisions that they even added on to the port security bill and yet in some cases they can be redundant. It should be noted, for instance, that through the transit security grant we have provided $375 million to the country’s mass transit, ferry, and intercity bus systems across the country and this year voted to appropriate $200 million in grants specifically targeting mass transit agencies. Since 9/11, we granted more than $1 billion, $11.5 billion, in homeland security assistance. Much of this has gone to transit.

The point is, Mr. Speaker, if there were more time, there are a number of these items which I could support. I know my many members of the committee on our side could support, but we cannot allow the perfect to be the enemy of the good.

We have a port security bill. Those of us who went through the trauma of Dubai Ports know the way the country came to a fevered pitch and rightly so, over the issue of our Nation’s security. We have addressed that. We passed legislation on this floor by a vote of 421–2, legislation that was worked on at a tremendous pace by Mr. LUNGREN, Ms. HARMAN, Ms. SANCHEZ. That went through. It was a truly bipartisan effort.

They have now reached the one-half yard line on that legislation. Let us not allow other issues, as important as they may be, to stop us from getting across the goal line with port security, comprehensive port security legislation which the American people have asked us to consider.

We have satisfied that request. This is excellent legislation. It is bipartisan legislation. We should be all proud of it. Let us not allow other issues to impede the progress, especially when a number of those issues I believe still can be resolved. But we don’t want to, again, put the final product in jeopardy.

Mr. Speaker, I reserve the balance of my time.

Mr. THOMPSON of Mississippi. Mr. Speaker, I yield 3 minutes to the gentleman from California, an original person promoting port security, Ms. HARMAN.

Ms. HARMAN. I thank the gentleman for yielding and commend him for his enormous leadership as ranking member on the Homeland Security Committee. I am proud to serve on that committee.

Mr. Speaker, nearly 6 months ago, I stood here with our colleagues and called the passage of H.R. 4954 by a vote of 421–2 a legislative miracle. I stand by those words today.

Mr. LUNGREN and I co-authored the SAFE Port Act, and from the beginning it has been a collaborative and comprehensive effort, both bicameral and bipartisan. It has been, and I hope it will continue to be, an example of how Congress should work. I appreciate this approach to port and container security, and I am gratified that this issue is finally getting the attention it deserves.

Thanks should also go to the ranking member of the full committee, Mr. THOMPSON; the ranking member of the subcommittee, Ms. SANCHEZ; the chairman of the full committee, Mr. KING; and Chairman LUNGREN of the subcommittee, whom I applaud for working together that the Homeland Security Committee is becoming a very significant committee in this Congress.

But this is not the time, Mr. Speaker, to congratulate ourselves and rest on our laurels. It is the time to take the steps forward. And in the last days of the last week before we recess for this election, we have a chance to do that, but only if we compromise with the other body.

As you heard from Mr. THOMPSON, this motion to instruct encourages us to take provisions in the other bill that reach for rail, mass transit, aviation, and related transportation modes beyond layered container security.

I know, as the representative of residents around Ports of L.A. and Long Beach, the largest container port complex in the country, that those containers go onto a semi-submerged rail bed and go all over the country. I know that my constituents use all these other forms of transportation. They know that they need to be safer, and that by reaching for responsible provisions in the Senate version of this bill, as this motion instructs us to do, we will get a law. We will also do what Democrats here have done throughout the week of debate on various security bills was supposed to be about, and that is work together to make America safer.

Mr. KING of New York. Mr. Speaker, I yield as much time as he may consider.

Mr. DANIEL E. LUNGREN of California. Mr. Speaker, I rise in opposition to the motion to instruct, not because I disagree with the intent of the gentleman from California and the other speakers on the other side, but rather, let’s not screw up a good deal.

We have worked very hard on a bipartisan basis to bring forth a major piece of legislation dealing with an area of the country that needs to be addressed, and that is port security. The name of the bill is the Safe Ports Bill. The Senate retained our number, retained the name; the guts of our bill is in this motion to instruct.

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We have worked very hard on a bipartisan basis to bring forth a major piece of legislation dealing with an area of the country that needs to be addressed, and that is port security. The name of the bill is the Safe Ports Bill. The Senate retained our number, retained the name; the guts of our bill is in this motion to instruct.

Mr. Speaker, I yield as much time as he may consider.

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Mr. Speaker, I yield as much time as he may consider.
gentlewoman from Orange County, California (Ms. Loretta Sanchez).

Ms. Loretta Sanchez of California. Thank you, Mr. Thompson. Thank you for all of your guidance and help in getting this bill to the point where it is, and also to Chairman King. This is, of course, a very bi-partisan manner. I also want to thank the chairman of the subcommittee where I am the ranking member, which would be Mr. Lungren. And I rise in support of the Democratic motion to instruct conferees on H.R. 4954, the SAFE Port Act.

Now, why would we have a motion to instruct that would include things about freight and about mass transit and surface transportation security? Well, the reason is that the Senate side is taking up those issues; and they are good issues.

I mean, look how long it took us to get here to do port security. We should be just as concerned to do rail security, mass transit security, surface transportation security. As Ms. Harman, when you get done with the port, the container keeps going through the neighborhood on trucks, it goes through in freight through the railroad tracks. So it doesn't stop at the port. We need to do it all.

For example, today we held a hearing, as Chairman Lungren said, on a very important issue, the training for the security of transportation employees. Not the ones at the airport where we have training, they just put a lot of money, but the ones for busses, mass transit, railroad, freight workers.

Mr. Speaker, this was a very important hearing because things have happened on buses and trains, like Madrid and London. We need to ensure that transit and rail employees receive adequate training on how to recognize and report potential threats; how to protect themselves; and how to help us, the passengers, if there is a disaster going on; how they would respond in an incident.

And there are other provisions in this motion to instruct: establish a national alert response system to ensure that populations are alerted if there is a serious threat; require the Department of Homeland Security to perform vulnerability assessments of freight and passenger rail and make recommendations on how to improve their security; and establish a program to increase the tracking and communication technology on trucks that carry hazardous materials.

These are some of the critical issues that this motion to instruct encompasses. So all of this work, Mr. Thompson, Ms. Harman, myself, Mr. Lungren, Mr. King, is very important, and I am thrilled we are at this point.

But the need is urgent, and it will be good. We cannot wait another 5 years like we did with port security. We should do it now. I urge my colleagues to support improving rail, mass transit, surface transportation, and port security. Please vote for the motion to instruct.

Mr. King of New York. Mr. Speaker, I reserve the balance of my time.

Mr. Thompson of Mississippi. Mr. Speaker, I yield 3 minutes to the gentlewoman from California (Mrs. Tauscher).

Mrs. Tauscher. Mr. Speaker, I thank the ranking member for his leadership.

Mr. Speaker, I rise today in strong support of the Democratic motion to instruct conferees on the SAFE Port Act. The Republican leadership has failed to fix the Department of Homeland Security's grant system which just this week failed to provide the port of Oakland in California, the fourth busiest port in the country in the heart of the Bay Area, with any money at all to protect this vital national security and economic security asset.

The most recent round of port security grant awards demonstrates the agencies' continued ignorance of the security needs of our Nation's ports, and the lack of a credible threat assessment by which to award funds.

Of course, should we be surprised? This is the same agency that identified Old McDonald's Petting Zoo as a vulnerable national asset, but left the Empire State Building off the list as a logical target for funding support.

We cannot do enough to protect our critical infrastructure in the United States; but without Ranking Member Thompson's motion to instruct, we will be leaving glaring vulnerabilities in our rail, subway, bus, and trucking systems.

The Republican leadership has had many opportunities to address these issues, separate and apart from ports legislation, but it has failed to take our Nation's vital transportation systems.

Today, through the motion to instruct, the House has the ability to show our absolute commitment to the safety and security of Americans who use our Nation's vital transportation systems. We should follow the leadership of the other body to secure our Nation's rail and transit systems, strengthen aviation security, secure the border, create a national warning and alert system, and provide first responders with post-disaster health monitoring.

By supporting the Democratic motion to instruct conferees, we will get it right; and we will instruct the conferees to accept the Senate positions on these important funding issues. We should not let this opportunity to do better, to strengthen security, and assist first responders pass us by.

Please support the Democratic motion to instruct. Mr. King of New York. Mr. Speaker, I reserve the balance of my time.

Mr. Thompson of Mississippi. Mr. Speaker, I yield 2 minutes to the gentleman from Maryland (Mr. Ruppersberger).

Mr. Ruppersberger asked and was given permission to revise and extend his remarks.

Mr. Ruppersberger. Mr. Speaker, I rise in support of this motion to instruct conferees. As co-chair of the Congressional Port Security Caucus and a member of the Permanent Select Committee on Intelligence, I cannot stress enough the importance of adequately securing our ports.

The proposed sale of shipping operations to Dubai Ports World earlier this year was a wake-up call for this country, not because it would have jeopardized shipping operations here on the ground. Our longshoremen, terminal operators, Coast Guard, Customs and Border Patrol will do a great job no matter what company manages shipping operations. The Dubai deal brought dominoes falling and showed the vulnerabilities that America could no longer ignore. The UAE spends a huge amount of money on securing its Dubai ports, and their ports are the safest in the world. The Dubai ports are safe because of the money invested in their ports and because they make their ports a priority.

We have not paid sufficient attention to our ports. We have not made our ports a priority. There are 539 ports in this country, making them an economic engine for America. The Port of Baltimore, which I represent, alone handles about 400,000 containers each major event. A major event could result in economic damages ranging from $58 billion to $1 trillion.

With so much at stake for our safety and economy, it is essential that we know what is coming in through our ports and who is sending it. Ironically, Dubai Ports World's failed attempt to take over shipping operations here in America was what finally got our country to focus on securing our ports. The SAFE Port Act closes the Lanes gap in a critical piece of legislation and a bipartisan effort. It is a comprehensive first step to make our ports safer. We must make port security a high priority.

I strongly support moving this bill through Congress.

Mr. Thompson of Mississippi. Mr. Speaker, I yield 5 minutes to the gentleman from Massachusetts (Mr. Markey).

Mr. Markey. Mr. Speaker, I thank the gentle for yielding me this time, and I thank him for his excellent work on this legislation.

I rise in support of the motion to instruct conferees offered by Mr. Thompson.

Mr. Speaker, the 9/11 Commission determined that the risk of maritime terrorism is at least as great if not greater than the risk of terrorism involving civilian aviation. We know that terrorists around the world want to obtain a nuclear bomb. We know that their plot includes an attempt to purchase a nuclear bomb in the former Soviet Union.
to transport that nuclear bomb to a port around the world, to place that nuclear bomb in a container on a ship, and then to bring that container on that ship to a port in the United States where that nuclear bomb can be detonated by remote control before that nuclear bomb is ever taken off that ship.

The majoritv is happy that they are going to screen once they reach the port in the United States. By then it is too late. The bomb can be detonated while still on the ship. That is our nightmare scenario. And that is something that the majoritv Republican Party has refused to put in place as protection against this ultimate al Qaeda attack upon our country.

They support screening after it reaches the United States. They support having a demonstration project around the world. But as late as 2 days ago in the Homeland Security Committee hearing, Secretary Chertoff once again repeated the Bush administration policy, the Republican policy, that they do not support the mandatory screening of all cargo for nuclear bombs overseas, which is the 9/11 Commission report finding, that that is where the protection should be put in place.

So that is our problem. What we will do is we will have a ship with a container in Africa, in Europe, in Asia, and one of those containers will have had a nuclear bomb slipped into it. And then that ship, because there is no scanning for nuclear bombs around the world, that ship then heads for a port in the United States.

We would not be talking about losing 3,000 people or 5,000 people. We would be talking about losing tens or hundreds of thousands of Americans in that nuclear explosion.

If we don’t scan for a nuclear bomb overseas, we can’t be sure. If we don’t scan for a container overseas, then the United States will have to once again reinitiate a policy of duck and cover here in America with Americans learning how to protect themselves in the event of a nuclear bomb.

The bomb is not going to be delivered by an airplane or some submarine attack. Al Qaeda doesn’t have that kind of capacity. This is the way in which the nuclear bomb is most likely to come, by container transport from overseas. That is too big. It should be closed. The Republican majority just wants to use paperwork screening. It is almost like saying that they are going to check everyone of us at an airport in the United States but having checked our paperwork that is good on the plane, you don’t have to let us look at your bags. You don’t have to show us your bags, take off your shoes, go right on the plane. Get on the plane. Thanks for showing us your paperwork.

We are a railroad town, and that is why there are thousands of Americans in that nuclear explosion.

As late as 2 days after the 9/11 Commission report finding, that that is where the protection should be put in place.

Secondly, as to the issue of bipartisanship and 100 percent screening, I would also advise the gentleman that the language that is adopted in the SAFE Ports Act which is going to conference was the language proposed by Democrats in the Senate which provides for three pilot projects of 100 percent screening at three foreign ports. So we are adopting Democratic language. We had one in ours, and they had three in theirs. We are accepting the three. To me that is the essence of bipartisanship.

With that, I would have to dismiss the comments of the gentleman from Massachusetts.

Mr. Speaker, I reserve the balance of my time.

Mr. THOMPSON of Mississippi. Mr. Speaker, I yield 4 minutes to the gentleman from Texas (Ms. JACKSON-LEE).

(Ms. JACKSON-LEE of Texas asked and was given permission to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the ranking member for a very instructive motion to instruct.

I would say to the chairman that we have worked together on this committee as best that we could in a bipartisan manner.

But let me tell you why I think this motion to instruct is an important motion to instruct.

But the Secretary recently said in the last year that the truth of the matter is that a fully loaded airplane with jet fuel, a commercial airliner, has the capacity to kill 3,000 people, but a bomb in a subway may kill only 30. I do not know how many of you are experts on the type of bomb or the type of transit that may be impacted, but I think that narrow view of rail security brings us to where we are today. That is why this motion to instruct is so important, because we have an atmosphere and a sense at the Homeland Security Department that rail security or the devastation that could occur by attacking, whether it is Amtrak or whether it is a subway or some other form of rail, that it is not serious.

Let me tell you why it is serious. I live in Houston, Texas, and the symbol for Houston is the Transco, the two railroads. We are a railroad town, and that means that all throughout my district and all throughout my neighborhoods are railroad tracks that then have the opportunity for a cargo train or a passenger train to travel right next to a residential house. My husband might not care for me to say it, but he says he went to sleep with the railroad ring in his ears because his original home was near the railroad tracks.

So this motion to instruct is crucial to save lives, because it would authorize $3.5 billion for a mass transit security grant program and $1.2 billion for freight and passenger rail security.

Why can’t we take the Senate bill? There are large populations that are impacted by rail transportation and/or cargo. The Assistant Secretary for Homeland Security told Congress just in March of this year that aviation security by law is a Federal responsibility. That is not the case with transit security. And he ends it at that.

But homeland security is a Federal responsibility; and, therefore, I would argue that the reasonableness of the distinguished gentleman from Mississippi’s motion to instruct is an important motion to instruct. It is not about the wording that rail and mass transit can be vulnerable. And I cite which has already been cited: Worldwide terrorist attacks on trains average 30 per year. The 9/11 Commission noted that rail and mass transit is the second most vulnerable, and our workers on mass transit are saying that as well.

So I simply want to applaud the gentleman and ask that my colleagues support this and realize that we have a challenge and that the reason why Congress must act is to instruct the Executive that we do have a problem because leadership at the Homeland Security Department has
said, one. ‘‘It’s not my job.’’ We have heard that. And two, ‘‘Don’t worry about it; only two or three are going to be lost.’’

Well, I would simply say to my good friends at the Homeland Security Department, come to Houston, Texas, and weave your way through neighborhoods that are at the high economic level and low, and you will find that it would result in a terrible, horrific tragedy. Mr. Speaker, if there was a rail catastrophe.

I ask my colleagues to support the motion to instruct to provide rail security. I rise in strong support of the Motion to Instruct Conference to accept the Senate amendments to H.R. 5494 the ‘‘SAFE Port Act.’’ I particularly wish to thank the gentleman from Mississippi, Mr. THOMPSON, the Ranking Member of the Homeland Security Committee, for introducing this important and much needed motion.

The SAFE Port Act, H.R. 4954, was reported out by the Homeland Security Committee and passed by the House in May of this year. On balance, the SAFE Port Act is a good bill that addresses port and shipping container security. The Senate bill contains similar port security provisions, but also includes several provisions which will have the salutary effect of substantially enhancing the safety and security of America’s rail, subway, buses and trucking systems. The Senate bill also strengthens aviation security, border security, and creates a National Warning and Alert System which provides first responders with post-disaster health monitoring.

Mr. Speaker, the House Republican Leadership has had many opportunities to address these security issues, but it has failed to do so. The time for action has long since passed. We need a new direction. We need a new approach. It is time for action and a new approach. The Senate bill is a bipartisan step in the right direction. We should take advantage of this opportunity to strengthen security and assist first responders. The final Conference Report should reflect the Senate’s positions on rail, mass transit, and border security; and warnings and alert systems.

Mr. Speaker, unlike the House, the Senate approved an amendment that would authorize $3.5 billion for mass transit security grant programs and $1.2 billion for freight and passenger rail security. This is reason alone to instruct the Conference to accede to the Senate position on mass transit and rail security.

America’s rail and mass transit systems remain vulnerable on the watch of the House Republican leadership. We need a new direction. We need a new approach. We need to consider the following: Worldwide Terrorist Attacks on Trains Average 30 Per Year; The 9/11 Commission Noted That Rail and Mass Transit Are Particularly Vulnerable; International Brotherhood of Teamsters (IBT) Found a Lack of Security Along Railroad Tracks; and in Three Days Across the County; Mass Transit Becomes More Vulnerable to Terrorist Attack as Airline Security Improves.

RAIL SECURITY IN THE SENATE BILL

The Senate bill also advances the ball on meaningful rail security by requiring the Departments of Homeland Security and Transportation to develop credible risk assessments for freight and passenger rail systems. The bill authorizes $5 million in FY 2007 to carry out this requirement.

Without any requirements that these agencies conduct comprehensive reviews of rail security, how can we move in a meaningful direction to protecting America’s rail systems? This bill also authorizes for fiscal years 2007–2010 critical fire and life-safety improvements for the Northeast Corridor in New York City, New York ($470 million); Baltimore, Maryland ($47 million); and Washington, DC ($32 million). This money will be spent specifically on communication, lighting, and passenger egress upgrades. If a terrorist attack were to occur in these cities, it is highly likely that we will not be able to successfully leave the tunnels—this could mean the difference between life and death.

The Senate bill authorizes $350 million for FY 2007 for security grants to freight railroad, Alaska Railroad, hazardous materials shippers and AMTRAK. This is badly needed funding and not just lip-service about rail security. This bill also requires that hazardous material shippers create and implement threat mitigation plans to be reviewed by the Departments of Homeland Security and Transportation.

Research and development is also important component in making sure that our rail systems are secure. This bill authorizes $50 million in fiscal years 2007 and 2008. The money will be used to test new emergency response techniques and technologies, develop improved freight technologies; and test wayside detectors.

Rail employees are the vital eyes and ears of the system. They will be the first ones to know if there is a problem. However, they must be protected. The Senate bill provides them with whistleblower protections in order to ensure that they won’t be penalized for reporting problems.

These are just some of the reasons I support the Motion to Instruct Conferences to accede to the Senate position on the SAFE Port Act, H.R. 5494. I urge my colleagues to join me. I yield back the remainder of my time. Thank you.

Mr. KING of New York. Mr. Speaker, I yield myself such time as I may consume to close my remarks on the grounds that Mr. Speaker, I strongly oppose the motion to instruct. I strongly support the underlying bill.

The bottom line is we are in full agreement on a port security bill and that is what this is all about. It is a port security bill which would provide $400 million in port security grants. It sets up a risk-based formula for those grants. It establishes a domestic nuclear detection office. It sets up three pilot programs: Second Generation Vessel Scanning, AGRS, and AGRS. It is a bipartisan bill.

The underlying bill passed this House by a vote of 421–2.

We have carried it this far. Let us not let the perfect be the enemy of the good. I respect the gentleman. I respect his motion. But at this stage I say let us go on to the conference. Let us do what has to be done. Let us put an end to the entire crisis which resulted out of the Dubai Ports issue. Let us show the American people we can get the job done. Let us finish it. Let us go to conference.

With that I urge defeat of the motion.

Mr. Speaker, I yield back the balance of my time.

Mr. THOMPSON of Mississippi. Mr. Speaker, I yield myself such time as I may consume.

This motion to recommit with instructions is clearly intended to make the bill better. We clearly have rail and safety issues still outstanding. What I have tried to prepare for Congress is an opportunity to get it right. Piecemealing is not the way to go. We could have called a conference here, right now with this motion to instruct. If we do it, we can all go home feeling that America will be safer. If we don’t, we leave substantial work yet to be done. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to instruct.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from Mississippi (Mr. THOMPSON).

The question was taken; and the Speaker pro tempore announced that the motion appeared to have carried.

Mr. THOMPSON of Mississippi. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

PROVIDING FOR CONSIDERATION OF H.R. 5825, ELECTRONIC SURVEILLANCE MODERNIZATION ACT

Mr. PUTNAM. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1052 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 1052

Resolved, That upon the adoption of this resolution it shall be in order without intervention of any point of order to consider in the House the bill (H.R. 5825) to update the Foreign Intelligence Surveillance Act of 1978. In lieu of the amendments recommended by the Committee on the Judiciary and the Permanent Select Committee on Intelligence now printed in the bill, the amendment in the nature of a substitute printed in the report of the Committee on Rules accompanying this resolution shall be considered as adopted. If a motion to recommit is made, it shall be considered as read. The previous question shall be considered as ordered on the bill, as amended, to final passage without intervening motion except: (1) 90 minutes of debate, with 60 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Intelligence; and (2) after all amendments have been considered and disposed of. The Chair may postpone further consideration of the bill to a time designated by the Speaker.
The SPEAKER pro tempore. The gentleman from Florida (Mr. PUTNAM) is recognized for 1 hour.

Mr. PUTNAM. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Florida (Mr. BARTLETT) on the question of electronic surveillance and FISA.

Mr. Speaker, our nation's electronic surveillance authorities have expanded in scope and capability, as well as technology, in the past 25 years. The 1978 Foreign Intelligence Surveillance Act (FISA) was initially intended to provide oversight of the executive branch's conduct of foreign intelligence surveillance. Today, FISA authorizes the Federal Government to conduct surveillance and to provide clear electronic surveillance authority to the national intelligence agencies in the event of a terrorist attack, armed attack, or imminent threat against this Nation.

FISA was originally constructed in 1978, more than 25 years ago. Changes in technology have caused an unintentional expansion of FISA. The complexity, variety, and means of communications technology has since mushroomed exponentially, while the world has become more interconnected. Think of the revolution in communications technology that has taken place in the past 25 years. The cellular technology, wireless technology, the development and explosion of Internet access, all communications tools, all technologies that allow those who would plot terrorist acts against our people to use and access in a readily available form.

We now have terrorists in remote camps who can easily communicate globally with cells around the world and within this country through the use of wireless technology and satellites. Think of the images from Afghanistan of broadcasts through wireless laptop devices using satellite technology from a cave.

The structure of our surveillance laws has become confined to the technology of a generation-old copper wire telephone, while the terrorists are utilizing every technology and communication device at their disposal.

The House Permanent Select Committee on Intelligence received testimony that the current provisions of FISA are “dangerously obsolete.” H.R. 5825 modernizes the law in a number of critical respects. It updates FISA to make it technology neutral and neutral as to the means of communication. Provisions now apply to a land line phone as well as cellular and wireless modes of communication.

This legislation streamlines the surveillance approval process to keep the focus on the who would do harm to the United States while protecting the civil liberties of average Americans. It gives our intelligence personnel the necessary tools to help detect and prevent acts of terrorism and to respond to terrorist attacks.

As reported, the bill also ensures that adequate authority exists to conduct necessary electronic surveillance when a threat of imminent attack exists. Electronic Surveillance Modernization Act also enhances congressional and judicial oversight of U.S. Government electronic surveillance activities to ensure that activities conducted under both FISA and the authorities in this bill will be utilized by the President only, only, with the knowledge and coordination of the other branches of government.

More broadly than just FISA, the bill also addresses the fundamental separations of powers concerns expressed by Members through the National Security Act by providing express authority for the chairman of the congressional Intelligence Committees to broaden their reporting on sensitive issues to additional members of the committee at his or her discretion on a bipartisan basis in necessary circumstances.

H.R. 5825 enhances the overall authority of Members of Congress to ensure our national security. I thank Chairman HOEKSTRA and Chairman SENENBRENNER and all of the members of the committees for their work. I urge Members to support the rule and the underlying bill.

Mr. Speaker, I reserve the balance of my time.

Mr. HASTINGS of Florida. Mr. Speaker, I thank the gentleman, my friend from Florida, for the time; and I yield myself such time as I may consume.

Mr. Speaker, I rise in strong opposition to this closed rule and the underlying legislation. First, let me say that I really am pleased that Congress belatedly sees a need to address the President’s unconstitutional, dragnet, judicially unconscionable domestic spying program.

Unfortunately, we are considering a bill today that was primarily drafted by the White House. I do not relish the notion of criticizing this bill; but because what it does to the Constitution, however, and I am sworn to uphold, as are all of the Members of this body, to uphold and defend that Constitution, I am not going to sit idly by and watch people trample on it.

I have lived and seen how unchecked power in the hands of bureaucrats can be used to squelch legitimate first amendment exercises. We have seen monitoring of students, preachers and housewives.

I have seen what happens when government protectors think they answer to no one. And, frankly, it is not pretty. I just implore you all to think back to the 1970s, and Americans were shocked to learn about President Nixon’s Watergate. I implore you all to think back to the 1980s, and Americans were shocked to learn about President Reagan’s illegal surveillances.

Americans were similarly dismayed over the legendary J. Edgar Hoover’s listening in not only on Dr. King, but everyone; and the NSA, the FBI, and the CIA. Americans were shocked to learn about President Nixon’s Watergate, and Americans were shocked to learn about President Reagan’s illegal surveillances. It is our job, Congress’s job, to ensure that we effectively oversee the activities of the NSA, the FBI, and the CIA.

To this point. This White House bill really is a walk in the park. We would be giving not just President Bush’s administration, but every subsequent administration a blank check.
This bill does so much to chip away at the civil liberties and privacy protections built into the Foreign Intelligence Surveillance Act, you will hear it referred to often as FISA, that it could, if passed, have very disastrous effects.

It redefines the definition of surveillance in an irresponsible way. The effect is that the NSA, the FBI, would be able to listen to any call or read any email that comes into or goes out of the United States. So, if a soldier overseas calls his husband, NSA can listen in. If a little girl in my home town of Mirimar, Florida, sends an email to her grandmother in Israel, NSA can read it.

If a student at Florida Atlantic University is studying in France and calls her father at home in Ft. Lauderdale, NSA can listen in. Now, that soldier putting her life on the line in Iraq is not a terrorist. The little girl in Mirimar calling her grandmother I think we can all assume are not plotting to overthrow anything.

The student at Florida Atlantic and her father I am just guessing have likely sworn their lives to overthrowing the United States Government.

At the risk of being trite, the White House-drafted bill has more holes than Swiss cheese. Maybe we ought to just call it the Swiss cheese bill. It throws out some pretty broad terms and never defines them.

What is an armed attack? What is an imminent threat or imminent attack? They are not defined in this bill. Yet, the President has broad authority under this bill to do whatever he pleases under these conditions. Footnote right there. Let’s make this very clear, not just this administration but succeeding administrations would have this power.

Arguably under this bill, every single day since September 11, 2001, we have been under the imminent threat of a terrorist attack. And if the mover of this bill were to explain how this comes about, every call and every email, even domestic ones, would be subject to warrantless surveillance.

Allowing this President or any President to conduct warrantless electronic surveillance under these vaguely described circumstances is, simply put, dangerous. You never know how the next President might use or abuse her power when she gets it.

To the right, Mr. Speaker, I am fond of quoting Ben Franklin, and so I am going to do it again today. The legendary Ben Franklin said: “Those who would give up essential liberty to purchase a little temporary safety deserve neither liberty nor safety.”

This is what we might do today again. This piece of legislation may be one of the most important bills that the House will consider this year or any year, and not one Member of the House, not one, will be able to offer an amendment. That bothers me generally, Mr. Speaker. Today it bothers me specifically.

There was an amendment rejected at the Rules Committee offered by our colleagues, Mr. SCHIFF and Mr. FLAKE, that was similar to an amendment that I offered at the Select Committee on Intelligence of the House of Representatives. Mr. SCHIFF and Mr. FLAKE would have made the Foreign Intelligence Surveillance Act more transparent to the people who depend on it most. It was legislation more or less drafted at their request to clear perceived ambiguity.

My language would have made it clear, even to the people in President Bush’s administration, what constituted domestic spying and what was foreign-based. Yesterday, the distinguished chairman of the Rules Committee, my friend, DAVID DREIER, when he did not permit amendments on this floor said: “Well, Democrats did not have a substitute.”

Well, today, we do have one. And what is your substitute now, Mr. Chairman? Not to worry, it is a rhetorical question. The answer I well know is to squelch democracy here in the United States House of Representatives.

You can’t keep messing that which you know you cannot beat with reason. And what message does that send to those that would follow our lead, those we are trying to teach our Democracy Assistants Commission? I know what you say; do as we say, not as we do. For today, in the people’s House, democracy is being eviscerated by those who recommend it to others.

I have said it before: the way the majorities have treated the minority is undemocratic, and it happens every day, I might say, not as we do. For today, in the people’s House, democracy is being eviscerated by those who recommend it to others.

Could it be any clearer that America needs a new direction? Stopping, thwarting the will of those of us in the House of Representatives who have a different point of view, or at least should have an opportunity to have discussed a different point of view and have a different body make the decision as to whether or not that point of view or the one offered by the majority ought prevail, should be what we should be about in democracy.

Obviously, Mr. Speaker. I urge my colleagues to oppose this closed rule and the White House legislation which brings it to the floor.

Mr. Speaker, I reserve the balance of my time.

Mr. PUTNAM. Mr. Speaker, I yield 2 ½ minutes to the gentlewoman from West Virginia (Mrs. CAPITO).

Mrs. CAPITO. Mr. Speaker, I would like to thank my colleague from the Rules Committee, and I would also like to thank my friend, the Chairwoman of the Intelligence Committee, Mrs. WILSON, for her doggedness and her determination to do this right.

Mr. Speaker, I rise today in support of the rule and the underlying legislation, the Electronic Surveillance Modernization Act. We are at war against a sophisticated, worldwide terrorist adversary that uses all of the advantages modern day technology has to offer.

We know that these terrorists are continuing to plot attacks against the United States, our allies, and our interests around the world. In August, the coordination of the United States, British, and Pakistani intelligence agencies thwarted a possible terrorist attack against the United States.

Against this backdrop, it is absolutely critical that our government have the ability to monitor electronic communications by terrorist organizations. We are talking about allowing the government to intercept communications of cold-blooded killers who seek to do our nation harm, not grandchild e-mailing their grandmother.

The FISA process should be used whenever possible, but we cannot hinder the ability of this President or future Presidents to monitor communications that could stop a terrorist attack. It is appropriate to allow the President to use electronic surveil lance when there is an imminent threat of an attack against our country, when we have identified the responsible organization, and when we have reasonable belief that the person being targeted is communicating with a terrorist group.

We must do everything possible to prevent future terrorist attacks. Our enemies will not delay their plans to harm our citizens while we go to court to obtain a warrant. We have to be right 100 percent of the time.

The bill strengthens congressional oversight of the Terrorist Surveillance Program and requires FISA warrants in most cases, the exceptions being after an armed attack, after a terrorist attack, or when the threat is imminent.

The bill is reasonable. It protects the rights of our citizens; but, most importantly, it will preserve a critical authority that we must have to protect our homeland. We are at war and this is critical to our winning that war. I urge my colleagues to pass this rule and every other bill.

Mr. HASTINGS of Florida. Mr. Speaker, I yield 4 minutes to the gentleman from Massachusetts (Mr. McGOVERN).

Mr. McGOVERN. Mr. Speaker, I want to thank my friend from Florida for yielding me the time.

Mr. Speaker, yesterday we dealt with the issues of torture and military tribunals under a closed rule. No amendments allowed. Today we deal with the issue of domestic spying, also under a closed rule.

Never mind that there are profound constitutional issues at stake. This Republican leadership has decided it is more important to destroy expansion bills than matters that could likely under mine the most sacred rights of our people.

This bill authorizes more warrantless surveillance of American citizens than Congress has ever authorized in American history. And if this rule passes, it will be debated on the House floor for an hour and a half.
The Founding Fathers must be spinning in their graves. Today, the Republican leadership found time on the floor to rename post offices and to congratulate Little League teams, but it cannot find the time to thoughtfully debate this far-reaching bill. This Congress has become a place where trivial issues get debated passionately and important ones not at all.

After hours of testimony in the Rules Committee this afternoon listening to both Republican and Democratic offering thoughtful amendments and substitutions, the Republican majority on the Rules Committee said “no” to every single one of them.

During the Rules Committee meeting, I asked the Republican authors of this bill whether or not they would be open to considering thoughtful amendments and substitutes. They said it was up to the Rules Committee, that they did not really have an opinion.

No opinion, Mr. Speaker? No opinion on whether Members who believe there should be judicial oversight on domestic spying should have the right to offer an amendment? No opinion on whether or not a bipartisan substitute should be made in order? No opinion? Give me a break.

Mr. Speaker, yesterday on the House floor, as the distinguished gentleman from Florida pointed out, the Chairman of the Rules Committee defended his decision to not allow Democrats to offer amendments to the torture bill. He said that we should have offered a substitute instead.

So, today, Democrats and Republicans attempted to offer a full bipartisan substitute to this domestic spying bill, but the Rules Committee refused to make that in order, too. How do you defend that, Mr. Speaker? How do you look Members of your own party in the eye and say your ideas do not matter?

If the Republican leadership does not agree with the bipartisan substitute, then they should defeat it on the House floor after a full and open debate. Instead, they cower behind procedural tricks, parliamentary sleight of hand and closed rules. No wonder the American people are disgusted with Congress.

Let me speak for a moment to my friends on the other side of the aisle. No matter what our policy differences, we should be able to work together to deal with the most critical duties toward the November election. There is no divide among Democrats and Republicans about the need to secure the Nation with rights protected, therefore there should have been open rule.
I would have offered an amendment that would have improved the bill immeasurably by striking the golden mean between providing the President the emergency tools needed to respond to an act of war against our country, while at the same time protecting all Americans from the dangerous secret exercise of unchecked and unreviewable power to surveil and search any person deemed by the President to pose a threat to the country. This would have provided the President the authority to conduct surveillance and searches without a warrant for 15 days following either a declaration of war or an authorization for the use of military force.

In addition, it is very clear that the FISA provisions now allow for the President to act without judicial authority. Authority can be given after the fact, and the evidence that is given to the court can be and is secret. It is worthwhile saying that this, again, is not a question of can we re-elect the publicans who are running for re-election to the court can be and is secret. The fact, and the evidence that is given to the court can be and is secret.

Mr. Speaker, H.R. 5825 goes dangerously far afield by authorizing the President to conduct warrantless surveillance and searches for 90 days after an “armed attack against the territory of the United States,” or a “terrorist attack against the United States.” Moreover, this new surveillance power would extend to U.S. soil, regardless of any nexus to the actual physical locations where the interests of the United States, including: The recent bombing of the U.S. embassy in Syria. If H.R. 5825 were in effect today, we could have a warrant-free environment in the United States right now.

Mr. Speaker, we do not need to surrender the liberties of the American people in order to protect the security of the American people. As the Framers understood so well when they devised our magnificent Constitution, we can have both liberty and security. All we need is wisdom and good counsel, what the Greeks called “euboule.” That is what is lacking in this legislation. I believe we should have an open rule to allow any act that violates the exercise of emergency surveillance authority.

Mr. Speaker, the phrases “armed attack against the territory of the United States” and “terrorist attack against the United States” are so broad that they can be triggered by nearly any act of violence directed against any interests of the United States, including: The NSA’s warrantless surveillance and searches for 90 days after an armed attack on the territory of the United States. This would have provided the President authority to ignore the Constitution that every member of Congress, and each of our brave troops who risk their lives to keep us free, take an oath to uphold.

Moreover, this amendment would have provided the President authority to conduct warrantless surveillance and searches for 90 days after an “armed attack against the territory of the United States,” or a “terrorist attack against the United States.” Moreover, this new surveillance power would extend to U.S. soil, regardless of any nexus to the actual physical locations where the interests of the United States, including: The recent bombing of the U.S. embassy in Syria. If H.R. 5825 were in effect today, we could have a warrant-free environment in the United States right now.

An attack on American forces abroad, including any attack on soldiers in Iraq or Afghanistan, which according to press reports, is a daily occurrence.

Mr. Speaker, we do not need to surrendered the liberties of the American people in order to protect the security of the American people. As the Framers understood so well when they devised our magnificent Constitution, we can have both liberty and security. All we need is wisdom and good counsel, what the Greeks called “euboule.” That is what is lacking in this legislation. I believe we should have an open rule to allow any act that violates the exercise of emergency surveillance authority.

An amendment that could have been offered if we had an open rule is an amendment that reiterates that FISA is the exclusive procedure and authority for wiretapping Americans to gather foreign intelligence.

In the absence of the reaffirmation of this critically important principle, H.R. 5825 would have the unacceptable consequences of reining in the President’s refusal to follow FISA by exempting him from following these procedures. The effect of this would be to allow any president to make up his own rules for wiretapping Americans and secretly implementing those rules unless and until a court finds such rules unconstitutional. This would make tangible President Nixon’s 1977 claim to David Frost that “when the president does it that means that it is U.S. policy.” By flipping with the misguided and dangerous idea of inherent presidential power to wiretap, H.R. 5825 would resurrect the very provision in the criminal code that President Nixon relied upon in his warrantless wiretaps of countless Americans based on that misguided notion.

The legislative history of FISA provides an important rebuttal to the Administration’s claims regarding inherent authority to ignore federal law: “[E]ven if the president has the inherent authority in the absence of legislation to authorize warrantless electronic surveillance for foreign intelligence purposes, Congress has the power to regulate the conduct of such surveillance by-legislating a reasonable procedure, which then becomes the exclusive means by which electronic surveillance may be conducted.” H.R. Rep. No. 95–1283, pt. 1, at 24 (1978).

By eliminating the exclusivity of these procedures, Congress would be acquiescing in the destruction of one of the pillars of FISA that helped to protect the civil liberties of hundreds of millions of Americans from unilateral spying by the executive branch. To paraphrase the Supreme Court, our Fourth Amendment freedoms cannot properly be guaranteed if electronic surveillance may be conducted solely within the discretion of the president. See United States v. United States District Court, 407 U.S. 297 (1972).

Without such language, H.R. 5825 would undo the Congress’ manifest intent in passing FISA, which “was designed . . . to curtail the executive authority under which the Executive Branch may conduct warrantless electronic surveillance on its own unilateral determination that national security justifies it.” (See S. Rep. No. 95–604(1), at 7, 1978 U.S.C.C.A.N. 3904, 3908.) By eliminating the requirement that the president follow FISA and get a court order to search based on evidence an American is conspiring with a foreign agent, H.R. 5825 would place our rights at the secret will of the president—any president.

Mr. Speaker, it is more than a truism that real security for the American people comes not from deferring to the President but from preserving the separation of powers and adhering to the rule of law.

I therefore cannot support this closed rule and urge my colleagues to vote against the rule. We have time to come up with a better product and we should. The American people deserve no less.

Mr. PUTNAM. Mr. Speaker, I am pleased to yield 3 minutes to the gentlewoman from New Mexico (Mrs. Wilson), the sponsor of the underlying legislation.

Mrs. WILSON of New Mexico. Mr. Speaker, I would like to start out first by correcting a few misstatements and giving a few facts. The first is that somehow anything less than a warrant on an international phone call erodes civil liberties that we have enjoyed 219 years and does some violation to the Constitution.

The truth is that limitations on gathering foreign intelligence in the United States is relatively recent. It was the FISA law passed in 1978 that really set out the first limitations on the gathering of foreign intelligence within the United States.

In World War II, all international communication was subject to listening. In World War I, the government not only listened to international calls but opened the mail. Shortly after the invention of the telegraph during the Civil War we were intercepting communica
bring forward this rule today, but I think it is important to understand why we are here.

We are trying to modernize the Electronic Surveillance Acts of this country so that we allow our intelligence agencies the tools of the intelligence to keep us safe, while also putting in place rules of the road to protect American civil liberties. The provisions that we have put in the Act are completely reasonable and pretty common sense because we are in a different situation now.

Intelligence is the first line of defense in this war on terror, and all of us 5 or 6 weeks ago now woke up to the news that in the U.K. they had arrested 16 people who intended to walk onto American Airlines airplanes at Heathrow Airport and blow them up over the Atlantic Ocean.

Our intelligence agencies have to be faster than the terrorists who are trying to kill us. This bill will give them the tools they need to be able to intercept international communications between a known terrorist and someone in the United States of America, at the same time requiring notification to different branches of government, putting time limitations in place so that we protect the civil liberties of Americans.

We need to update our laws so that we protect the civil liberties of Americans and we keep Americans safe. The test is reasonableness, and I believe that the underlying bill passes the test.

Mr. HASTINGS of Florida. Mr. Speaker, I am very pleased to yield 5½ minutes to the distinguished gentleman from California (Mr. SCHIFF), my friend, who offered an amendment that I offered in the Select Committee on Intelligence.

Mr. SCHIFF. Mr. Speaker, I thank the gentleman for yielding.

This afternoon, we had a lengthy debate on the House Committee on the base bill offered by my colleague from New Mexico and a substitute amendment that was offered by Mr. FLAKE of Arizona and by myself. It was a lengthy debate. I think it was a good debate. It would have been a better debate, however, if the conclusion had not been predetermined, if, in fact, it was a real debate in the sense that the outcome had not been decided before we entered the room.

The gentleman asked how long did it take for the committee to decide not to allow the bipartisan alternative, and I can tell the gentleman, by the time it took me to walk from the Rules Committee across the street to my office, the committee had decided it would not accept a bipartisan alternative. But I suppose that was my own fault for walking too fast. Perhaps if I had walked slower across the street, I might have gotten to my office before the committee did.

So I am going to tell you today about the bill we will not have the opportunity to vote on this bipartisan bill.

The “why” I think is relatively straightforward. Because the majority does not have the confidence that it has the votes to allow the substitute to come before this House. Because the substitute, which was the product of about 6 months of work between Mr. FLAKE and myself and in its other forum, legislative forum, has the support of seven Republicans and seven Democrats. You can make it in this House, very well might command the majority of this House. That runs afoul of the rule of the Speaker that unless it enjoys a majority of the majority you do not get a vote in this House of Representatives. So we will not have a vote on the bipartisan alternative.

But let me tell you and the rest of the country what we are being denied the chance to vote on in the substitute. The Schiff-Flake substitute would do the following:

It would extend the warrantless electronic surveillance authority from the current 72 hours after the fact to 7 days, because the Justice Department and the NSA said that they needed more time after a wiretap is initiated to go to court and get an authorization. It is important for people to recognize that under current law you do not need to get a warrant before you go on a wiretap. Under FISA, you have 72 hours. The Schiff-Flake substitute said that is not enough, we want 7 days; and in our substitute, we give them 7 days.

We enhance the surveillance authority after an attack. The Justice Department and the NSA say, well, under current law, we have 15 days to do warrantless surveillance after the declaration of war. Well, we do not even declare war, and so our substitute provides that when we authorize the use of force and we make it explicit that we will permit surveillance for 15 days. That authorization to use force grants that surveillance authority after an attack.

We also address the main issue that was raised by the NSA in the public hearings, the main problem the NSA advocated needed to be addressed, and that is that when one foreigner is talking with another foreigner on foreign soil, but because of the changes in telecommunications since the passage of FISA more than a quarter century ago, and that communication touches down somewhere in the United States or is intercepted, it is not clear that the Justice Department or the FBI shouldn’t be involved. You should not have to go to court when you want to intercept a communication between one foreigner and another foreigner on foreign soil. And so we fixed that problem.

Our substitute permits continued surveillance when targets travel internationally. That was another request made by Justice and NSA. We stream-line the FISA application process and remove redundant requirements in the application process. We increase the speed and the agility of the FISA process. We authorize additional resources to hire more personnel to make the applications. But we also do something very important, which the base bill doesn’t do, and that is we reiterate the fact that when you are going to surveil an American on American soil, and that is after all the heart of this matter, when you are going to surveil an American on American soil, the court should be involved, if not before you go and surveil, then within 7 days, that FISA sets up the exclusive authority for that.

Now, my colleague from New Mexico says the constitutional standard is reasonable in this, and that is right. Americans under the fourth amendment have the right to be secure from unreasonable searches and seizures. We have the right to be protected in our homes, our businesses, our schools. So I ask you, what is your reasonable expectation of privacy, Americans? Is it that if you are not engaged in terrorism, if you are not in contact with terrorists, if you are not engaged in terrorist activity that you should be secure in knowing that your phone conversations will not be tapped without someone going to court to prove the facts?

But Members of this body will not have a chance to vote on this bipartisan substitute because the majority doesn’t have the confidence they can defeat it. And for that reason, I urge a “no” vote on this rule.

Mr. PUTNAM. Mr. Speaker, I am pleased to yield 4 minutes to one of the architects of this legislation, the gentleman from California (Mr. DANIEL E. LUNGREN).

Mr. DANIEL E. LUNGREN of California. Mr. Speaker, I thank the gentleman for yielding. The gentleman from Florida’s fondness for quoting Benjamin Franklin. It is interesting the debate we are engaged in today is not a new debate, because there has always been debate about the tension that has been developed or actually written into the Constitution among the three branches of government dealing with difficult issues like this.

And while the gentleman from Florida recommended a conversation by the esteemed Founding Father Benjamin Franklin, I would give him another one. In 1776, Benjamin Franklin and the other four members of the Committee on Secret Correspondence explained their unanimous decision not to tell their colleagues in the Continental Congress about a sensitive U.S.-French covert operation by writing: “We find, by fatal experience, that Congress consists of too many Members to keep secrets. It was a tension that they understood at that time, and there is a tension that naturally resides in this because of the unique character of the
President as Commander in Chief and his ability to ferret out foreign intelligence. So the question is how do we try and deal with that tension? I would suggest to my colleagues that the fact that we have not had an attack on U.S. soil should not be taken as the thing for which we can all be thankful, but safer does not mean there is any room for complacency. As the events in Bali, Madrid, and London on 7-7 indicate, we are still at war with an enemy that is fully invested in doing us harm and giving us the murder of innocent people, specifically Americans, men, women, and children.

And in this effort to protect our citizens, the daunting task before us is to thwart the efforts of an enemy who operates underground by stealth and deception and at the same time not rip up our Constitution. This is made all the more difficult, in that, unlike traditional criminal cases, our success will be measured by the ability to prevent a future terrorist attack. This requires an assessment of how best to equip law enforcement and the intelligence community with the tools to respond to an enemy who is constantly morphing.

In meeting this challenge, intelligence is the necessary bridge to successful homeland security protection. The Foreign Intelligence Surveillance Act is, therefore, an essential and critical tool in our efforts to protect the American people. But one aspect of this tool requires us to try and ensure that any gaps between the state of law and technology are closed to prevent their exploitation by a lethal enemy. In this regard, this bill before us, H.R. 5825, seeks a technology-neutral approach, which places greater emphasis on the nature of those surveilled and their location.

For example, an international call by a non-U.S. citizen to a terrorist organization would be treated the same under the law regardless of whether the non-U.S. person uses wire or radio technology. When FISA was enacted, domestic communications were transmitted via wire, while international communications were transmitted via radio. In recent years, international communications are increasingly transmitted through undersea cables, which are considered wire. This bill recognizes that international communications should be treated the same regardless of the specific technology at issue.

At the same time, this bill enables us to focus on protecting the reasonable privacy expectation of U.S. persons. Those with legitimate concerns over the scope of electronic surveillance should be treated the same under this legislation and supporting this rule to allow consideration of the legislation. In fact, the bill provides greater clarity in circumscribing the permissible limits of such surveillance.

Remember what the 9/11 Commission said: ‘‘The choice between security and liberty is a false choice. As nothing is more likely to endanger America’s liberties than the success of a terrorist attack at home.’’ Support this rule and support this bill.

Mr. HASTINGS of Florida. My good friend, the distinguished gentleman from California, has cited again Franklin and said that there is no person. But I would remind him that they did not yield all of their power to the President. They did consider that separation of power.

And Mrs. WILSON stated a minute ago that this bill puts in place rules of the road. The rules are optional and the President gets to ignore them essentially whenever.

Mr. Speaker, I am very pleased at this time to yield 1 minute to my good friend, the distinguished gentleman from Ohio (Mr. KUCINICH).

Mr. KUCINICH. I thank the gentleman.

It is good to cite Ben Franklin. Maybe we should also be citing Phineas T. Barnum, because there is a section in this bill, section 10, entitled ‘‘Compliance with Court Orders and Antiterrorist Programs.’’ That actually amounts to a get-out-of-jail-free card for someone who may have leaked classified information.

If we turn on France or Italy or Germany or Poland or for that matter, the United States and give them a get-out-of-jail-free card for someone who may have leaked classified information, that bill may actually be about someone’s legal problem.

We need to look at this. We need to find out if someone leaked classified information and this bill is going to give them a get-out-of-jail-free card. Read the bill. Take a look at section 10. I want the sponsor to tell me that no one is going to get out of jail free who may have leaked classified information, and no one is going to escape prosecution for certain crimes and misdemeanors once this bill passes.

Mr. Speaker, I rise in total opposition to this bill, because I want the sponsor to tell me that no one who would fly an airliner full of innocent women and children and students on field trips, and bands who have spent all year having car washes to be able to go on that trip into the center of our defense might, the symbol of our Armed Services, into the Pentagon: the kind of people who would plot to blow up 10 more airliners and get away as they have been getting away.

Now, it seems odd to me that that is a difficult choice, that we would want not to give all the tools possible to our law enforcement and intelligence officials. The plot that was broken up in London several weeks ago reflected two things to me: one, that we are still in grave danger; that the enemy is still, to this day, 5 years after 9/11, getting up every morning, going to bed late every night thinking of ways to destroy us; and just the other side of that, not just our allies, but those who share our values, Western Civilization in general: Madrid, Spain; London, England; the Danish, because of their free speech; and the United States are just some of the most blatant examples. We are still very much in danger. That is the first lesson of the disruption of that plot.

The second lesson of the disruption of that plot is that legislation that has passed in this country and in the U.K. in the 5 years since 9/11 workers tearing down walls that separate discussions between intelligence gatherers and law enforcement. That legislation worked. Tracking financial transactions to be
able to follow money from Hamburg to Pakistan, back to London to the ticket agent where people are about to board an airplane that they intend to blow up worked. Tracking communications among terrorists works.

If a laptop is discarded in a cave in Afghanistan and you look on their contacts list; if a cell phone is picked up in a desk drawer in a hotel in Islamabad and you look at who their frequently called numbers are, don’t you think that says a lot about that person, and who they are talking to? If you look at your own cell phone contacts list, you’d say an awful lot about you, your friends are, who your stockbroker is, what your wife’s cell phone number is. Look at your own device. And we use that same common sense, that same investigative approach to the terrorists.

So when we look at the laptop or when we look at the cell phone in Islamabad or London or Hamburg or New York and there are numbers on there, a well-known al Qaeda operative to someone in the United States, we ought to be on that number as quickly as possible.

Anything else is an assault on common sense. We must move as quickly, as efficiently as possible, using every technology at our disposal to prevent terrorist attacks, to disrupt terrorist attacks, and to bring to justice the people who are planning them.

Mr. Speaker, I reserve the balance of my time.

Mr. HASTINGS of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I have some suggestions about implementing every tool at our disposal. The 9/11 Commission would be one.

I would urge the gentleman not tolecture us regarding our commitment. We offered a measure to improve this measure. Everyone wants to catch the same people you are talking about catching. There is no problem in that regard.

Mr. Speaker, I am pleased to yield 3 minutes to the gentleman from Maryland (Mr. RUPPERSBERGER), my colleague on the Intelligence Committee.

Mr. RUPPERSBERGER. Just in response to the comments made by my friend from Florida, also, I agree with most of what you are saying. We need to protect our country. We need to be able to have the tools to go on the computer or to go on the cell phone or whatever we need. But we are a country of laws, and our forefathers created an excellent and efficient country and a Constitution, and that Constitution created checks and balances. That is about what we are talking about here today.

Now, I have an amendment that was rejected by the Rules Committee today that was rejected. One of the administration’s biggest arguments is that they need more time and flexibility to track down terrorists without going to a FISA judge. My amendment that was just rejected by the Rules Committee does that.

My amendment extends the duration of emergency authorizations from 7 to 14 days. That means the people who are there before they have to go to a FISA judge, but they do have to go to a FISA judge. So if it is the opinion of the administration that there is an emergency situation to protect our country, they can go on that phone to find that terrorist, but they may not have the 14 days before they have to go to a FISA judge. But the issue is they have to go to a FISA judge, and that is the check and balance we do have in this country.

If we get information on an important target, we can conduct warrantless surveillance for 14 days before going to a FISA judge. That is giving the tools that we need. That amendment was rejected.

The purpose of my amendment was to make sure that in an emergency, there was absolutely no chance that the men and women of the NSA would have to turn off their equipment just because they didn’t have enough time to get a warrant.

As the Member who represents NSA, which is in my district, who sits on the Intelligence Committee and is one of the handful of Members briefed into the President’s program, I would have hoped that my amendment would have been in order. My amendment was an attempt to do the right thing for the country and NSA.

We should remember that what makes our country great is our system of checks and balances. My amendment would have done that.

We should not have a closed rule on this bill. We should be willing to take whatever amendments are necessary to make the underlying bill the best one we can for the security of our country. I urge my colleagues to vote “no” on the rule.

Mr. PUTNAM. Mr. Speaker, I reserve my time.

Mr. HASTINGS of Florida. Mr. Speaker, I am very pleased to yield 1½ minutes to my very good friend, the gentleman from Massachusetts (Mr. MARKEY).

Mr. MARKEY. Mr. Speaker, I thank the gentleman from Florida. I thank him for his great leadership.

Let us be clear. There is no question that our government must make every effort to uncover, disrupt and prevent terrorist attacks. The 9/11 strikes demonstrated the devastation that can result if we fail to detect terrorist plots.

The question is not whether our intelligence agencies should be allowed to conduct electronic surveillance of suspected terrorists. The answer is, of course, yes. The question before us is whether a court should review such surveillance so innocent American citizens are not spied upon as the government conducts secret surveillance operations. The bill we are considering today fails to provide the vital civil liberty safeguards for American citizens that are the cornerstone of our democracy.

This bill is badly flawed. It expands the President’s authority to secretly wiretap U.S. citizens without a warrant from the FISA court. Under current law, the government can conduct warrantless surveillance for up to a year of any “agent of a foreign power”—such as a foreign official or spy in the United States. But current law places a restriction on this authority—no communications of U.S. citizens or residents must be likely to be intercepted in the process. The bill being considered today eliminates that restriction. That means that the phone calls and e-mail communications of any U.S. citizen could be intercepted while the government conducts warrantless surveillance of foreign agents.

Under current law, warrantless wiretapping is permitted in certain emergency situations. This bill more than doubles the amount of time that the Bush Administration can conduct surveillance of U.S. citizens without a warrant—
from the current three days to up to seven days.

This bill also increases the likelihood that innocent Americans will be caught up in government-run surveillance operations. That’s because the bill reduces the amount of specific information the government must provide when seeking approval from the FISA court, such as details on the type of information the government is looking for and the procedures in place to prevent information from U.S. citizens from being collected in the surveillance operations.

Congress should be holding the Bush Administration accountable for illegally eavesdropping on thousands of U.S. citizens. Instead, the House is considering a bill that would expand the power of the Bush Administration to conduct such spying.

The Constitution says “We the People”, but we have a President who seems to have forgotten this—he thinks it’s “Me the People.” From secret wiretapping programs to signing statements that cast aside the intent of Congress, this President has shredded constitutional balances that are essential to our democracy.

I urge my colleagues to defeat this bill, which has been rushed to the House Floor without sufficient evaluation. This bill will not make us safer. It will make everyday Americans more vulnerable to secret government actions that allow our intelligence agencies and our law enforcement officials to track down those bad guys, not after they have blown up the World Trade Center or after they have flown a plane into the Pentagon, but before they do. This bill, dear Mr. Speaker, looks to me much like a September 12th mentality, as opposed to a September 10th mentality, the idea that we have to recommit ourselves to the notion that we are very much at grave danger by these radicals who are very much in grave danger by terrorism. It is generally not possible to make the Republicans describe the previous question on a special rule, is not a mere procedural vote. A vote against ordering the previous question is a vote against the Republican majority agenda and a vote to allow the opposition, at least for the moment, to offer an alternative plan. It is a vote about what the House should be debating.

Mr. Clarence Cannon’s Precedents of the House of Representatives, (VI, 308-311) describes the vote on the previous question on the rule as “a motion to direct or control the consideration of the subject before the House being made by the Member in charge.” To defeat the previous question is to give the opposition a chance to decide the subject before the House. Cannon cites the Speaker’s ruling of January 13, 1929, to the effect that “the refusal of the House to sustain the demand for the previous question passes the control of the resolution to the opposition” in order to offer an amendment. On March 15, 1969, a member of the majority party offered a rule resolution. The House defeated the previous question and a member of the opposition rose to a parliamentary inquiry, asking who was entitled to recognition. Speaker Joseph G. Cannon (R-Illinois) said: “The previous question having been refused, the gentleman from New York, Mr. Fitzgibbon, who had asked the time, may offer an amendment to the previous question in the following form: whether the House desires to give the opposition a chance to decide the subject before the House?”

The 911 Commission gave Congress falling grades for good reason; we have failed to do all we can to protect our citizens. Why don’t we take a few hours to debate the proposals that this bipartisan panel of experts has advised would actually make our borders more secure, and keep us from the next terrorist attack? A few hours like this may not fit into the majority’s midterm election strategy, but it might actually lead to some good policy.

Again, I urge a no vote on the previous question, so we can have a debate and vote on the recommendations of the bipartisan 9/11 Commission. Please vote “no” on this closed rule.

Mr. Speaker, I yield back the balance of my time.

Mr. PUTNAM. Mr. Speaker, it is my desire to bring this focus back to the issue at hand and bring something of a commonsense approach to this.

We are trying to modernize the FISA Act, the Foreign Intelligence Surveillance Act of 1978. Since 1978, there has been a technology revolution in communications: the Internet, cell phones, laptops, desktops for under $500, immediate, rapid, global, affordable communications on demand, satellite phones, GPS for $99. The bottom line is the terrorists can communicate, conspire, organize, recruit and train on a global basis from any spider hole, cave or clubhouse anywhere in the world.

We have to pass the legislation that allows our intelligence agencies and our law enforcement officials to track down those bad guys, not after they have blown up the World Trade Center or after they have flown a plane into the Pentagon, but before they do. This bill, Mr. Speaker, looks like a September 12th mentality, as opposed to a September 10th mentality, the idea that we have to recommit ourselves to the notion that we are very much at grave danger by these radicals who are very much in grave danger by terrorism. It is generally not possible to make the Republicans describe the previous question on a special rule, is not a mere procedural vote. A vote against the Republican majority agenda and a vote to allow the opposition, at least for the moment, to offer an alternative plan. It is a vote about what the House should be debating.

Mr. Hastings of Florida, Mr. Speaker, I yield myself the balance of my time to close.

Mr. Speaker, I urge Members to vote “no” on the previous question. If the previous question is defeated, I will amend the rule to provide that the House will immediately consider legislation that implements the recommendations of the 9/11 Commission, bipartisan commission, that this Congress has ignored up to this time.

Mr. Speaker, I seek unanimous consent to insert the text of the amendment and extraneous materials immediately prior to the vote on the previous question.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. Hastings of Florida. Mr. Speaker, we have spent the past few days debating constitutionally suspect bills that were designed, in my opinion, to advance the Republican midterm election political agenda rather than make real progress in the serious war on terror.

The 9/11 Commission gave Congress falling grades for good reason; we have failed to do all we can to protect our citizens. Why don’t we take a few hours to debate the proposals that this bipartisan panel of experts has advised would actually make our borders more secure, and keep us from the next terrorist attack? A few hours like this may not fit into the majority’s midterm election strategy, but it might actually lead to some good policy.

Again, I urge a no vote on the previous question, so we can have a debate and vote on the recommendations of the bipartisan 9/11 Commission. Please vote “no” on this closed rule.

Mr. Speaker, I yield back the balance of my time.

Mr. PUTNAM. Mr. Speaker, it is my desire to bring this focus back to the issue at hand and bring something of a commonsense approach to this.

We are trying to modernize the FISA Act, the Foreign Intelligence Surveillance Act of 1978. Since 1978, there has been a technology revolution in communications: the Internet, cell phones, laptops, desktops for under $500, immediate, rapid, global, affordable communications on demand, satellite phones, GPS for $99. The bottom line is the terrorists can communicate, conspire, organize, recruit and train on a global basis from any spider hole, cave or clubhouse anywhere in the world.

We have to pass the legislation that allows our intelligence agencies and our law enforcement officials to track down those bad guys, not after they have blown up the World Trade Center or after they have flown a plane into the Pentagon, but before they do. This bill, Mr. Speaker, looks like a September 12th mentality, as opposed to a September 10th mentality, the idea that we have to recommit ourselves to the notion that we are very much at grave danger by these radicals who are very much in grave danger by terrorism. It is generally not possible to make the Republicans describe the previous question on a special rule, is not a mere procedural vote. A vote against the Republican majority agenda and a vote to allow the opposition, at least for the moment, to offer an alternative plan. It is a vote about what the House should be debating.

Mr. Clarence Cannon’s Precedents of the House of Representatives, (VI, 308-311) describes the vote on the previous question on the rule as “a motion to direct or control the consideration of the subject before the House being made by the Member in charge.” To defeat the previous question is to give the opposition a chance to decide the subject before the House. Cannon cites the Speaker’s ruling of January 13, 1929, to the effect that “the refusal of the House to sustain the demand for the previous question passes the control of the resolution to the opposition” in order to offer an amendment. On March 15, 1969, a member of the majority party offered a rule resolution. The House defeated the previous question and a member of the opposition rose to a parliamentary inquiry, asking who was entitled to recognition. Speaker Joseph G. Cannon (R-Illinois) said: “The previous question having been refused, the gentleman from New York, Mr. Fitzgibbon, who had asked the time, may offer an amendment to the previous question in the following form: whether the House desires to give the opposition a chance to decide the subject before the House?”

The 9/11 Commission gave Congress falling grades for good reason; we have failed to do all we can to protect our citizens. Why don’t we take a few hours to debate the proposals that this bipartisan panel of experts has advised would actually make our borders more secure, and keep us from the next terrorist attack? A few hours like this may not fit into the majority’s midterm election strategy, but it might actually lead to some good policy.
Amending Special Rules" states: "a refusal to order the previous question on such a rule [a special rule reported from the Committee on Rules] opens the resolution to amendment and further debate." (Chapter 21, section 21.2) Section 21.2 continues: Upon rejection of the motion for the previous question on a resolution reported from the Committee on Rules, control shifted to the Member opposing the previous question, who may offer a proper amendment or motion and who controls the time for debate thereafter.

Clearly, the vote on the previous question on a rule does have substantive policy implications. It is one of the only available tools for those who oppose the Republican majority's agenda to offer an alternative plan.

Mr. PUTNAM. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on order the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Ms. HASTINGS of Florida. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 and clause 9 of rule XX, this 15-minute vote on ordering the previous question is on the bill (H.R. 5441) making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2007, and for other purposes.

So the previous question was ordered.

The result of the vote was announced as above recorded.

CONFERENCE REPORT ON H.R. 5441, DEPARTMENT OF HOMELAND SECURITY APPROPRIATIONS ACT, 2007

Mr. ROGERS of Kentucky submitted the following conference report and statement on the bill (H.R. 5441) making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2007, and for other purposes:

CONFERENCE REPORT (HOUSE REP. NO. 109-699)

That the House recessed from its disagreeing vote on the amendment of the Senate, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert:

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2007, for the Department of Homeland Security and for other purposes, namely:

TITLE I

DEPARTMENTAL MANAGEMENT AND OPERATIONS

OFFICE OF THE SECRETARY AND EXECUTIVE MANAGEMENT

For necessary expenses of the Office of the Secretary of Homeland Security, as authorized by section 1902 of the Homeland Security Act of 2002 (6 U.S.C. 112), and executive management of the Department of Homeland Security, as authorized by law, $94,470,000: Provided, That not to exceed $40,000 shall be for official reception and representation expenses: Provided further, That of the funds provided under this heading, $5,000,000 shall not be available for obligation until the Secretary of Homeland Security submits a comprehensive port, container, and cargo strategic plan to the Committees on Appropriations of the Senate and House of Representatives, the Committee on Homeland Security and Governmental Affairs of the Senate, and the Committee on Government Reform of the House of Representatives that requires screening all inbound cargo, doubles the percentage of inbound cargo.
For necessary expenses for information analysis and coordination activities as authorized by title II of the Homeland Security Act of 2002 (6 U.S.C. 121 et seq.), $299,663,000, to remain available until September 30, 2008, of which not to exceed $5,000 shall be for official reception and representation expenses.

Office of the Federal Coordinator for Gulf Coast Rebuilding

For necessary expenses of the Office of the Federal Coordinator for Gulf Coast Rebuilding, $3,000,000: Provided, That $1,000,000 shall not be available for obligation until the Committees on Appropriations of the Senate and the House of Representatives receive an expenditure plan for fiscal year 2007.

Office of Inspector General

For necessary expenses of the Office of Inspector General, $85,185,000, of which not to exceed $109,000 may be used for certain confidential operational expenses, including the payment of informants, to be expended at the direction of the Inspector General: Provided, That the Department of Homeland Security Inspector General shall investigate whether, and to what extent, in adjusting and settling claims resulting from Hurricane Katrina, insurers making flood insurance coverage available under the Write-Your-Own program pursuant to section 1245 of the National Flood Insurance Act of 1968 (42 U.S.C. 4081) and subpart C of part 62 of title 44, Code of Federal Regulations, improperly attributed damages from one flooding covered under the insurance coverage provided under the national flood insurance program rather than to windstorms covered under coverage provided by windstorm insurance pools in which such insurers participated: Provided further, That the Department of Homeland Security Inspector General shall submit a report to Congress by April 1, 2007, setting forth the conclusions of such investigation.

Title II

Security, Enforcement, and Systems Technology

United States Visitor and Immigrant Status Indicator Technology

For necessary expenses for the development of the United States Visitor and Immigrant Status Indicator Technology project, as authorized by section 110 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1361a), $362,944,000, to remain available until expended: Provided, That of the amount made available under this heading, $290,000,000 may be obligated and $200,000,000 shall be for Air and Marine Operations; and of which not to exceed $1,000,000 shall be for awards of compensation to informants, to be accounted for solely under the certificate of the Secretary of Homeland Security: Provided, That of the amount provided under this heading, $100,000,000 of inspection and detection technology investments funding is described as described in section 204 of this Act: Provided further, That for fiscal year 2007, the overtime limitation prescribed in section 56(c) of the Act of February 13, 1911 (19 U.S.C. 267(c)(1)) shall be $35,000; and notwithstanding any other provision of law, none of the funds appropriated by this Act may be available to compensate any employee of United States Customs and Border Protection for overtime, from whatever source, in an amount that exceeds such limitation, except in individual cases determined by the Secretary of Homeland Security, or the designee of the Secretary, for national security purposes, to prevent excessive costs, or in cases of immigration emergencies.

Automation Modernization

For expenses for automated immigration and border protection automated systems, $451,440,000, to remain available until expended, of which not less than $316,800,000 shall be for the development of the Automated Commercial Environment: Provided, That of the total amount made available under this heading, $216,800,000 may not be obligated for the Automated Commercial Environment until the Committees on Appropriations of the Senate and the House of Representatives receive and approve a plan for expenditure prepared by the Secretary of Homeland Security that—

(1) meets the capital planning and investment control review requirements established by the Office of Management and Budget, including Circular A–11, part 7,
(2) complies with the Department of Homeland Security immigration information systems enterprise architecture;
(3) complies with the acquisition rules, requirements, guidelines, and systems acquisition management practices of the Federal Government;
(4) includes a certification by the Chief Information Officer of the Department of Homeland Security that an independent verification and validation agent is currently under contract for the project;
(5) reviewed and approved by the Department of Homeland Security Investment Review Board, the Secretary of Homeland Security, and the Office of Management and Budget;
(6) is reviewed by the Government Accountability Office;
(7) includes (a) a comprehensive strategic plan for the United States Visitor and Immigrant Status Indicator Technology project; and

(8) includes a complete schedule for the full implementation of a biometric exit program.

United States Customs and Border Protection

Salaries and Expenses

For necessary expenses to enforce laws relating to border security, immigration, customs, and agricultural inspections and regulatory activities related to plant and animal health and safety, and for the payment of overtime for inspection, enforcement, and investigative personnel, not to exceed $13,764,000,000: Provided, That of the total amount available under this heading, $13,764,000,000 shall be for salaries and expenses, $2,000,000,000 shall be for travel and subsistence, $900,000,000 shall be for expenses of the Office of Inspector General, $500,000,000 shall be for expenses of the Office of the Chief Financial Officer, and $1,000,000,000 shall be for equipment purchases.

Office of the Under Secretary for Management

For necessary expenses of the Office of the Under Secretary for Management, as authorized by sections 701 through 705 of the Homeland Security Act of 2002 (6 U.S.C. 341 through 345), $133,889,000, of which not to exceed $1,000,000 shall be for official reception and representation expenses: Provided further, That of the total amount provided, $2,286,000 shall remain available until expended for the improvement of facilities, tenant improvements, and relocation costs to consolidate Department headquarters operations.

Office of the Chief Financial Officer

For necessary expenses of the Office of the Chief Financial Officer, as authorized by section 103 of the Homeland Security Act of 2002 (6 U.S.C. 117), $26,000,000.

Office of the Chief Information Officer

For necessary expenses of the Office of the Chief Information Officer, as authorized by section 103 of the Homeland Security Act of 2002 (6 U.S.C. 113), and Department-wide technology investments, $349,013,000, of which $79,521,000 shall be available for salaries and expenses; and of which $269,492,000 shall be available for development of information technology equipment, software, services, and related activities for the Department of Homeland Security, and for the costs of conversion to narrowband communications, including the operation of the land mobile radio legacy systems, to remain available until expended: Provided, That none of the funds appropriated shall be used to support or supplement the appropriations provided for the United States Visitor and Immigrant Status Indicator Technology project or the Automated Commercial Environment: Provided further, That the Chief Information Officer shall submit to the Committees on Appropriations of the Senate and the House of Representatives, not more than 60 days after the date of enactment of this Act, an expenditure plan for all information technology projects that: (1) are funded under this heading; or (2) are funded by multiple components of the Department of Homeland Security through reimbursable agreements: Provided further, That such expenditure plan shall include each specific project funded, key milestones, all funding sources, the details of anticipated lifecycle costs, and projected cost savings or cost avoidance to be achieved by the project.

Analysis and Operations

For necessary expenses for information analysis and coordination activities as authorized by title II of the Homeland Security Act of 2002 (6 U.S.C. 121 et seq.), $299,663,000, to remain available until September 30, 2008, of which not to exceed $5,000 shall be for official reception and representation expenses.

Office of the Federal Coordinator for Gulf Coast Rebuilding

For necessary expenses of the Office of the Federal Coordinator for Gulf Coast Rebuilding, $3,000,000: Provided, That $1,000,000 shall not be available for obligation until the Committees on Appropriations of the Senate and the House of Representatives receive an expenditure plan for fiscal year 2007.

Office of Inspector General

For necessary expenses of the Office of Inspector General, $85,185,000, of which not to exceed $109,000 may be used for certain confidential operational expenses, including the payment of informants, to be expended at the direction of the Inspector General: Provided, That the Department of Homeland Security Inspector General shall investigate whether, and to what extent, in adjusting and settling claims resulting from Hurricane Katrina, insurers making flood insurance coverage available under the Write-Your-Own program pursuant to section 1245 of the National Flood Insurance Act of 1968 (42 U.S.C. 4081) and subpart C of part 62 of title 44, Code of Federal Regulations, improperly attributed damages from one flooding covered under the insurance coverage provided under the national flood insurance program rather than to windstorms covered under coverage provided by windstorm insurance pools in which such insurers participated: Provided further, That the Department of Homeland Security Inspector General shall submit a report to Congress by April 1, 2007, setting forth the conclusions of such investigation.
(3) identifies funding and the organization staffing (including full-time equivalents, contractors, and detailees) requirements by activity; (4) includes a certification by the Chief Procurement Officer of the Department of Homeland Security that procedures to prevent conflicts of interest between the prime integrator and any other prime integrator are established and a certification by the Chief Information Officer of the Department of Homeland Security that an independent verification and validation agent is currently under contract for the project; (5) complies with all applicable acquisition rules, requirements, guidelines, and best systems acquisition management practices of the Federal Government; (6) complies with the capital planning and investment control review requirements established by the Office of Management and Budget, including the A-11, part 7; (8) is reviewed and approved by the Department of Homeland Security Investment Review Board, the Secretary of Homeland Security, and the Office of Management and Budget; and (9) is reviewed by the Government Accountability Office.

AIR AND MARINE INTERCEPTION, OPERATIONS, AND PROCUREMENT

For necessary expenses for the operations, maintenance, and procurement of marine vessels, aircraft, unmanned aerial vehicles, and other related equipment of the air and marine program, including operational training and mission-related travel, and rental payments for facilities occupied by the air or marine interdiction and law enforcement operations; and for the operations of the Federal Protective Service: Provided, That the Secretary submit a report, approved by the Office of Management and Budget, to the Committees on Appropriations of the House of Representatives no later than November 1, 2006, demonstrating how the operations of the Federal Protective Service will be fully funded in fiscal year 2007; the revenues and collection of security fees.

AUTOMATION MODERNIZATION

For expenses of immigration and customs enforcement automated systems, $15,000,000, to remain available until expended: Provided, That the amount provided under this heading shall be available for office automation expenditures; of which not to exceed $4,731,814,000, to remain available until September 30, 2008, of which not to exceed $10,000,000 shall be for official reception and representation expenses: Provided, That of the total amount made available under this heading, not to exceed $1,768,366,000 shall be for screening operations, of which $141,400,000 shall be available only for procurement of checked baggage explosive detection systems; and not to exceed $663,548,000 shall be for aviation security direction and enforcement: Provided further, That security service fees authorized under section 4940 of title 49, United States Code, shall be credited to this appropriation offsetting collections includable only for aviation security: Provided further, That the sum herein appropriated from the General Fund shall be reduced on a dollar-for-dollar basis as such offsetting collections are received during fiscal year 2007, so as to result in a final fiscal year appropriation from the General Fund estimated at not more than $2,311,814,000: Provided further, That security service fees collected in excess of the amount made available under this heading shall become available during fiscal year 2008: Provided further, That notwithstanding section 4923 of title 49, United States Code, the share of the cost of the Federal Government for a project under letter of intent, for any medium or large hub airport and not more than 90 percent for any other airport, and all funding provided by section 4923(b) of title 49, United States Code, may be distributed in any manner deemed necessary to ensure aviation security: Provided further, That no funding is designated as excess to United States Customs and Border Protection requirements and aircraft that have been damaged beyond repair, shall be transferred to any other Federal agency, department, or office outside of the Department of Homeland Security during fiscal year 2007 without the prior written approval of the Committees on Appropriations of the Senate and the House of Representatives.
Office Report (GAO-06-75) on domestic air cargo security to the Committees on Appropriations of the Senate and the House of Representatives; the Committee on Homeland Security of the House of Representatives; the Committee on Homeland Security and Governmental Affairs of the Senate; and the Committee on Commerce, Science, and Transportation of the Senate: Provided further, That the Secretary of Homeland Security shall be available until September 30, 2008, for the purpose of conducting a detailed explanation of how the Coast Guard is planning to meet any of the costs of legacy assets described in any capital investment plan are consistent to the amount provided under this heading, $1,330,245,000, of which $19,800,000 shall be available until September 30, 2011, for the Integrated Deepwater Systems program; Provided, That the Secretary shall annually submit to the Committees on Appropriations of the Senate and the House of Representatives a description of how the costs of legacy assets are being accounted for within the Deepwater program; a description of the earned value management system conducted in all contracts and subcontracts exceeding $5,000,000 within the Deepwater program; and the earned value management system cold card data for each Deepwater asset: Provided further, That the Secretary shall submit to the Committees on Appropriations of the Senate and the House of Representatives a comprehensive review of the Revised Deepwater Implementation Plan that identifies any changes to the plan for the fiscal year; an annual performance comparison of Deepwater assets with industry standards; a status report of legacy assets; a detailed explanation of how the costs of legacy assets are being accounted for within the Deepwater program; a description of the earned value management system cold card data for each Deepwater asset: Provided further, That the Secretary shall submit to the Committees on Appropriations of the Senate and the House of Representatives, at the time that the President submits under section 1105(a) of title 31, United States Code, a future-years capital investment plan for the Coast Guard that identifies for each capital budget line item—

(1) the proposed appropriation included in that budget;
(2) the total estimated cost of completion;
(3) projected funding levels for each fiscal year for the next five fiscal years or until project completion, whichever is earlier;
(4) an estimated completion date at the projected funding levels; and

(5) changes, if any, in the total estimated cost of the program or estimated project completion dates from previous future-years capital investment plans submitted to the Committees on Appropriations of the Senate and the House of Representatives:

Provided further, That the Secretary shall en- sure that commercial projects and any other capital investment plan are consistent to the maximum extent practicable with proposed ap- propriations necessary to support the programs, projects, and activities of the Coast Guard in the President's budget as submitted under section 1105(a) of title 31, United States Code, for the fiscal year: Provided further, That any in- consistencies between the capital investment plan and proposed appropriations shall be iden- tified and justified: Provided further, That of the funds made available in this Act shall be available for administrative expenses in connection with shipping commis- sioners in the United States; Provided further, That of the funds made available in this Act shall be for expenses incurred for yacht docu- mentation under section 12109 of title 46, United States Code, except to the extent fees are credited to this appropriation and shall be credited to this appropriation: Provided further, That not to ex- ceed five percent of this appropriation may be transferred to the "Acquisition, Construction, and Training" account for the purpose of personnel, compensation and benefits and related costs to adjust personnel assignment to accomplish man- agement and oversight of new or existing projects and programs and for the management and oversight of other projects: Provided further, That the amount made avail- able for "Personnel, Compensation, and Bene- fits" in the "Acquisition, Construction, and Im- provements" appropriation shall not be in- creased by more than 10 percent by such trans- fers: Provided further, That the Committees on Appropriations of the Senate and the House of Representatives shall be notified of each trans- fer within 30 days after it is executed by the Treasury.

ENVIRONMENTAL COMPLIANCE AND RESTORATION

For necessary expenses to carry out the envi- ronmental compliance and restoration functions of the United States Coast Guard under chapter 19 of title 14, United States Code, $19,880,000, to remain available until expended.

RESERVE TRAINING

For necessary expenses of the Coast Guard Reserve, as authorized by law; operations and maintenance of the reserve program; personnel and training costs; and equipment and services; $122,448,000.

ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

For necessary expenses of acquisition, con- struction, renovation, and improvement of aids to navigation facilities; for acquisition of air- craft, including equipment related thereto; and maintenance, rehabilitation, lease and oper- ation of facilities and equipment, as authorized by law; $13,339,245,000, of which $19,800,000 shall be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990 (33 U.S.C. 2711(a)(5)), to be available until September 30, 2011, to acquire, repair, renovate, or improve vessels, small boats, and related equipment; of which $15,000,000 shall be available until September 30, 2009, to in- crease aviation capability; of which $119,823,000 shall be available until September 30, 2009, for other equipment; of which $22,000,000 shall be available until September 30, 2009, for maintenance, rehabilitation, lease and oper- ation of facilities and equipment; as authorized by law; $17,000,000, to remain available until ex- pended, of which $495,000 shall be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990 (33 U.S.C. 2711(a)(5)); Provided, That there may be credited to and used for the purposes of this appropriation funds received from State and local governments, other public authorities, private sources, and foreign countries for expenses incurred in the research, development, testing, and evaluation.

ALTERATION OF BRIDGES

For necessary expenses for alteration or removal of obstructions to navigable waterways, as authorized by section 6 of the Truman-Hobbs Act (33 U.S.C. 516), $15,000,000, to remain available until expended.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

For necessary expenses for applied scientific research, development, test, and evaluation, for maintenance, rehabilitation, lease, and oper- ation of facilities and equipment; as authorized by law; $17,000,000, to remain available until ex- pended, of which $495,000 shall be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990 (33 U.S.C. 2711(a)(5)); Provided, That there may be credited to and used for the purposes of this appropriation funds received from State and local governments, other public authorities, private sources, and foreign countries for expenses incurred in the research, development, testing, and evaluation.

RETIRED PAY

For retired pay, including the payment of obli- gations otherwise chargeable to lapsed appro- priations for this purpose, payments under the Retired Serviceman's Family Protection and Survivor Benefits Plans, payment for career sta- tus bonuses, concurrent receipts and combat-relat- ed special compensation under the National Defense Authorization Act, and payments for the purpose of retired or disabled dependents under chapter 55 of title 16, United States Code, $1,063,320,000.

UNITED STATES SECRET SERVICE

PROTECTION, ADMINISTRATION, AND TRAINING

For necessary expenses of the United States Secret Service, including purchase of not to ex- ceed 755 vehicles for police-type use, of which

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624 shall be for replacement only, and hire of passenger motor vehicles; purchase of motorcycles made in the United States; hire of aircraft; services of expert witnesses at such rates as may be charged by the Director of the Secret Service; rental of buildings in the District of Columbia, and fencing, lighting, guard booths, and other facilities on private or other property not in Government ownership or control, as may be necessary to perform protective functions; payment of per diem or subsistence allowances to employees where a protective assignment during the actual day or days of the visit of a protective service requires an employee to work 16 hours per day or to remain overnight at a post of duty; conduct of and participation in firearms matches to be awarded to participants of United States Secret Service employees on protective missions without regard to the limitations on such expenditures in this or any other Act if approval is obtained in advance from the Committees on Appropriations of the Senate and the House of Representatives; research and development; grants to conduct behavioral research and evaluations; and payment in advance for commercial accommodations as may be necessary to perform protective functions; $961,779,000, of which not to exceed $7,000 shall be for official reception and representation expenses: Provided, That up to $18,000,000 provided for protective travel shall remain available until September 30, 2008: Provided further, That up to $2,000,000 for candidate nominee protection shall remain available until September 30, 2009: Provided further, That up to $1,000,000 for National Special Security Events shall remain available until expended: Provided further, That of the total amount provided under this heading, $2,000,000 shall not be available for obligation until the Director of the Secret Service submits a comprehensive workload re-balancing report to the Committees on Appropriations of the Senate and the House of Representatives that includes funding requirements for current investigative and protective operations: Provided further, That the United States Secret Service is authorized to obligate funds in anticipation of reimbursements from Federal agencies and entities, as defined in section 105 of title 5, United States Code, receiving training sponsored by the James J. Rowley Training Center, except that total obligations at the end of the fiscal year shall not exceed total budgetary resources available under this heading at the end of the fiscal year.

INVESTIGATIONS AND FIELD OPERATIONS

For necessary expenses for investigations and field operations of the United States Secret Service, which may be used for, including but not limited to, facilities related to office space and services of expert witnesses at such rates as may be determined by the Director of the Secret Service, $311,154,000; of which not to exceed $109,000 shall be to provide technical assistance and equipment to foreign law enforcement organizations for counterintelligence investigations; of which $2,366,000 shall be for forensics of investigations of missing and exploited children; and of which $6,000,000 shall be for activities related to the investigations of missing and exploited children and shall remain available until expended.

ACQUISITION, CONSTRUCTION, IMPROVEMENTS, AND RELATED EXPENSES

For necessary expenses for acquisition, construction, repair, alteration, and improvement of facilities, $1,725,000, to remain available until expended: Provided, That of the total amount provided under this heading, $500,000 shall not be available for obligation until the Director of the Secret Service submits a revised master plan to the Committees on Appropriations of the Senate and the House of Representatives for the James J. Rowley Training Center.

TITLE III
PREPAREDNESS AND RECOVERY
PREPAREDNESS

MANAGEMENT AND ADMINISTRATION

For salaries and expenses of the immediate Office of the Under Secretary for Preparedness, the Office of the Secretary of the Office of National Capital Region Coordination, $30,572,000, of which no less than $2,741,000 may be used for the Office of National Capital Region Coordination, and of which $4,600,000 shall be for the National Preparedness Integration Program: Provided, That none of the funds made available under this heading may be obligated for the National Preparedness Integration Program until the Committees on Appropriations of the Senate and the House of Representatives receive and approve a plan for expenditure prepared by the Secretary of Homeland Security: Provided further, That not to exceed $7,000 shall be for official reception and representation expenses: Provided further, That for purposes of the Mass Casualty Act of 2002, $2,366,000 shall be for forensic and related support of investigations of missing and exploited children; and of which $2,366,000 shall be for forensic and related support of investigations of missing and exploited children; and of which not to exceed $100,000 shall be to provide technical assistance, and other programs: provided further, That the Secretary of Homeland Security, in consultation with the Secretary of Housing and Urban Development, shall distribute any unallocated funds made available under this heading, and the application of those factors (including threat, vulnerability, and ability, timeliness, and availability of the risk factors (including threat, vulnerability, and consequence) used by the Secretary for the purpose of allocating discretionary grants funded under this heading, and the application of those factors in the allocation of funds to the Committees on Appropriations of the Senate and the House of Representatives for the fiscal year ending September 30, 2009.

OFFICE OF GRANTS AND TRAINING
STATE AND LOCAL PROGRAMS

For grants, contracts, cooperative agreements, and other activities, including grants to State and local governments for terrorism prevention activities, notwithstanding any other provision of law, $2,513,000,000, which shall be allocated as follows:

(1) $325,000,000 for formula-based grants: $375,000,000 for law enforcement terrorism prevention grants pursuant to section 1014 of the USA PATRIOT ACT (42 U.S.C. 3714): Provided, That the application for grants shall be made available to States within 45 days after the date of enactment of this Act; that States shall submit applications within 90 days after the grant announcement; and that the Office of Grants and Training shall act within 90 days after the date of enactment of this Act.

(7) $2,129,000,000 for discretionary grants, as determined by the Secretary of Homeland Security, of which—

(A) $770,000,000 shall be for use in high-threat, high-density urban areas: Provided, That not later than 90 days after the date of enactment of this Act, the Secretary shall distribute any unallocated funds made available for assistance to organizations (as described under section 501(c)(3) of the Internal Revenue Code) that submit an application for tax-exempt status that is considered by the Secretary to be high-risk of international terrorist attack under title III of the Department of Homeland Security Appropriations Act, 2006, under the heading “Office for Domestic Preparedness—State and Local Programs” (Public Law 109-10, 119 Stat. 2075) in subsection (B) of paragraph (2)(A): Provided further, That the application shall include a description of the risk to the United States and the extent to which any such area is a target of international terrorism.

(B) $210,000,000 shall be for law enforcement terrorism prevention grants under paragraph (2)(A) of this heading: Provided further, That not to exceed $7,000 shall be for official reception and representation expenses: Provided further, That for purposes of the Mass Casualty Act of 2002, $2,366,000 shall be for forensic and related support of investigations of missing and exploited children; and of which $2,366,000 shall be for forensic and related support of investigations of missing and exploited children; and of which not to exceed $100,000 shall be to provide technical assistance, and other programs.

(3) $2,000,000 shall be for buffer zone protection grants.

(4) $352,000,000 for training, exercises, technical assistance, and other programs: Provided, That none of the funds provided under this heading shall be used for the construction or renovation of facilities, except for a minor perimeter security project, not to exceed $1,000,000, as determined necessary by the Secretary of Homeland Security: Provided further, That the preceding proviso shall not apply to grants under subparagraphs (B), (E), and (F) of paragraph (2) of this heading: Provided further, That the Office of Grants and Training shall act on such applications not later than 45 days after the date on which such an application is received.

(5) $90,000,000 shall be available to the Commercial Equipment Direct Assistance Program.

(6) $375,000,000 for law enforcement terrorism prevention grants pursuant to section 1014 of the USA PATRIOT ACT (42 U.S.C. 3714): Provided, That the application for grants shall be made available to States within 45 days after the date of enactment of this Act; that States shall submit applications within 90 days after the grant announcement; and that the Office of Grants and Training shall act within 90 days after the date of enactment of this Act, eligible applicants shall submit applications not later than 45 days after the date of the grant announcement, and the Office of Grants and Training shall act on such applications not later than 60 days after the date on which such an application is received.

(7) $2,129,000,000 for discretionary grants, as determined by the Secretary of Homeland Security, of which—

(A) $770,000,000 shall be for use in high-threat, high-density urban areas: Provided, That not later than 90 days after the date of enactment of this Act, the Secretary shall distribute any unallocated funds made available for assistance to organizations (as described under section 501(c)(3) of the Internal Revenue Code) that submit an application for tax-exempt status that is considered by the Secretary to be at high-risk of international terrorist attack under title III of the Department of Homeland Security Appropriations Act, 2006, under the heading “Office for Domestic Preparedness—State and Local Programs” (Public Law 109-10, 119 Stat. 2075) in paragraph (2)(A): Provided further, That applicants shall identify for the Secretary’s consideration prior threats or attacks (within or outside the United States) by a terrorist organization, or potential high risk to each designated tax-exempt organization (as described in the previous proviso, and the Secretary shall consider prior threats or attacks (within or outside the United States) against like categories of risk: Provided further, That the Secretary shall notify the Committees on Appropriations of the Senate and the House of Representatives the high risk or potential high risk to each designated tax-exempt grantees at least five full business days in advance of the announcement of any grant award.

(2) $210,000,000 shall be for port security grants pursuant to the purposes of section 70107(a) through (h) of title 46, United States Code: Provided, That of the total amount appropriated for the Office of the Secretary of the Office of National Capital Region Coordination, $30,572,000, of which no less than $2,741,000 may be used for the Office of National Capital Region Coordination, and of which $4,600,000 shall be for the National Preparedness Integration Program: Provided, That none of the funds made available under this heading may be obligated for the Office of National Capital Region Coordination, and of which $4,600,000 shall be for the National Preparedness Integration Program until the Committees on Appropriations of the Senate and the House of Representatives receive and approve a plan for expenditure prepared by the Secretary of Homeland Security: Provided further, That not to exceed $7,000 shall be for official reception and representation expenses: Provided further, That for purposes of the Mass Casualty Act of 2002, $2,366,000 shall be for forensic and related support of investigations of missing and exploited children; and of which $2,366,000 shall be for forensic and related support of investigations of missing and exploited children; and of which not to exceed $100,000 shall be to provide technical assistance, and other programs.”
Act of 1974 (15 U.S.C. 2201 et seq.), $662,000,000, of which $547,000,000 shall be available to carry out section 33 of that Act (15 U.S.C. 2229) and $115,000,000, shall be available to carry out section 34 of that Act (15 U.S.C. 2229a) to remain available until September 30, 2008: Provided, That not to exceed five percent of this amount shall be available for program administration.

EMERGENCY MANAGEMENT PERFORMANCE GRANTS


RADIOLOGICAL EMERGENCY PREPAREDNESS PROGRAM

The aggregate charged assessed during fiscal year 2007, as authorized in title III of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2007 (P.L. 109-115) shall not exceed 100 percent of the amounts anticipated by the Department of Homeland Security for its radiological emergency preparedness program pursuant to the next fiscal year: Provided, That the methodology for assessment and collection of fees shall be fair and equitable and shall reflect costs of providing such services, including reasonable costs of collecting such fees: Provided further, That fees received under this heading shall be deposited in this account as offsetting collections and will become available for obligations on October 1, 2007, and remain available until expended.

UNITED STATES FIRE ADMINISTRATION AND TRAINING


INFRASTRUCTURE PROTECTION AND INFORMATION SECURITY

For necessary expenses for infrastructure protection and information security programs and activities by title II of the Homeland Security Act of 2002 (6 U.S.C. 121 et seq.), $547,633,000, of which $470,633,000 shall remain available until September 30, 2008: Provided, That all administrative costs shall not exceed 10 percent of the total amount provided: Provided further, That fees received under this heading shall be deposited in this account as offsetting collections and will become available for obligations on October 1, 2007, and remain available until expended.

FEDERAL EMERGENCY MANAGEMENT AGENCY

ADMINISTRATIVE AND REGIONAL OPERATIONS

For necessary expenses for administrative and regional operations, $282,000,000, including activities authorized by the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.), the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), and the Earthquake Hazards Reduction Act of 1972 (42 U.S.C. 7701 et seq.), $282,000,000: Provided, That all administrative costs shall not exceed three percent of the total appropriation.

NATIONAL FLOOD INSURANCE FUND (INCLUDING TRANSFER OF FUNDS)


PUBLIC HEALTH PROGRAMS

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses for countering potential biological, disease, and chemical threats to civilian populations, $33,885,000: Provided, That the total amount appropriated and notwithstanding any other provision of law, the functions, personnel, assets, and liabilities of the National Disaster Medical System established under section 317 of the Public Health Service Act (42 U.S.C. 300h-1(b)), including any functions of the Secretary of Homeland Security relating to such system, shall be permanently transferred to the Secretary of the Department of Health and Human Services effective January 1, 2007.

DISASTER RELIEF

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses, in carrying out the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), $1,500,000,000, to remain available until expended: Provided, That of the total amount provided, not to exceed $13,500,000 shall be transferred to the Department of Homeland Security Office of Inspector General for audits and investigations related to natural disasters subject to section 503 of this Act.

DISASTER ASSISTANCE DIRECT LOAN PROGRAM ACCOUNT

For administrative expenses for carry out the direct loan program, as authorized by section 319 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5162), $569,000: Provided, That gross obligations for the principal amount of direct loans shall not exceed $50,000,000: Provided further, That the cost of modifying such loans shall be as defined in section 502 of the Congressional Budget Act of 1974 (2 U.S.C. 661a).

NATIONAL FLOOD MITIGATION FUND (INCLUDING TRANSFER OF FUNDS)

Notwithstanding subparagraphs (B) and (C) of subsection (b)(3), and subsection (l), of section 200(g) of the National Flood Insurance Act of 1968 (42 U.S.C. 4104c), $31,000,000, to remain available until expended: Provided, That grants made for flood mitigation programs pursuant to section 1361(b) of the National Flood Insurance Act claims properties under section 1322 of that Act (42 U.S.C. 4030), shall remain available until expended: Provided further, That total administrative costs shall not exceed three percent of the total appropriation.

EMERGENCY FOOD AND SHELTER

To carry out an emergency food and shelter program pursuant to title III of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11321 et seq.), $151,470,000, to remain available until expended: Provided, That total administrative costs shall not exceed 3.5 percent of the total appropriation.

TITLES IV

RESEARCH AND DEVELOPMENT, TRAINING, AND SERVICES

UNITED STATES CITIZENSHIP AND IMMIGRATION SERVICES

For necessary expenses for citizenship and immigration services, $181,990,000, of which $92,500,000 is available until expended: Provided, That $47,000,000 may not be obligated until the Committees on Appropriations of the Senate and the House of Representatives receive a strategic transformation plan for United States Citizenship and Immigration Services that has been reviewed and approved by the Secretary of Homeland Security and reviewed by the Government Accountability Office.

FEDERAL LAW ENFORCEMENT TRAINING CENTER

SALARIES AND EXPENSES

For necessary expenses of the Federal Law Enforcement Training Center, including salaries and expenses of the Federal Law Enforcement Training Board for student interns; a flat monthly reimbursement to employees authorized to use personal mobile

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For the Department of Homeland Security: Provided, That not to exceed 5 percent of any appropriation made available for the current fiscal year for the Department of Homeland Security by this Act or provided by previous appropriations Acts may be transferred between such appropriations, but no such appropriations, except as otherwise specifically provided, may be increased by more than 10 percent by such transfers: Provided, That any transfer under this section shall be treated as a reprogramming of funds under subsection (b) of this section and shall not be obligated for full scale procurement of Advanced Spectroscopic Portal Monitors until the Secretary of Homeland Security provides notification to the Committees on Appropriations of the Senate and the House of Representatives that the Domestic Nuclear Detection Office has entered into a Memorandum of Understanding with each Federal entity and organization: Provided further, That each Memorandum of Understanding shall include a description of the role, responsibilities, and resource commitment of each Federal entity or organization for the global architecture.

For expenses for the Domestic Nuclear Detection Office acquisition and deployment of radiological detection systems in accordance with the global nuclear detection architecture, $277,500,000: Provided, That no funds will be obligated for full scale procurement of Advanced Spectroscopic Portal Monitors until the Secretary of Homeland Security has certified through a report to the Committees on Appropriations of the Senate and the House of Representatives that a significant increase in operational effectiveness has been achieved.

SEC. 501. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 502. Subject to the requirements of section 503 of this Act, the unobligated balances of prior appropriations provided for activities in this Act may be reprogramming of funds for such activities established pursuant to this Act: Provided, That balances so transferred may be merged with funds in the applicable established fund and may be accounted for as one fund for the same time period as originally enacted.

SEC. 503. (a) None of the funds provided by this Act for appropriations Acts to the agencies in or transferred to the Department of Homeland Security that remain available for obligation or expenditure in fiscal year 2007, or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act, shall be available for obligation or expenditure for programs, projects, or activities through a reprogramming of funds in excess of $5,000,000,000 without the express approval of the Committees on Appropriations of the Senate and the House of Representatives for approval in accordance with section 503 of this Act.

SEC. 504. None of the funds appropriated or otherwise made available to the Department of Homeland Security may be used to make payments to the "Department of Homeland Security Working Capital Fund", except for the activities and amounts allocated in the President's fiscal year 2007 budget, excluding shuttle service, transport subsidy, mail operations, parking, and competitive sourcing: Provided, That any additional activities and amounts shall be approved by the Committees on Appropriations of the Senate and the House of Representatives 30 days in advance of obligation.

SEC. 505. Except as otherwise specifically provided by law, not to exceed 50 percent of unobligated balances remaining at the end of fiscal year 2007 from appropriations for salaries and expenses for fiscal year 2007 in this Act shall remain available through September 30, 2008, in the account and for the purposes for which the appropriations were provided: Provided, That prior to the obligation of such funds, a request shall be submitted to the Committees on Appropriations of the Senate and the House of Representatives for approval in accordance with section 503 of this Act.

SEC. 506. Funds made available by this Act for intelligence activities and related expenses for fiscal year 2007 shall be made available only to the extent specifically authorized by the Congress for purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414) during fiscal year 2007 until the adoption of an Act authorizing intelligence activities for fiscal year 2007.

SEC. 507. The Federal Law Enforcement Training Accreditation Program established by this Act provides for the accreditation of Federal law enforcement training accreditation process, to include representatives from the Federal law enforcement community and non-Federal accredited institutions and entities: Provided, That in order to continue the implementation of measuring and assessing the quality and effectiveness of Federal law enforcement training programs, facilities, and activities: Provided further, That none of the funds in this Act may be used to make a grant allocation, discretionary
grant award, discretionary contract award, or to issue a letter of intent totaling in excess of $1,000,000, or to announce publicly the intention to make such an award, unless the Secretary of Homeland Security certifies to the Committees on Appropriations of the Senate and the House of Representatives at least three full business days in advance: Provided, That no notification shall involve funds that are not available for obligation or disbursement; Provided further, That the Office of Grants and Training shall brief the Committees on Appropriations of the Senate and the House of Representatives at least three full business days in advance of announcing publicly the intention of making an award of formula-based grants; law enforcement prevention grants, or high-threat, high-density urban areas grants.

SEC. 509. Notwithstanding any other provision of law, no agency shall purchase, construct, or lease any facilities, except for facilities contiguous or contiguous to existing locations, to be used for the purpose of conducting Federal law enforcement training without the advance approval of the Committees on Appropriations of the Senate and the House of Representatives, except that the Federal Law Enforcement Training Center is authorized to obtain the temporary use of additional space or facilities for the purpose of conducting training which cannot be accommodated in existing Center facilities.

SEC. 510. The Director of the Federal Law Enforcement Training Center shall schedule and conduct and/or advanced law enforcement training at all four training facilities under the control of the Federal Law Enforcement Training Center to ensure that training centers are operated at the highest capacity throughout the fiscal year.

SEC. 511. None of the funds appropriated or otherwise made available by this Act may be used for expenses of any construction, repair, alteration, or acquisition project for which a proposal, application, or Public Notice under Title 40 of Public Law 1995 (40 U.S.C. 3301), has not been approved, except that necessary funds may be expended for each project for required expenses for the development of a proposed project.

SEC. 512. None of the funds in this Act may be used in contravention of the applicable provisions of the Buy American Act (41 U.S.C. 10a et seq.).

SEC. 513. Notwithstanding any other provision of law, the authority of the Office of Personnel Management to conduct personnel security and suitability background investigations, update investigations, and periodic reinvestigations of applicants for, or appointees in, positions in the Office of the Secretary and Executive Management, the Office of Inspector General, the Office for Management, Analysis and Operations, Immigration and Customs Enforcement, the Director for Preparedness, and the Directorate of Science and Technology of the Department of Homeland Security is transferred to the Department of Homeland Security: Provided, That on request of the Office of Homeland Security, the Office of Personnel Management shall cooperate with and assist the Department in any investigation or reinvestigation under this section: Provided further, That this section is not intended to prevent the Department of Homeland Security from carrying out the functions of the Office of Homeland Security by making available to the Department of Homeland Security the personnel security, background investigations, and suitability background investigations conducted by the Office of Personnel Management to the extent permitted by law.

SEC. 514. (a) None of the funds provided by this Act may be used for personnel security, background investigations, and suitability background investigations conducted by the Office of Personnel Management to assist the Department of Homeland Security in conducting their own investigations pursuant to section 3001 of such Act.

(b) Existing background investigation equipment and systems shall be utilized to screen air cargo carried on passenger aircraft to the greatest extent possible until technologies developed under subsection (a) are available.

(c) The Transportation Security Administration shall report air cargo inspection statistics applicable to the Committees on Appropriations of the Senate and the House of Representatives, by airport and air carrier, within 45 days after the end of the quarter including any reason for noncompliance with the requirements of section 513 of the Department of Homeland Security Appropriations Act, 2005 (Public Law 108–334, 118 Stat. 1317).

SEC. 520. For purposes of this Act, any designation referred to in this section is the designation of an amount as making appropriations for contingency operations directly related to the global war on terrorism, and other unanticipated operations, pursuant to section 402 of H. Con. Res. 376 (109th Congress) as made applicable to the House of Representatives by H. Res. 418 (109th Congress), and as an extension of section 402 of S. Con. Res. 83 (109th Congress) as made applicable to the Senate by section 7035 of Public Law 109–234.

SEC. 521. (a) REQUIREMENT.—From the unexpended balances of the United States Coast Guard “Acquisition, Construction, and Improvements” account specifically identified in the Joint Explanatory Statement (House Report 109–241) accompanying Public Law 109–98 for the Fast Response Cutter, the service life extension program of the current 110-foot Island Class patrol boat fleet, and accelerated design and procurement of the Fast Response Cutter, $78,693,508 are rescinded.

(b) ADDITIONAL APPROPRIATION.—For necessary expenses of the United States Coast Guard for “Acquisitions, Construction, and Improvements”, there is appropriated an additional $78,693,508, to remain available until September 30, 2009, for the service life extension program of the current 110-foot Island Class patrol boat fleet and the acquisition of traditional patrol boats (“parent craft”).

SEC. 522. None of the funds made available in this Act may be used by any person other than the Office of Management and Budget Circular A–76 for services provided as of June 1, 2004, by employees including employees serving on a temporary or term basis of United States Governmental entities, Services of the Department of Homeland Security who are known as of that date as Immigration Information Officers, Contact Representatives, or Investigative Representatives of the Department of Homeland Security who are certified, as required by section 7035 of Public Law 109–98, to perform such services.

SEC. 523. None of the funds made available by this Act or by any previous appropriation Acts may be used to pay the salary of any employee serving as aBackground Investigation Officer, or any other person acting in a similar capacity, who has not received CBP training.

SEC. 524. Except as provided in section 44945 of title 49, United States Code, funds appropriated by this Act for the Federal Law Enforcement Training Center, the Domestic Security Support Center, and the Transportation Security Administration “Aviation Security”, “Ad- ministration” and “Aviation Security Support” in fiscal years 2004, 2005, and 2006 that are recovered or deobligated shall be available only for procurement and installation of explosive detection systems for air cargo, baggage, and checkpoint screening systems, subject to the notification.

SEC. 525. (a) Within 30 days after enactment of this Act, the Secretary of Homeland Security shall develop standards and protocols for increasing the use of explosive detection equipment to screen air cargo when appropriate.

(b) Within 30 days after enactment of this Act, the Secretary of Homeland Security shall develop standards and protocols for increasing the use of explosive detection equipment to screen air cargo when appropriate.

SEC. 526. That when a lawful request is made to publicly release a document containing information designated as sensitive security information carried on passenger aircraft at the earliest date possible.
(SSI), the document shall be reviewed in a timely manner to determine whether any information contained in the document meets the criteria for continued SSI protection under applicable law and shall be immediately appealable to the United States Courts of Appeals, which shall have plenary review over both the evidentiary finding and the sufficiency of the order specifying the terms and conditions of access to the SSI in question. Provided, That the Assistant Secretary of the Treasury shall, upon receipt of a request for access to SSI under this section, determine whether to approve or deny the request in accordance with applicable laws and regulations, and the written rationale for the decision shall be provided to the party requesting access.

SEC. 527. RECUSATION. Of the unobligated balances from prior year appropriations made available for Science and Technology, $125,000,000 from “Research, Development, Acquisition, and Operations” appropriation is rescinded.

SEC. 528. Recusation. Of the unobligated balances from prior year appropriations made available for the “Counterterrorism Fund”, $15,000,000 are rescinded.

SEC. 529. RECUSATION. Of the unobligated balances from prior year appropriations made available for the “Disaster Relief” shall hereafter be submitted monthly and include: (1) status of the Disaster Relief Fund (DRF) including obligations, allocations, and amounts undisbursed/unallocated; (2) allocations, obligations, and expenditures for Hurricane Katrina, Rita, and Wilma; (3) information on manufactured housing data; (4) information on hotel/motel data; (6) obligations, allocations, and expenditures by State for unemployment compensation benefits paid under 42 U.S.C. 405, and by State for the purpose of providing emergency and supplemental unemployment compensation benefits paid under State programs for training and reemployment, and the amounts reimbursed to other agencies that are in suspense because FEMA has not yet reviewed and approved the documentation supporting the expenditure; and (7) a disclaimer if the amounts of reported obligations and expenditures do not reflect the status of such obligations and expenditures from a government-wide perspective; (8) the amount of credit card purchases made by federal agencies; (9) specific reasons for all waivers granted and a description of each waiver; and (10) a list of all contracts that were awarded on a sole source or limited competition basis, including the dollar amount, the purpose of the contract and the reason for the lack of competitive award.

(b) The Secretary of Homeland Security shall at least quarterly obtain and report to agencies performing mission assignments each such agency’s actual obligation and expenditure data.

(c) For any request for reimbursement from a Federal agency to the Department of Homeland Security to cover expenditures under the Stafford Act or to perform an assignment orders issued by the Department of Homeland Security for such purposes, the Secretary of Homeland Security shall take appropriate steps to ensure that each agency is periodically reminded of Department of Homeland Security policies on—

(1) the detailed information required in supporting mission assignment orders, and

(2) the necessity for timeliness of agency bilings.

SEC. 530. None of the funds made available in this Act may be used to enforce section 1012 of the Stafford Act; and any action authorized by any paragraph of such subsection is necessary for the conduct of an undercover investigative operation. Such certification shall be made to the Committee on Appropriations and to the Committee on Homeland Security. The proceeds of such operation, without regard to fiscal years.

(c) DEPOSIT OF PROCEEDS IN TREASURY. As soon as practicable after the proceeds from an undercover investigative operation have been deposited in the United States Treasury, the United States shall report to Congress the results of that operation.

(d) REPORTING AND DEPOSIT OF PROCEEDS UPON DISPOSITION OF CERTAIN BUSINESS ENTITIES. If a corporation or business entity established or acquired as part of an undercover investigative operation under paragraph (2) of subsection (a) with a net value of over $50,000 is to be sold or otherwise disposed of, the Board of Directors of the Federal Home Loan Bank Board shall report the circumstance to the Secretary of Homeland Security, who shall determine whether to approve or deny the request in accordance with applicable laws and regulations, and the written rationale for the decision shall be provided to the party requesting access.

(e) FINANCIAL AUDITS AND REPORTS.—(1) The Department of Homeland Security shall conduct periodic audits of closed undercover investigative operations for which a written certification...
was made pursuant to subsection (b) on a quarterly basis and shall report the results of the audits in writing to the Secretary of Homeland Security. 

SEC. 534. The Director of the Domestic Nuclear Detection Office shall operate extramural and intramural research, development, demonstrations, testing and evaluation programs so as to distribute funding through grants, cooperative agreements, contracts and other arrangements. 

SEC. 535. Notwithstanding any other provision of law, the Secretary of Homeland Security shall consider the Hancock County Port and Harbor Commission in Mississippi eligible under the Federal Emergency Management Agency Public Assistance Program for all costs incurred for dredging from navigation channel in Little Lake, Louisiana, sediment deposited as a result of Hurricane George in 1998. Provided, That the appropriate Federal share shall apply to approval of this project. 

SEC. 536. None of the funds made available in this Act for United States Customs and Border Protection may be used to prevent an individual not in the business of importing a prescription drug from importing a prescription drug (as defined in section 102 of the Federal Food, Drug, and Cosmetic Act) from importing a prescription drug from Canada that complies with the Federal Food, Drug, and Cosmetic Act. Provided further, That none of the funds made available in this Act may be used in contravention of section 303 of the Energy Policy Act of 1992 (42 U.S.C. 13221). 

SEC. 546. Section 7208(b)(1) of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108-458; 8 U.S.C. 1185 note) is amended by striking from “(1) DEVELOPMENT OF PLAN—The Secretary through “7208(b),” and inserting the following: 

“(1) DEVELOPMENT OF PLAN AND IMPLEMENTATION— 

(A) The Secretary of Homeland Security, in consultation with the Secretary of State, shall 

1. develop and implement a plan as expeditiously as possible to require a passport or other document, or combination of documents, deemed by the Secretary of Homeland Security to be sufficient to denote identity and citizenship, for all travel into the United States by United States citizens and by categories of individuals for whom documentation requirements have previously been waived under section 221(d)(4)(B) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(4)(B)). This plan shall be implemented and implemented by the Secretary of State and the Secretary of Homeland Security make the certifications required in subsection (B), or June 1, 2009, whichever is earlier, and thereafter the travel of frequent travelers, including those who reside in border communities, and in doing so, shall make readily available a registered traveler program (as described in section 7208(k)). 

(B) The Secretary of Homeland Security and the Secretary of State shall jointly certify to the Committees of the Senate and the House of Representatives that the following criteria have been met prior to implementation of section 7208(b)(1)(A)—

(i) the National Institute of Standards and Technology certifies that the Departments of Homeland Security and State have selected a card architecture that meets or exceeds Inter- 

ational Organization for Standardization (ISO) security standards and meets or exceeds best available practices for protection of personal identification data; Provided, That the National Institute of Standards and Technology shall also assist the Departments of Homeland Security and State to incorporate into the architecture of the card the best available technologies that facilitate efficient cross-border travel, the use of information on the card: Provided further, That to facilitate efficient cross-border travel, the Departments of Homeland Security and State shall develop, establish, or adapt for use in the United States, an architecture that is compatible with information technology systems and infrastructure used by United States Customs and Border Protection; 

(ii) the technology to be used by the United States for the passport card, and any subse- quent change to that technology that has been shared with the governments of Canada and Mexico; 

(iii) an agreement has been reached with the United States Postal Service on the fee to charged individuals for the passport card, and a detailed justification has been submitted to the Committees on Appropriations of the Senate and the House of Representatives for entry have been properly trained in the use of the new technology; 

(iv) the necessary technological infrastruc- ture to process the passport cards has been in- stalled, and all necessary technology has been properly trained in the use of the new technology; 

(v) the passport card has been made avail- able for international travel by United States citizens through land and sea ports of entry between the United States and Canada, Mexico, the Caribbean and Bermuda; 

and 

(vii) a single implementation date for sea and land borders has been established. 

None of the funds made available in this Act may be used to award any contract for major disaster or emergency assistance activities under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (as described in section 7208(k)). 

SEC. 550. (a) No later than six months after the date of enactment of this Act, the Secretary of Homeland Security shall issue interim final regulations establishing risk-based performance standards for security of chemical facilities and requiring vulnerability assessments and the development and implementation of security plans for chemical facilities: Provided, That such regulations shall apply to chemical facilities that, in the discretion of the Secretary, pose high levels of risk and are provided further, That such regulations shall permit each such facility, in developing and implementing site security plans, to select layered security measures that, in combination, adequately address the vulnerability assessment and the risk-based performance standards for security for the facility:Provided further, That the Secretary may not disapprove a site security plan submitted under this section based on the presence or absence of a particular security measure, but the Secretary may disapprove a site security plan if the plan fails to satisfy the risk-based performance standards established by this section: Provided further, That the Secretary may approve alternative security programs established by private sector entities, Federal, State, or local authorities, or other applicable laws if the Secretary determines that the requirements of such programs meet the require- ments of this section and the interim regula- tions: Provided further, That the Secretary shall review and approve each vulnerability assess- ment and site security plan required under this Act except in accordance with the Maritime Transportation Security Act of 1998, section 107, Public Law 105-207, Public Law 106-233, as
amended: Treatment Works as defined in section 212 of the Federal Water Pollution Control Act, Public Law 92–500, as amended; any facility owned or operated by the Department of Defense (including the Department of Energy, or any facility subject to regulation by the Nuclear Regulatory Commission).

(b) Interim regulations issued under this section shall be effective until permanent or final regulations promulgated under other laws that establish requirements and standards referred to in subsection (a) and expressly provide that the authority provided by this section shall terminate three years after the date of enactment of this Act.

(c) Notwithstanding any other provision of law and subsection (b), information developed under this section, including vulnerability assessments, site security plans, and other security related information, records, and documents shall be given protections from public disclosure consistent with similar information developed by chemical facilities subject to regulation under section 701B of title 46, United States Code. Provided, That this subsection does not prohibit the sharing of such information, as the Secretary deems appropriate, with State and local government officials and first responders, for the purpose of carrying out this section, provided that such information may not be shared with any foreign State or local government.

(d) Any person who violates an order issued under this section shall be liable for a civil penalty under section 70119(a) of title 46, United States Code, that nothing in this section confers upon any person except the Secretary a right of action against an owner or operator of a chemical facility to enforce any provision of this section.

(e) The Secretary of Homeland Security shall audit and inspect chemical facilities for the purposes of determining compliance with the regulations issued pursuant to this section.

(f) Nothing in this section shall be construed to supersede, amend, alter, or affect any Federal law that regulates the manufacture, distribution in commerce, use, sale, other treatment, or disposal of chemical substances or mixtures.

(g) If the Secretary determines that a chemical facility is not in compliance with this section, the Secretary may require the owner or operator with written notification (including a clear explanation of deficiencies in the vulnerability assessment and site security plan) and opportunity for consultation, and issue an order to comply with such date as the Secretary determines to be appropriate under the circumstances: Provided, That if the owner or operator continues to be in noncompliance, the Secretary may issue an order for the facility to cease operation, until the owner or operator complies with the order.

SEC. 551. CONSTRUCTION OF BORDER TUNNEL OR PASSAGE.

(a) Any person who knowingly constructs or finances the construction of a tunnel or passageway that crosses the international border between the United States and another country, other than a lawfully authorized tunnel or passageway as defined in section 44944(a) of title 49, United States Code, is amended by adding at the end the following:

"§554. Border tunnels and passages (a) Any person who knowingly constructs or finances the construction of a tunnel or passageway that crosses the international border between the United States and another country, other than a lawfully authorized tunnel or passageway as defined in section 44944(a) of title 49, United States Code, is amended by adding at the end the following:

(b) Any person who knows or recklessly disregards the construction or use of a tunnel or passageway 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 passageway 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 2339B(g)(6)) shall be subject to a maximum term of imprisonment that would have otherwise been applicable had the unlawful activity not made use of such a tunnel or passageway.

(b) CRIMINAL FORFEITURE. —Section 982(a)(6) of title 18, United States Code, is amended by inserting "554", before "1245",.

(d) DIRECTIVE TO THE UNITED STATES SENTENCING COMMISSION. —

(1) IN GENERAL. —Pursuant to its authority under section 994 of title 28, United States Code, and in accordance with this subsection, the United States Sentencing Commission shall provide guidelines to provide for increased penalties for persons convicted of offenses described in section 554 of title 18, United States Code, as added by subsection (a).

(2) REQUIREMENTS. —In carrying out this subsection, the United States Sentencing Commission shall—

(A) ensure that the sentencing guidelines, policy statements, and official commentary reflect the serious nature of the offenses described in section 554 of title 18, United States Code, and the need for appropriate law enforcement action to prevent such offenses;

(B) provide adequate base offense levels for offenses under such section;

(C) account for any aggravating or mitigating circumstances that might justify exceptions, including—

(i) the use of a tunnel or passageway described in subsection (a) of such section to facilitate other felonies; and

(ii) the circumstances for which the sentencing guidelines and policy statements provide applicable sentencing enhancements;

(D) ensure reasonable consistency with other relevant directives, other sentencing guidelines, and statutes;

(E) make any necessary and conforming changes to the sentencing guidelines and policy statements; and

(F) ensure that the sentencing guidelines adequately meet the purposes of sentencing set forth in section 3553(a)(2) of title 18, United States Code.

SEC. 552. The Secretary of Homeland Security may not take any action to alter or reduce operations within the Civil Engineering Program of the Coast Guard nationwide, including the civil engineering construction centers, the Coast Guard Academy, and the Coast Guard Research and Development Center until the Committees on Appropriations of the Senate and the House of Representatives receive and approve a plan on changes to the Civil Engineering Program of the Coast Guard: Provided, That the plan shall include a description of the proposed functions of the Civil Engineering Program and a description of any proposed modifications of such functions and of any proposed modification of personnel and offices, including the rationale for such modifications; an assessment of the costs and benefits of such modification; any proposed alternatives to such modification; and the processes utilized by the Coast Guard and the Office of Management and Budget to analyze and assess such modification.

SEC. 553. None of the funds made available by this Act may be used to take an action that would violate Executive Order 13149 (65 Fed. Reg. 24607, relating to greening the government through procurement of Federal fleet and transportation efficiency).

SEC. 554. (a) The Transportation Security Administration shall require all air carrier and foreign air carrier that provides air transportation or intrastate air transportation to submit plans to the Transportation Security Administration outlining Federal earthquake response plans for high-risk earthquake regions in the United States as determined by the United States Geological Survey.

(b) Not more than 90 days after the date of the enactment of this Act, the Transportation Security Administration shall prepare a report that contains the following:

(A) Procedures that qualified individuals need to follow in order to participate in the program described in subsection (a).

(B) The emergency response agency of each State.

(C) The relevant organizations representing individuals to participate in the program.

SEC. 555. Not later than 90 days after the date of enactment of this Act, the Director of the Federal Emergency Management Agency, in consultation with the Director of the National Institute of Standards and Technology shall submit a report to the Committees on Appropriations of the Senate and the House of Representatives outlining Federal earthquake response plans for high-risk earthquake regions in the United States as determined by the United States Geological Survey.

SEC. 556. Not later than six months after the date of enactment of this Act, the Secretary of Homeland Security shall establish revised procedures for expeditiously clearing individuals whose names have been mistakenly placed on a terrorist database list or who have names identical or similar to individuals on a terrorist database list. The Secretary shall advise Congress of the procedures established.

SEC. 557. Title VII of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5201) is amended by adding at the end the following:

"SEC. 706. FIREARMS POLICIES.

PROHIBITION ON EXPORTATION OF FIREARMS.—No officer or employee of the United States (including any member of the uniformed services, or person operating pursuant to or under color of Federal law, or receiving Federal funds, or under control of any Federal official, or providing services to such an officer, employee, or other person, while acting in support of relief from a major disaster or emergency, may—

(1) temporarily or permanently seize, or authorize seizure of, any firearm the possession of which is prohibited by State or local law, other than for forfeiture in compliance with Federal law or as evidence in a criminal investigation;

(2) require registration of any firearm for which registration is not required by Federal, State, or local law; or

(3) prohibit possession of any firearm, or promulgate any rule, regulation, or order prohibiting possession of any firearm, in any place or by any person where such possession is not otherwise prohibited by Federal, State, or local law; or

(4) prohibit the carrying of firearms by any person otherwise authorized to carry firearms under Federal, State, or local law, solely because such person is operating under the direction, control, or supervision of a Federal agency.
in support of relief from the major disaster or emergency.

“(b) LIMITATION.—Nothing in this section shall be construed to prohibit any person in sub-
section (a) from using the technology described in section 504 of the Homeland Security Act of 2002 (42 U.S.C. 1513), as amended by this Act; or from using any method of transportation for rescue or evacuation during a major disaster or emer-
gency, provided that such temporarily surren-
dered firearm is returned at the completion of such rescue or evacuation.

“(c) ATTORNEY FEES.—In any action or pro-
cceeding to enforce this section, the court shall award, together with such other amounts as are equitable, a reasonable attorney’s fee and costs to the prevailing party, other than the United States, a reasonable attorney’s fee as part of the costs.”.

SEC. 558. PILOT INTEGRATED SCREENING SY-
STEM. (a) DEFINITIONS.—

(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Sec-
retary of Homeland Security (referred to in this section as the “Secretary”) shall designate three foreign seaports through which containers pass or are transshipped to the United States to pilot an integrated screening system that couples non-
intrusive inspection and radiation detec-
tion equipment, which may be provided by the Megaport Initiative of the Department of Energy. In making designations under this sub-
section, the Secretary shall consider three dis-
tinct ports with unique features and differing levels of trade volume.

(2) COLLABORATION AND COOPERATION.—The Secretary shall collaborate with the Secretary of Energy and cooperate with the private sector and host foreign government to implement the pilot program under this subsection.

(b) IMPLEMENTATION.—Not later than one year after the date of the enactment of this Act, the Secretary shall achieve a full-scale imple-
mentation of the pilot integrated screening system, which shall—

(1) scan all containers destined for the United States that transit through the terminal;

(2) electronically transmit the images and in-
formation to the container security initiative personnel in the host country and/or Customs and Border Protection personnel in the United States for evaluation and analysis;

(3) resolve every radiation alarm according to established Department procedures;

(4) utilize the information collected to en-
hance the Automated Targeting System or other relevant programs; and

(5) store the information for later retrieval and analysis.

(c) EVALUATION.—The Secretary shall evalu-
ate the pilot program in subsection (b) to deter-
mine whether such a system—

(1) has a sufficiently low false alarm rate for
use in the supply chain;

(2) is capable of being deployed and operated at ports, including consideration of the cost, personnel, and infrastructure required to operate the system;

(3) is capable of integrating, where necessary, with existing systems;

(4) does not significantly impact trade capac-
y and flow of cargo at foreign or United States ports;

(5) provides a automated notification of questionable or high-risk cargo as a trigger for further inspection by appropriately trained per-
sonnel.

(d) REPORT.—Not later than 120 days after achieving full-scale implementation under sub-
section (b), 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 program implemented under this sec-
tion;

(2) an analysis of the efficacy of the Auto-

tomated Targeted System or other relevant pro-
grams in utilizing the images captured to ex-
amine high-risk containers;

(3) an analysis of the lessons learned from detecting radiological material and radioact-

ive substances in scanned containers; and

(4) a plan and schedule to expand the inte-
grated scanning system developed under this section to other container security initiative ports.

(e) IMPLEMENTATION.—If the Secretary deter-
mines the available technology meets the criteria outlined in subsection (c), the Secretary, in co-
operation with the Secretary of State, shall seek to secure the cooperation of foreign governments to initiate and maximize the use of such tech-

nology at foreign ports to scan all cargo bound for the United States as quickly as possible.

SEC. 559. (a) RECURSION.—From the unex-
pected expenses of the United States Secret Service “Salaries and Expenses” account spec-

(b) ADDITIONAL APPROPRIATION.—For nec-
essary expenses of the United States Secret Ser-
vice “Protection, Administration, and Training”, there is appropriated an additional $2,500,000, to remain available until expended for National Special Security Events.

SEC. 560. Transfer authority contained in sec-
tion 505 of the Homeland Security Act, as amended by title VI of this Act, shall be used in accordance with the provisions of title 151(a)(2) of title 31, United States Code.

TITLE VI—NATIONAL EMERGENCY
MANAGEMENT

SEC. 601. SHORT TITLE. This title may be cited as the “Post-Katrina Emergency Management Reform Act of 2006”.

SEC. 602. DEFINITIONS. In this title—

(1) the term “Administrator” means the Ad-

ministrator of the Federal Emergency Man-
agement Agency;

(2) the term “Agency” means the Federal Emer-

gency Management Agency;

(3) the term “appropriate committees of Con-
gress” means—

(A) the Committee on Homeland Security and

Governmental Affairs of the Senate; and

(B) those committees of the House of Rep-

resentatives that the Speaker of the House of

Representatives determines appropriate;

(4) the term “catastrophic incident” means any natural disaster, act of terrorism, or other man-

made disaster that results in extraordinary levels of casualties or damage or disruption se-
verely affecting the population (including mass evacuations), infrastructure, environment, econ-
omy, national morale, or government functions in an area;

(5) the term “Department” means the Depart-
ment of Homeland Security;

(6) the terms “emergency” and “major dis-
aster” have the meanings given the terms in sec-
tion 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122);

(7) the term “emergency management” means the governmental function that coordinates and integrates all activities necessary to build, sus-

tain, and improve the ability of the Federal Government to prepare for, protect against, respond to, recover from, or mitigate against threatened or actual natural

disasters, acts of terrorism, or other man-

made disasters;

(8) the term “emergency response provider” has the meaning given the term in section 2 of the Homeland Security Act of 2002 (6 U.S.C. 161), as amended by this Act;

(9) the term “Federal coordinating officer” means the Federal coordinating officer de-
scribed in section 302 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5143); and

(10) the term “individual with a disability” has the meaning given the term in section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102).

In this title—

(1) the term “government” includes the terms “local government” and “State” have the meaning given the term in section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101);

(2) the term “National Incident Management System” means a system to enable effective, effi-
cient, and collaborative incident manage-
ment;

(3) the term “National Response Plan” means the National Response Plan or any suc-
cessor plan prepared under section 502(a)(6) of the Homeland Security Act of 2002 (as amended by this Act);

(4) the term “Secretary” means the Secretary of Homeland Security;

(5) the term “surge capacity” means the abil-
ity to rapidly and substantially increase the provision of search and rescue capabilities, food, water, medicine, shelter and housing, medical care, evacuation capacity, staffing (including first responders), and other re-

sources necessary to save lives and protect prop-
erty during a catastrophic incident; and

(6) the term “tribal government” means the government of an Indian tribe, or authorized tribal organization, or in Alaska a Native vil-

lage or Alaska Regional Native Corporation.

Subtitle A—Federal Emergency Management Agency

SEC. 611. STRUCTURING THE FEDERAL EMER-
GENCY MANAGEMENT AGENCY.


(1) by striking the title heading and inserting the following:

“TITLE V—NATIONAL EMERGENCY
MANAGEMENT”;

(2) by striking section 501;

(3) by striking section 503;

(4) by striking section 507;

(5) by striking section 510 (relating to urban and other high risk area communications capa-
bilities);

(6) by redesignating sections 504, 505, 506, and 508 as sections 517, 518, 519, and 520, respec-
tively;

(7) by redesigning section 510 (relating to pro-
curement of security countermeasures for the strategic national stockpile) as section 521;

(8) by redesigning section 502 as section 504;

(9) by redesigning section 506 as section 502 and transferring that section to before section 504, as redesignated by paragraph (8) of this section;

(10) by inserting before section 502, as redesign-
ated and transferred by paragraph (9) of this section, the following:

“SEC. 501. DEFINITIONS. In this title—

(1) the term “Administrator” means the Ad-

ministrator of the Agency;

(2) the term “Agency” means the Federal Em-

ergency Management Agency;

(3) the term “catastrophic incident” means any natural disaster, act of terrorism, or other man-

made disaster that results in extraordinary levels of casualties or damage or disruption se-
verely affecting the population (including mass evacuations), infrastructure, environment, econ-
omy, national morale, or government functions in an area;

(4) the term “Department” means the Depart-
ment of Homeland Security;

(5) the term “emergency” and “major dis-
aster” have the meanings given the terms in sec-
tion 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122); and

(6) the term “emergency management” means the governmental function that coordinates and integrates all activities necessary to build, sus-

tain, and improve the ability of the Federal Government to prepare for, protect against, respond to, recover from, or mitigate against threatened or actual natural

disasters, acts of terrorism, or other man-

made disasters;”.

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Disaster Relief and Emergency Assistance Act (42 U.S.C. 5143);
(5) the term ‘interoperable’ has the meaning given the term ‘interoperable communications’ under section 507(d) of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 194(g)(1));
(6) the term ‘National Incident Management System’ means a system to enable effective, efficient, and collaborative incident management;
(7) the term ‘National Response Plan’ means the National Response Plan or any successor plan promulgated under section 502(a)(6);
(8) the term ‘Regional Administrator’ means a Regional Administrator appointed under section 503;
(9) the term ‘Regional Office’ means a Regional Office established under section 507;
(10) the term ‘surge capacity’ means the ability to rapidly and substantially increase the provision of search and rescue capabilities, food, water, medicine, shelter and housing, medical care, evacuation capacity, staffing (including disaster assistance employees), and other resources necessary to save lives and protect property during a catastrophic incident; and
(11) the term ‘tribal government’ means the governing body of any entity described in section 201(b).

(II) by inserting after section 502, as redesignated and transferred by paragraph (9) of this section, the following:

**SEC. 503. FEDERAL EMERGENCY MANAGEMENT AGENCY.**

(a) In General. There is in the Department the Federal Emergency Management Agency, headed by an Administrator.

(b) Mission.

(1) PRIMARY MISSION.—The primary mission of the Agency is to reduce the loss of life and property and protect the Nation from all hazards, including natural disasters, acts of terrorism, and other man-made disasters, including catastrophic incidents.

(2) SPECIFIC ACTIVITIES.—In support of the primary mission of the Agency, the Administrator shall—

(A) lead the Nation’s efforts to prepare for, protect against, respond to, recover from, and mitigate against the risk of natural disasters, acts of terrorism, and other man-made disasters, including catastrophic incidents;

(B) partner with State, local, and tribal governments and emergency response providers, with other Federal agencies, with the private sector, with non-governmental organizations, and with international entities to build a national system of emergency management that can effectively and efficiently utilize the full measure of the Nation’s resources to respond to natural disasters, acts of terrorism, and other man-made disasters, including catastrophic incidents;

(C) develop a Federal response capability that, when necessary and appropriate, can act effectively and rapidly to deliver assistance essential to saving lives or protecting or preserving property, and can provide substantial safety in a natural disaster, act of terrorism, or other man-made disaster;

(D) integrate the Agency’s emergency preparedness, protection, response, recovery, and mitigation responsibilities to confront effectively the challenges of a natural disaster, act of terrorism, or other man-made disaster;

(E) develop and maintain Regional Offices that will work with State, local, and tribal governments, emergency response providers, and other appropriate entities to identify and address overlapping planning and reporting responsibilities;

(F) under the leadership of the Secretary, coordinate with the Commandant of the Coast Guard, the Director of Customs and Border Protection, the Director of Immigration and Customs Enforcement, the National Operations Center, and other agencies and offices in the Department to take full advantage of the substantial range of resources in the Department;

(G) provide funding, training, exercises, technical assistance, planning, and other assistance to Tribal, State, local, and national capabilities (including communications capabilities), necessary to respond to a natural disaster, act of terrorism, or other man-made disaster; and

(H) develop and coordinate the implementation of a risk-based, all-hazards strategy for preparedness that builds those common capabilities necessary to respond to natural disasters, acts of terrorism, and other man-made disasters while also building the unique capabilities necessary to respond to specific types of incidents that pose the greatest threats to our Nation.

(c) ADMINISTRATION.—

(1) IN GENERAL.—The Administrator shall be appointed by the President, by and with the advice and consent of the Senate.

(2) QUALIFICATIONS.—The Administrator shall be appointed from among individuals who have—

(A) a demonstrated ability in and knowledge of emergency management and homeland security; and

(B) not less than 5 years of executive leadership and management experience in the public or private sector.

(d) REPORTING.—The Administrator shall report to the President, by and with the advice and consent of the Senate, without being required to report through any other official of the Department.

(e) PRINCIPAL ADVISOR ON EMERGENCY MANAGEMENT.—

(1) IN GENERAL.—The Administrator is the principal advisor to the President, the Homeland Security Council, and the Secretary for all matters relating to emergency management in the United States.

(2) ADVICE AND RECOMMENDATIONS.—

(i) In advising the President with respect to any matter to the President, the Homeland Security Council, or the Secretary, the Administrator shall, as the Administrator considers appropriate, inform the President, the Homeland Security Council, or the Secretary, as the case may be, of the range of emergency preparedness, protection, response, recovery, and mitigation options with respect to that matter.

(ii) ADVICE ON REQUEST.—The Administrator, as the principal advisor on emergency management, shall advise the President, the Homeland Security Council, or the Secretary on a particular matter when the President, the Homeland Security Council, or the Secretary requests such advice.

(iii) RECOMMENDATIONS TO CONGRESS.—After informing the Secretary, the Administrator may make such recommendations to Congress relating to emergency management as the Administrator considers appropriate.

(f) CABINET STATUS.—

(1) IN GENERAL.—The President may designate the Administrator to serve as a member of the Cabinet or in a similar capacity, as the Administrator considers necessary to fulfill the Nation’s responsibilities in a natural disaster, act of terrorism, or other man-made disaster.

(2) RETENTION OF AUTHORITY.—Nothing in this paragraph shall be construed as affecting the authority of the Secretary under this Act.

(g) under section 504, as redesignated by paragraph (8) of this section—

(1) IN GENERAL.—The Administrator shall provide Federal leadership necessary to prepare for, protect against, respond to, recover from, and mitigate against a natural disaster, act of terrorism, or other man-made disaster;

(2) by striking the matter preceding paragraph (1) and inserting the following:

(a) IN GENERAL.—The Administrator shall provide Federal leadership necessary to prepare for, protect against, respond to, recover from, or mitigate against a natural disaster, act of terrorism, or other man-made disaster, including—

(b) (C) in paragraph (4), by striking ‘‘and’’ at the end, and

(c) by striking paragraph (7) and inserting the following:

(7) helping to ensure the acquisition of operable and interoperable communications capabilities by Federal, State, local, and tribal governments and emergency response providers; and

(8) identifying the President, by and with the advice and consent of the Senate, to carry out the functions under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) and carrying out all functions and authorities given to the Administrator under that Act.

(9) carrying out the mission of the Agency to reduce the loss of life and property and protect the Nation from all hazards by leading and supporting the Nation in a risk-based, comprehensive emergency management system of—

(A) mitigating or eliminating actions to produce or eliminate long-term risks to people and property from hazards and their effects;

(B) preparedness, by planning, training, and building the emergency management profession to prepare effectively for, mitigate against, respond to, and recover from any hazard;

(C) response, by conducting emergency operations to save lives and property through positioning emergency equipment, personnel, and supplies, through evacuating potential victims, through providing food, water, shelter, and medical care to those in need, and through restoring critical public services; and

(D) recovery, by rebuilding communities so individuals, businesses, and governments can return to normal life and protect against future hazards;

(10) increasing efficiencies, by coordinating efforts relating to preparedness, protection, response, recovery, and mitigation;

(11) helping to ensure the effectiveness of emergency response providers in responding to a natural disaster, act of terrorism, or other man-made disaster;

(12) supervising grant programs administered by the Agency;

(13) coordinating and ensuring the implementation of the National Response Plan, including coordinating and ensuring the readiness of each emergency support function under the National Response Plan;

(14) coordinating with the National Advisory Council established under section 508;

(15) preparing and implementing the plans and programs of the Federal Government for—

(A) continuity of operations;

(B) continuity of government; and

(C) continuity of plans;

(16) coordinating, to the extent practicable, overlapping planning and reporting requirements applicable to State, local, tribal governments, and the private sector; and

(17) maintaining and coordinating within the Agency the National Response Coordination Center or its successor;

(18) developing a national emergency management system that is capable of preparing for, protecting against, responding to, recovering from, and mitigating against catastrophic incidents;

(19) assisting the President in carrying out the functions under the national preparedness goal and the national preparedness system and all functions of the Administrator under the national preparedness System;

(20) carrying out all authorities of the Federal Emergency Management Agency and the Directorate of Preparedness of the Department as transferred under section 505; and

(21) otherwise carrying out the mission of the Agency as described in section 504(b).

(22) ALL-HAZARDS APPROACH.—In carrying out the responsibilities under this section, the Administrator shall coordinate the implementation of a risk-based, all-hazards approach that builds those common capabilities necessary to prepare for, protect against, respond to, recover from, or mitigate against natural disasters, acts of terrorism, and other man-made disasters, while also building the unique capabilities necessary to prepare for, protect against, respond
to, recover from, or mitigate against the risks of specific types of incidents that pose the greatest risk to the Nation.

SEC. 505. FUNCTIONS TRANSFERRED.
(a) IN GENERAL.—Except as provided in subsection (b), any functions transferred to the Agency under this Act shall be transferred to the Secretary.

(b) EXCEPTIONS.—The following within the Preparedness Directorate shall not be transferred:

(1) The Office of Infrastructure Protection.
(2) The National Communications System.
(3) The National Cybersecurity Division.
(4) The Office of the Chief Medical Officer.
(5) The functions, personnel, assets, components, authorities, and liabilities of each component described under paragraphs (1) through (4).

SEC. 506. PRESERVING THE FEDERAL EMERGENCY MANAGEMENT AGENCY.
(a) DISTINCT ENTITY.—The Agency shall be maintained as a distinct entity within the Department.

(b) REORGANIZATION.—Section 872 shall not apply to the Agency, including any function or organizational unit of the Agency.

(c) PROHIBITION ON CHANGES TO MISSIONS.—No asset, function, or mission of the Agency may be diverted to the principal and continuing use of any other unit, or entity within the Department, except for details or assignments that do not reduce the capability of the Agency to perform those missions or responsibilities, except as otherwise specifically provided in an Act enacted after the date of enactment of the Post-Katrina Emergency Management Reform Act of 2006.

(b) CERTAIN TRANSFERS PROHIBITED.—No asset, function, or mission of the Agency may be diverted to the principal and continuing use of any other unit, or entity within the Department, except for details or assignments that do not reduce the capability of the Agency to perform those missions or responsibilities, except as otherwise specifically provided in an Act enacted after the date of enactment of the Post-Katrina Emergency Management Reform Act of 2006.

SEC. 507. REGIONAL OFFICES.
(a) IN GENERAL.—There are in the Agency 10 regional offices, as identified by the Administrator.
(b) MANAGEMENT OF REGIONAL OFFICES.—
(1) REGIONAL ADMINISTRATOR.—Each Regional Office shall be headed by a Regional Administrator who shall be appointed by the Administrator, after consulting with State, local, and tribal government officials in the region. Each Regional Administrator shall report directly to the Administrator and be in the Senior Executive Service.

(b) QUALIFICATIONS.—
(1) In general.—Each Regional Administrator shall be appointed from among individuals who have demonstrated ability in and knowledge of emergency management and homeland security.

(2) CONSIDERATIONS.—In selecting a Regional Administrator for a Regional Office, the Administrator shall consider the familiarity of an individual with the geographical area and demographic characteristics of the population served by such Regional Office.

(c) RESPONSIBILITIES.—
(1) IN GENERAL.—The Regional Administrator shall work in partnership with State, local, and tribal governments, emergency managers, emergency response providers, medical providers, non-governmental organizations, multijurisdictional councils of governments, and regional planning commissions and organizations in the geographical area served by such Regional Office to carry out the responsibilities of a Regional Administrator under this section.

(2) RESPONSIBILITIES.—The responsibilities of a Regional Administrator include:

(A) ensuring effective, coordinated, and integrated regional preparedness, protection, response, recovery, and mitigation activities and programs for natural disasters, acts of terrorism, and other man-made disasters (including planning, training, exercises, and professional development);
(B) assisting in the development of regional capabilities needed for a national catastrophic response system;
(C) coordinating the establishment of effective regional and interregional emergency communications capabilities;
(D) staffing and overseeing 1 or more strike teams within the Regional Office (f), to serve as the focal point of the Federal Government’s initial response efforts for natural disasters, acts of terrorism, and other man-made disasters within that region; and otherwise building Federal response capabilities to respond to natural disasters, acts of terrorism, and other man-made disasters within that region;
(E) designating a Regional Administrator for the development of strategic and operational regional plans in support of the National Response Plan;
(F) fostering the development of mutual aid and other cooperative agreements;
(G) identifying critical gaps in regional capabilities to respond to populations with special needs;
(H) maintaining and operating a Regional Response Coordination Center or its successor; and
(I) performing such other duties relating to such responsibilities as the Administrator may require.

(3) TRAINING AND EXERCISE REQUIREMENTS.—
(4) COORDINATION.

(5) The Regional Administrator shall coordinate the training and exercises of the Regional office (g), as directed by the Administrator, as part of the regional preparedness, protection, response, recovery, and mitigation activities and programs for natural disasters, acts of terrorism, and other man-made disasters within the region.

(6) RESPONSIBILITIES.—Each Regional Administrator shall be responsible for the preparedness, protection, response, recovery, and mitigation of natural disasters, acts of terrorism, and other man-made disasters, to be known as the National Advisory Council.

(c) RESPONSIBILITIES.—Each Regional Advisory Council shall—

(1) advise the Regional Administrator on emergency management issues specific to that region; and
(2) identify any geographic, demographic, or other characteristics peculiar to any State, local, or tribal government within the region that make preparation, protection, response, recovery, or mitigation more complicated or difficult; and

(3) advise the Regional Administrator of any unmet needs or deficiencies in preparedness, protection, response, recovery, and mitigation for any State, local, and tribal government within the region of which the Regional Advisory Council has knowledge.

(3) REGIONAL OFFICE STRIKE TEAMS.—
(1) IN GENERAL.—In coordination with other relevant Federal agencies, each Regional Administrator shall oversee multi-agency strike teams authorized under section 303 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5144) that shall consist of—
(A) a designated Federal coordinating officer;
(B) personnel trained in incident management;
(C) public affairs, response and recovery, and communications support personnel;
(D) a defense coordinating officer;
(E) a liaison to other Federal agencies;
(F) such other personnel as the Administrator or Regional Administrator determines appropriate; and

(G) individuals from the agencies with primary responsibility for each of the emergency support functions in the National Response Plan.

(2) OTHER DUTIES.—The duties of an individual assigned to a Regional Office strike team from another relevant agency when such individual is not functioning as a member of the strike team shall be considered to be emer-

(d) LOCATION OF MEMBERS.—The members of each Regional Office strike team, including representatives from agencies other than the Department, shall be based primarily within the region that corresponds to that strike team.

(e) COORDINATION.—The Strike Team shall coordinate the training and exercises of the Regional strike team with the State, local, and tribal government, Federal, State, local, and tribal disaster response and recovery strike teams, and other strike teams under this subsection, the Administrator shall report to Congress regarding the additional statutory authorities that the Administrator determined necessary.

SEC. 508. NATIONAL ADVISORY COUNCIL.
(a) ESTABLISHMENT.—Not later than 60 days after the date of enactment of the Post-Katrina Emergency Management Reform Act of 2006, the Secretary shall establish an advisory body under section 871(a) to ensure effective and ongoing coordination of Federal preparedness, protection, response, recovery, and mitigation for natural disasters, acts of terrorism, and other man-made disasters, to be known as the National Advisory Council.

(b) RESPONSIBILITIES.—The National Advisory Council shall be responsible for all aspects of emergency management. The National Advisory Council shall incorporate State,
local, and tribal government and private sector input in the development and revision of the national preparedness goal, the national preparedness system, the National Incident Management System, the National Response Plan, and other related plans and strategies.

(c) MEMBERSHIP.

(1) IN GENERAL.—The members of the National Advisory Council shall be appointed by the Administrator, and shall, to the extent practicable, represent a geographic (including urban and rural) and substantive cross section of officials, emergency managers, and emergency response providers from State, local, and tribal governments, the private sector, and nongovernmental organizations, including as appropriate—

(A) members selected from the emergency management field and emergency response providers, including fire service, law enforcement, hazardous materials response, emergency medical services, and emergency management personnel, or organizations representing such individuals;

(B) health scientists, emergency and impa-
tient medical providers, and public health profes-
sionals;

(C) experts from Federal, State, local, and tribal governments, and the private sector, represent-
ing standards-setting and accrediting or-
ganizations, National Standards/Representatives from the voluntary consensus codes and standards develop-
ment community, particularly those with ex-
pertise in the emergency preparedness and re-
sponse field;

(D) State, local, and tribal government offi-
cials with expertise in preparedness, protection, response, recovery, and mitigation, including Adjutants General;

(E) elected State, local, and tribal govern-
ment executives;

(F) experts in public and private sector in-
frastructure protection, cybersecurity, and com-
 munications;

(G) representatives of individuals with dis-
abilities and other populations with special needs; and

(H) such other individuals as the Adminis-
trator determines to be appropriate.

(2) COORDINATION WITH THE DEPARTMENTS OF HEALTH AND HUMAN SERVICES AND TRANSPORTA-
TION.—In the selection of members of the Na-
tional Advisory Council who are health or emer-
gency services officials, the Administrator
shall work with the Secretary of Health and
Human Services and the Secretary of Trans-
portation.

(3) EX OFFICIO MEMBERS.—The Adminis-
trator shall designate 1 or more officers of the
Federal Government to serve as ex officio mem-
ers of the National Advisory Council.

(4) TERMS OF OFFICE.—

(A) IN GENERAL.—Except as provided in sub-
paragraph (B), the term of office of each mem-
ber of the National Advisory Council shall be 3
years.

(B) INITIAL APPOINTMENTS.—Of the members
initially appointed to the National Advisory Coun-
cil—

(i) one-third shall be appointed for a term of
1 year; and

(ii) one-third shall be appointed for a term of
2 years.

(4) APPLICABILITY OF FEDERAL ADVISORY
COMMITTEE ACT.

(1) IN GENERAL.—Notwithstanding section
871(a) and subject to paragraph (2), the Federal
Advisory Committee Act (5 U.S.C. App.), includ-
ing subsections (a), (b), and (d) of section 10 of
such Act, and section 552(c)(2) of title 5, United
States Code, shall apply to the National Advis-
ory Council.

(2) EXEMPTION.—Section 14(a)(2) of the
Federal Advisory Committee Act (5 U.S.C. App.)
shall not apply to the National Advisory Coun-
cil.

SEC. 509. NATIONAL INTEGRATION CENTER.

(a) IN GENERAL.—There is established in the
Agency a National Integration Center.

(b) RESPONSIBILITIES.—

(1) IN GENERAL.—The Administrator, through
the National Integration Center, and in con-
sultation with other Federal departments and
gencies, the National Advisory Council, shall
ensure ongoing management and mainte-
nance of the National Incident Management
System, the National Response Plan, and any
successor to such system or plan.

(2) SPECIFIC RESPONSIBILITIES.—The Na-
tional Integration Center shall periodically re-
view, and revise as appropriate, the National
Incident Management System and the National
Response Plan, including—

(A) establishing, in consultation with the Di-
rector of the Corporation for National and Com-
unity Service, a process to better use volun-
teeers and donations;

(B) improving the use of Federal, State,
local, and tribal resources and ensuring the ef-
fective use of emergency response providers at
emergency scenes; and

(C) revising the Catastrophic Incident
Plan, finalizing and releasing the Cata-

(C) INCIDENT MANAGEMENT.

(1) IN GENERAL.—

(A) NATIONAL RESPONSE PLAN.—The Sec-

(D) ADMINISTRATOR.—The chain of the com-
mand specified in the National Response Plan
shall—

(i) provide for a role for the Administrator
consistent with the role of the Administrator as
the principal emergency management advisor to
the President, the Homeland Security Council,
and the Secretary under section 503(c)(4) and
the responsibility of the Administrator under the
Post-Katrina Emergency Management Reform

Act of 2006, and the amendments made by that
Act, relating to natural disasters, acts of ter-
mor, and other man-made disasters; and

(ii) provide for a role for the Federal Coordi-
nating Officer consistent with the responsibil-
ities under section 302(b) of the Robert T. Stof-
ford Disaster Relief and Emergency Assistance

Act (42 U.S.C. 5143(b)).

(B) PRINCIPAL FEDERAL OFFICIAL.—The Prin-
cipal Federal Official (or the successor thereto)
shall not—

(A) direct or replace the incident command
structure established at the incident; or

(B) have directive authority over the Senior
Federal Law Enforcement Official, Federal Co-
ordinating Officer, or other Federal and State
officials.

SEC. 510. CREDENTIALED AND TYPING.

The Administrator shall enter into a memo-
randum of understanding with the administra-
tors of the Emergency Management Assistance

Plan of the State, local, or tribal govern-
ment to which the request is made, and to
which the Administrator shall attach. The
Federal Interagency Compact grants to States
and local and tribal governments, in recognition
of the need for such agreements, the authority
of the Federal Government to establish agree-
ments with States, local, and tribal governments,
and agencies and departments, in accordance
with applicable Federal law, to support State,
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of the need for such agreements, the authority
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ments with States, local, and tribal governments,
(B) with limited English proficiency; or
(C) who might otherwise have difficulty in obtaining such information; and
(6) identify shelter locations and capabilities.
(5) (a) IN GENERAL.—The Administrator may establish any guidelines, standards, or requirements to ensure the effective mass evacuation planning for State, local, and tribal areas.
(b) REQUESTED ASSISTANCE.—The Administrator may provide assistance available upon request of a State, local, or tribal government to assist hospitals, nursing homes, and other institutions that house individuals with special needs to develop, maintain, and exercise mass evacuation plans that are coordinated and integrated into the plans developed by that State, local, or tribal government under this section.
(c) MULTIPLE FUNDS.—Nothing in this section may be construed to preclude a State, local, or tribal government from using grant funds in a manner that enhances preparedness for a natural or man-made disaster unrelated to an act of terrorism, if such use assists such government in building capabilities for terrorism preparedness.

SEC. 513. DISABILITY COORDINATOR.
(a) IN GENERAL.—After consultation with organizations representing individuals with disabilities, the National Council on Disabilities, and the National Council on Preparedness and Individuals with Disabilities, established under Executive Order 13347 (6 U.S.C. 312 note), the Administrator shall appoint a Disability Coordinator. The Disability Coordinator shall report directly to the Administrator, in order to ensure that the needs of individuals with disabilities are being properly addressed in emergency preparedness and disaster relief efforts.
(b) RESPONSIBILITIES.—The Disability Coordinator shall be responsible for—
(1) providing guidance and coordination on matters related to individuals with disabilities in emergency planning requirements and relief efforts in the event of a natural disaster, act of terrorism, or other man-made disaster;
(2) interacting with the staff of the Agency, the National Council on Disabilities, the Interagency Coordinating Council on Preparedness and Individuals with Disabilities established under Executive Order No. 13347 (6 U.S.C. 312 note), other agencies of the Federal Government, and tribal governments as appropriate, in the event of a natural disaster, act of terrorism, or other man-made disaster;
(3) consulting with organizations that represent the interests and rights of individuals with disabilities about the needs of individuals with disabilities in emergency planning requirements and relief efforts in the event of a natural disaster, act of terrorism, or other man-made disaster;
(4) ensuring the coordination and dissemination of best practices and model evacuation plans for State, local, and tribal areas.
(6) promoting the accessibility of telephone hotlines and websites regarding emergency preparedness, evacuation, and disaster relief; and
(7) working to ensure that video programming distributors, including broadcasters, cable operators, and satellite television services, make emergency preparedness accessible to individuals with hearing and vision disabilities.
(8) providing guidance and implementing policies to ensure that the rights and wishes of individuals with disabilities regarding post-evacuation residency and relocation are respected;
(10) ensuring that meeting the needs of individuals with disabilities is included in the components of the national preparedness system established under section 644 of the Post-Katrina Emergency Management Reform Act of 2006; and
(11) any other duties as assigned by the Administrator.

SEC. 515. NATIONAL OPERATIONS CENTER.
(a) DEFINITION.—In this section, the term ‘situational awareness’ means information gathered from a variety of sources that, when communicated to emergency management and decision makers, can form the basis for incident management decisionmaking.
(b) NATIONAL OPERATIONS CENTER.—The National Operations Center is the principal operations center for the Department and shall—
(1) provide situational awareness and a common operating picture for the Federal Government, and for State, local, and tribal governments as appropriate, in the event of a natural disaster, act of terrorism, or other man-made disaster;
(2) ensure that critical terrorism and disaster-related information reaches government decision-makers.

SEC. 518. Conduct of certain public health-related activities.
(a) IN GENERAL.—There is in the Department a Chief Medical Officer, who shall be appointed by the President, by and with the advice and consent of the Senate.
(b) QUALIFICATIONS.—The individual appointed as Chief Medical Officer shall possess a demonstrated ability in and knowledge of medicine and public health.
(c) RESPONSIBILITIES.—The Chief Medical Officer shall have the primary responsibility within the Department for medical issues related to natural disasters, acts of terrorism, and other man-made disasters, including—
(1) serving as the principal advisor to the Secretary and the Deputy Administrator on medical and public health issues;
(2) coordinating the biodefense activities of the Department;
(3) ensuring internal and external coordination of all medical preparedness and response activities of the Department, including training, exercises, and equipment support;
(4) serving as the Department’s primary point of contact with the Department of Agriculture, the Department of Defense, the Department of Health and Human Services, the Departments of Transportation, the Department of Veterans Affairs, and other Federal departments or agencies, on medical and public health issues;
(5) serving as the Department’s primary point of contact for State, local, and tribal governments, the medical community, and others within and outside the Department, with respect to medical and public health matters;
(6) discharging, in coordination with the Under Secretary for Science and Technology, the responsibilities of the Department related to Project Bioshield; and
(7) performing such other duties relating to such responsibilities as the Secretary may require.

SEC. 612. TECHNICAL AND CONFORMING AMENDMENTS.
(a) EXECUTIVE SCHEDULE.—
Emergency Management Agency; Reform Act of 2006; “§ of this chapter and in the projected workforce of the Agency on the day before the date of enactment of this Act.

(b) EXCEPTIONS.—The following shall take effect on March 31, 2007:

(1) The amendments made by section 611(11).
(2) The amendments made by section 611(12).

(c) SPECIFIC STRATEGIES.—The strategic human capital plan shall include:

(1) a workforce gap analysis, including an assessment of:

(1) A bonus shall be paid in the form of a lump-sum payment and shall not be considered to be part of basic pay.

(c) SERVICE AGREEMENTS.—Payment of a bonus under this section shall be contingent upon the employee entering into a written service agreement with the Agency. The agreement shall include:

(1) The term of service the individual shall be required to complete in return for the bonus; and
(2) The conditions under which the agreement may be terminated before the agreed-upon service period has been completed, and the effect of the termination.

(d) ELIGIBILITY.—A bonus under this section may not be paid to an individual who is appointed to or holds—

(1) a position to which an individual is appointed by the President, by and with the advice and consent of the Senate;
(2) a position in the Senior Executive Service as a noncareer appointee (as defined in section 3132(a));
(3) a position which has been excepted from competitive service by reason of its confidencial, policy-determining, policy-making, or policy-advocating character.

(e) TERMINATION.—The authority to pay bonuses under this section shall terminate 5 years after the date of enactment of this chapter.

(f) REPORTS.—

(1) IN GENERAL.—The Agency shall submit to the appropriate committees of Congress, annually for each of the 5 succeeding years after the date of enactment of this chapter, a report on the operation of this section.

(2) CONTENTS.—Each report submitted under this subsection shall include, with respect to the period covered by such report, a description of how the authority to pay bonuses under this section was used, including:

(A) The number and dollar amount of bonuses paid to individuals holding positions within each pay grade, pay level, or other pay classification, and
(B) A determination of the extent to which such bonuses furthered the purposes of this section.

§10105. Retention bonuses

(a) AUTHORITY.—The Administrator may pay, on a case-by-case basis, a bonus under this section to an employee of the Agency if—

(1) the unusually high or unique qualifications of the employee or a special need of the Agency for the employee’s services makes it essential to retain the employee; and
(2) the Administrator determines that, in the absence of such a bonus, the employee would be likely to leave—

(A) The Federal service; or
(B) For a different position in the Federal service.

(b) SERVICE AGREEMENT.—Payment of a bonus under this section is contingent upon the employee entering into a written service agreement with the Agency to complete a period of service with the Agency. Such agreement shall include:

(1) The period of service the individual shall be required to complete in return for the bonus; and
(2) The conditions under which the agreement may be terminated before the agreed-upon service period has been completed, and the effect of the termination.
"(c) BONUS AMOUNT.—

"(1) IN GENERAL.—The amount of a bonus under this section shall be determined by the Administrator, but may not exceed 25 percent of the annual rate of basic pay of the position involved.

"(2) FORM OF PAYMENT.—A bonus under this section shall be paid in the form of a lump-sum payment and shall not be considered to be part of basic pay.

"(d) LIMITATION.—A bonus under this section—

"(1) may not be based on any period of service which is the basis for a recruitment bonus under section 10104;

"(2) may not be paid to an individual who is appointed to or holds—

"(A) a position to which an individual is appointed by the President, by and with the advice and consent of the Senate;

"(B) a position in the Senior Executive Service as a noncareer appointee (as defined in section 3132(a)); or

"(C) a position which has been excepted from the competitive service by reason of its confidential, policy-determining, policy-making, or policy-advocating character; and

"(3) upon completion of the strategic human capital plan, shall be paid in accordance with that plan.

"(e) TERMINATION OF AUTHORITY.—The authority to grant bonuses under this section shall expire 5 years after the date of enactment of this chapter.

"(f) REPORTS.—

"(1) IN GENERAL.—The Office of Personnel Management shall submit to the appropriate committees of Congress, annually for each of the first 5 years during which this section is in effect, a report on the operation of this section.

"(2) CONTENTS.—Each report submitted under this subsection shall include—

"(A) a number and dollar amount of bonuses paid to individuals holding positions within each pay grade, pay level, or other pay classification; and

"(B) a determination of the extent to which such bonuses furthered the purposes of this section.

§10106. Quarterly report on vacancy rate in employee positions

"(a) INITIAL REPORT.—

"(1) IN GENERAL.—On or before the date of enactment of this chapter, the Administrator shall submit a report to the appropriate committees of Congress on the vacancies in employee positions of the Agency.

"(2) CONTENTS.—The report shall include—

"(A) a vacancy rate for each category of employee position;

"(B) the number of applicants for each vacancy for which public notice has been given;

"(C) the length of time that each vacancy has been pending;

"(D) the hiring-cycle time for each vacancy that has been filled; and

"(E) the number of employees reducing the hiring-cycle time and reducing the current and anticipated vacancies with highly-qualified personnel.

"(b) QUARTERLY UPDATES.—Not later than 90 days after the date of enactment of this chapter, the Administrator shall submit a report to the appropriate committees of Congress on the vacancies in employee positions of the Agency.

"(c) TECHNICAL AND CONFORMING AMENDMENT.—The analysis for part III title 5, United States Code, is amended by inserting after the item relating to chapter 99 the following: ‘‘101 Federal Emergency Management Agency Personnel .......................... 10101.’’

SEC. 622. ESTABLISHMENT OF HOMELAND SECURITY ROTATION PROGRAM AT THE DEPARTMENT OF HOMELAND SECURITY.

(a) ESTABLISHMENT.—Title VIII of the Homeland Security Act of 2002 (6 U.S.C. 361 et seq.) is amended by inserting after section 843 the following:

"(b) ESTABLISHMENT.—

"(1) IN GENERAL.—Not later than 180 days after the date of enactment of this section, the Secretary shall establish the Homeland Security Rotation Program (in this section referred to as the ‘‘Rotation Program’’) for employees of the Department. The Rotation Program shall use applicable best practices, including those from the Office of Human Capital Officers Council.

"(2) GOALS.—The Rotation Program established by the Secretary shall—

"(A) be established in accordance with the Human Capital Strategic Plan of the Department;

"(B) provide mid-level and senior level employees in the Department the opportunity to broaden their knowledge through exposure to other components of the Department;

"(C) expand the knowledge base of the Department by building rotational assignments of employees to other components;

"(D) build professional relationships and contacts among the employees in the Department;

"(E) improve the work force’s experience and professionally rewarding opportunities;

"(F) incorporate Department human capital strategic plans and activities, and address critical human capital deficiencies, recruitment and retention efforts, and succession planning within the Federal workforce of the Department; and

"(G) complement and incorporate (but not replace) rotational programs within the Department in effect on the date of enactment of this section.

"(3) ADMINISTRATION.—

"(A) IN GENERAL.—The Chief Human Capital Officer shall administer the Rotation Program.

"(B) RESPONSIBILITY.—The Chief Human Capital Officer shall—

"(i) provide oversight of the establishment and implementation of the Rotation Program;

"(ii) establish a framework that supports the goals of the Rotation Program and promotes cross-disciplinary rotational opportunities;

"(iii) establish eligibility for employees to participate in the Rotation Program and select participants from employees who apply;

"(iv) establish incentives for employees to participate in the Rotation Program, including promotions and employment preferences;

"(v) ensure that the Rotation Program provides professional education and training;

"(vi) ensure that the Rotation Program develops qualified employees and future leaders with broad-based experience throughout the Department;

"(vii) provide for greater interaction among employees in components of the Department; and

"(viii) coordinate with rotational programs within the Department in effect on the date of enactment of this section.

"(4) ALLOWANCES, PRIVILEGES, AND BENEFITS.—All allowances, privileges, rights, seniority, and other benefits of employees participating in the Rotation Program shall be preserved.

"(5) REPORTING.—Not later than 180 days after the date of the establishment of the Rotation Program, the Secretary shall submit a report on the status of the Rotation Program, including a description of the Rotation Program, the number of employees participating, and how the Rotation Program is used in succession planning and leadership development to the appropriate committees of Congress.
and manage the Surge Capacity Force.

(3) RECOVERY OF PAYMENT.—If an employee who is required to make a payment under this subsection shall fail to make the payment, then equal to the amount of the expenses incurred by the Government for the education of that employee is recoverable by the Government from the employee or his estate by—

(A) setoff against accrued pay, compensation, amount of retirement credit, or other amount due the employee from the Government; or

(B) such other method as is provided by law for the recovery of amounts owing to the Government.

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 1(b) of the Homeland Security Act of 2002 (6 U.S.C. et seq.), as amended by section 622, is amended by inserting after the item relating to section 644 the following:

“Sec. 645. Homeland Security Education Program.”

SEC. 624. SURGE CAPACITY FORCE.

(a) ESTABLISHMENT.—

(1) GENERAL.—Not later than 6 months after the date of enactment of this Act, the Administrator shall ensure that the Surge Capacity Force is able to deploy within 24 hours in accordance with section 510 of the Homeland Security Act of 2002, and to provide a sufficient number of individuals credentialed in accordance with section 510 of the Homeland Security Act of 2002, as amended by this Act, that are capable of deploying rapidly and efficiently after activation to prepare for, respond to, and recover from natural disasters, acts of terrorism, and other man-made disasters, including catastrophic incidents.

(2) AUTHORITY.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the plan shall provide for individuals in the Surge Capacity Force to be trained and deployed under the authorities set forth in the Post-Katrina Staﬀandra Disaster Relief and Emergency Assistance Act.

(B) EXCEPTION.—If the Administrator determines that the existing authorities are inadequate for the training and deployment of individuals in the Surge Capacity Force, the Administrator shall report to Congress as to the additional statutory authorities that the Administrator determines necessary.

(b) EMPLOYEES DESIGNATED TO SERVE.—The plan and procedures under which the Secretary shall designate employees of the Department who are not employees of the Agency and shall, in conjunction with the heads of other appropriate Federal agencies, designate employees of those other Executive agencies, as appropriate, to serve on the Surge Capacity Force.

(c) CAPABILITIES.—The plan shall ensure that the Surge Capacity Force—

(1) includes a suﬃcient number of individuals credentialed in accordance with section 510 of the Homeland Security Act of 2002, as amended by this Act, that are capable of deploying rapidly and eﬃciently after activation to prepare for, respond to, and recover from natural disasters, acts of terrorism, and other man-made disasters, including catastrophic incidents; and

(2) includes a suﬃcient number of full-time, highly trained individuals credentialed in accordance with section 510 of the Homeland Security Act of 2002, as amended by this Act, to lead and manage the Surge Capacity Force.

(d) TRAINING.—The plan shall ensure that the Administrator provides appropriate and continuous training to members of the Surge Capacity Force to ensure such personnel are adequately trained on the Agency’s programs and policies for response to natural disasters, acts of terrorism, and other man-made disasters.

(2) IMPROVEMENTS.—The plan shall ensure that the Surge Capacity Force exceeds the national preparedness goal established under section 652(a) of the Post-Katrina Emergency Management Reform Act of 2006, are established for Federal emergency response teams.

(3) PERSONNEL.—The President, acting through the Director, shall ensure that the Federal emergency response teams consist of adequately trained, organized, equipped, and exercised personnel to achieve the established target capability levels.

(4) RECOVERY OF PAYMENT.—The plan shall include procedures for the recovery of amounts owing to the Government.

CHAPTER 2—EMERGENCY MANAGEMENT CAPABILITIES

SEC. 631. STATE CATASTROPHIC INCIDENT ANNEX.

(a) ESTABLISHMENT.—Pending the enactment of the Post-Katrina Emergency Management Reform Act of 2006, the Administrator shall develop and implement the procedures under subsection (b); and

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out the system for fiscal year 2007, an amount equal to the amount appropriated for the system for fiscal year 2006 and an additional $20,000,000.

SEC. 635. METROPOLITAN MEDICAL RESPONSE GRANT PROGRAM.

(a) IN GENERAL.—There is in the Agency a fund known as the Urban Search and Rescue Response System.

(b) PURPOSES.—The program shall include each purpose of the program as it existed on January 1, 2006.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out the program for fiscal year 2007, an amount equal to the amount appropriated for the program for fiscal year 2006 and an additional $20,000,000.

SEC. 636. LOGISTICS.

The Director shall develop an efficient, transparent, and ﬂexible logistics system for procurement and delivery of services necessary for an effective and timely response to natural disasters, acts of terrorism, and other man-made disasters and for real-time visibility of items at each point throughout the logistics system.

SEC. 637. PREPOSITIONED EQUIPMENT PROGRAM.

(a) IN GENERAL.—The Administrator shall establish a prepositioned equipment program to preposition standardized emergency equipment in at least 11 locations to sustain and replenish critical assets used by State, local, and tribal governments in response to (or rendered inoperable by the effects of) natural disasters, acts of terrorism, and other man-made disasters.

(b) NOTICE.—The Administrator shall notify State, local, and tribal ofﬁcials in an area in which a location for the prepositioned equipment program will be closed not later than 60 days before the date of such closure.

SEC. 638. HURRICANE KATRINA AND HURRICANE RITA RECOVERY OFFICES.

(a) ESTABLISHMENT.—In order to provide all eligible Federal assistance to individuals and households affected by Hurricane Katrina or Hurricane Rita in a customer-focused, expeditious, eﬀective, and consistent manner, the Administrator shall establish a State, local, and tribal government, a recovery ofﬁce. The Administrator shall establish recovery ofﬁces for each of the following States, if necessary:

(1) Regional Ofﬁce strike teams under section 507 of the Homeland Security Act of 2002; and

(2) Louisiana.

(3) Alabama.
Basis for the National Preparedness System: Chapter 1 — National Preparedness System

SEC. 641. DEFINITIONS.

In this chapter—

(1) Capability—The term “capability” means the ability to provide the means to accomplish one or more tasks under specific conditions and to specific performance standards.

(2) Mission assignment—The term “mission assignment” means a work order issued to a Federal agency by the agency, directing completion by that agency of tasks and specifying forth funding, other managerial controls, and guidance.

(3) Mission training program—The term “mission training program” means the national training program established under section 648.

(4) Operational readiness—The term “operational readiness” means the capability of an organization, an asset, a system, or equipment to perform the missions or functions for which it is organized or designed.

(5) Performance measure—The term “performance measure” means a quantitative or qualitative characteristic used to gauge the result of an outcome compared to its intended purpose.

(6) Performance metric—The term “performance metric” means a particular value or characteristic used to measure the outcome that is generally expressed in terms of a baseline and a target.

(7) Prevention—The term “prevention” means any activity undertaken to avoid, prevent, or stop a threatened or actual act of terrorism.

SEC. 642. NATIONAL PREPAREDNESS.

In order to prepare the Nation for all hazards, including natural disasters, acts of terrorism, and other man-made disasters, the President, acting through the Administrator, shall develop a national preparedness goal and a national preparedness system.

SEC. 643. NATIONAL PREPAREDNESS GOAL.

(a) Establishment—The President, acting through the Administrator, shall complete, revise, and update, as necessary, a national preparedness goal that defines the target level of preparedness to ensure the Nation’s ability to prevent, respond to, recover from, and mitigate against natural disasters, acts of terrorism, and other man-made disasters.

(b) National Incident Management System and National Response Plan—The national preparedness goal, to the greatest extent practicable, shall be consistent with the National Incident Management System and the National Response Plan.

SEC. 644. ESTABLISHMENT OF NATIONAL PREPAREDNESS GOAL.

(a) In General—The President, acting through the Administrator, shall develop a national preparedness system to enable the Nation to meet the national preparedness goal.

(b) Components—The national preparedness system shall include the following components:

(1) Target capabilities and preparedness priorities.

(2) Equipment and training standards.

(3) Training and exercises.

(4) Comprehensive assessment system.

(5) Remedial action management program.

(6) Federal response capability inventory.

(7) Reporting requirements.

(8) Federal preparedness.

(c) National Planning Scenarios—The national preparedness system may include national planning scenarios.

SEC. 645. NATIONAL PLANNING SCENARIOS.

(a) In General—The Administrator, in coordination with the heads of appropriate Federal agencies and the National Advisory Council, may develop planning scenarios to reflect the relative risk requirements presented by all hazards, including natural disasters, acts of terrorism, and other man-made disasters, in order to provide the foundation for the flexible and adaptive development of target capacities and the identification of target capability levels to meet the national preparedness goal.

(b) Development—In developing, revising, and replacing national planning scenarios, the Administrator shall ensure that the scenarios—

(1) reflect the relative risk of all hazards and illustrate the potential scope, magnitude, and complexity of a broad range of representative hazards; and

(2) provide the minimum number of representative scenarios necessary to identify and define target capacities required to respond to all hazards.

SEC. 646. TARGET CAPABILITIES AND PREPAREDNESS PRIORITIES.

(a) Establishment of guidelines on target capabilities—Not later than 180 days after the date of enactment of this Act, the Administrator, in coordination with the heads of appropriate Federal agencies, the National Council on Disability, and the National Advisory Council, shall complete, revise, and update, as necessary, guidelines to define risk-based target capabilities for Federal, State, and tribal government preparedness that will enable the Nation to prevent, respond to, recover from, and mitigate against all hazards, including natural disasters, acts of terrorism, and other man-made disasters.

(b) Distribution of guidelines—The Administrator shall ensure that the guidelines are provided promptly to the appropriate committees of Congress and the States.

(c) Objectives—The Administrator shall ensure that the guidelines are specific, flexible, and adaptable to define target capacities and the relative risk of acts of terrorism.

(d) Terrorism risk assessment—With respect to analyzing and assessing the risk of acts of terrorism, the Administrator shall consider—

(1) the probabilities and consequences related to population (including transient commuting and tourist populations),

(2) terrorist attacks on critical infrastructure, including critical economic and governmental services, and critical transportation systems, including transportation networks and facilities, and

(3) foreign terrorist organizations, including the extent to which they have a direct or indirect interest in the United States and conduct or support activities that may result in terrorism.

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September 28, 2006

4(4) Texas.

(5) Montana.

(6) Hawaii.
areas of high population density, critical infrastructure, coastline, and international borders; and
(2) the most current risk assessment available from the Department of Intelligence Officer of the Depart-
ment of the threats of terrorism against the United States.
(c) PREPAREDNESS PRIORITIES.—In establish-
ing guidelines under subsection (a), the Adm-inistrator shall establish preparedness pri-
orities that appropriately balance the risk of all hazards, including natural disasters, acts of ter-
rorism and other man-made disasters, with the resources required to prevent, respond to, re-
cover from, and mitigate against the hazards.
(1) REQUIREMENTS.—The Administrator shall provide support for the development of mutual aid agreements within States.
SEC. 647. EQUIPMENT AND TRAINING STAN-
DARDS.
(a) EQUIPMENT STANDARDS.—
(1) IN GENERAL.—The Administrator, in coordi-
nation with the heads of appropriate Fed-
eral agencies and the National Advisory Coun-
cil, shall support the development, promulga-
tion, and updating, as necessary, of national voluntary consensus standards for the perform-
ance, use, and validation of equipment used by Federal, State, local, and tribal governments and nongovernmental emergency response pro-
ducts.
(2) REQUIREMENTS.—The national voluntary consensus standards shall—
(A) be designed to achieve equipment and other capabilities consistent with the national preparedness goals to prevent, prepare for, respond to, and recover in a coordinated and unified manner to catastrophic incidents.
(B) utilize, as appropriate, training courses provided by community colleges, State and local public safety academies, State and private univer-
sities, and other entities.
(b) TRAINING STANDARDS.—The Administrator shall—
(1) support the development, promulgation, and regular updating, as necessary, of national voluntary consensus standards for training; and
(2) ensure that the training provided under the national training program is consistent with the standards.
(c) CONSULTATION WITH STANDARDS ORGANI-
ZATIONS.—In carrying out this section, the Admin-
istrator shall consult with representatives of relevant public, private sector national vol-
untary consensus standards development organiza-
tions.
SEC. 648. TRAINING AND EXERCISES.
(a) NATIONAL TRAINING PROGRAM.—
(1) IN GENERAL.—Beginning not later than 180 days after the date of enactment of this Act, the Administrator, in coordination with the heads of appropriate Federal agencies, shall establish a remedial action management program to—
(1) generate and disseminate, as appropriate, after action reports to participants in exercises and real-world events; and
(2) conduct remedial action tracking and long-
term trend analysis.
(b) NATIONAL EXERCISE PROGRAM.
(1) IN GENERAL.—The Administrator shall—
(A) an assessment of how Federal assistance supports the national preparedness system;
(B) the results of the comprehensive assessment carried out under section 649;
(C) a review of the inventory described in section 559(a); and
(D) an assessment of the amount of Federal, State, local, and tribal expenditures required to attain the preparedness priorities; and
(2) the extent to which the use of Federal as-
sistance during the preceding fiscal year achieved the preparedness priorities.
(b) CATASTROPHIC RESOURCE REPORT.—
(1) IN GENERAL.—The Administrator shall de-
velop and submit to the appropriate committees of Congress annually an estimate of the re-
sources of the Agency and other Federal agen-
cies needed for and devoted specifically to de-
veloping the capabilities of Federal, State, local, and tribal governments necessary to respond to a catastrophic incident.
(2) CONTENTS.—Each estimate under para-
graph (1) shall include the resources both nec-
essary for and devoted to—
(1) Planning
(B) training and exercises;

(C) Regional Office enhancements;

(D) staffing, including for surge capacity during a catastrophic incident;

(E) formalized incident management capabilities;

(F) other responsibilities under the catastrophic incident annex and the catastrophic incident supplement of the National Response Plan;

(G) State, local, and tribal government catastrophic incident preparedness; and

(H) accounting increases in the fixed costs or expenses of the Agency, including rent or property acquisition costs or expenses, taxes, contributions to the working capital fund of the Department, and any changes in the amount of personnel expenses for the year after the year in which such estimate is submitted.

(c) STATE PREPAREDNESS REPORT.—

(1) In GENERAL.—Not later than 15 months after the date of enactment of this Act, and annually thereafter, a State receiving Federal preparedness assistance administered by the Department shall submit a report to the Administrator on the State’s level of preparedness.

(2) CONTENTS.—Each report shall include—

(A) an assessment of State compliance with the national preparedness system, National Incident Management System, and other related plans and strategies;

(B) an assessment of current capability levels and a list of capability gaps and deficiencies;

(C) an assessment of resource needs to meet the preparedness priorities established under section 646(e), including—

(i) the amount and type of amount of expenditures required to attain the preparedness priorities; and

(ii) the extent to which the use of Federal assistance during the preceding fiscal year achieved the preparedness priorities.

SEC. 653. FEDERAL PREPAREDNESS.

(a) AGENCY RESPONSIBILITY.—In support of the national preparedness system, the President shall ensure that each Federal agency with coordinating, primary, or supporting responsibilities under the National Response Plan—

(1) has the operational capability to meet the national preparedness goal, including—

(A) the personnel to make and communicate decisions;

(B) organizational structures that are assigned, trained, and exercised for the missions of the agency;

(C) sufficient physical resources; and

(D) operational plans and communication channels to make, monitor, and communicate decisions;

(2) complies with the National Incident Management System, National Response Plan, and other related plans and strategies;

(3) The operations plan shall be developed, in coordination with Federal agencies with co-

(a) (A) the command, control, training, planning, and communication channels to make, monitor, and communicate decisions;

(B) the command, control, training, planning, and communication channels to make, monitor, and communicate decisions;

(C) operational plans and communication channels to make, monitor, and communicate decisions;

(D) complies with the National Incident Management System, National Response Plan, and other related plans and strategies;

(E) sufficient physical resources; and

(F) operational plans and communication channels to make, monitor, and communicate decisions.

(b) MISSION ASSIGNMENTS.—To expedite the provision of assistance under the National Response Plan, the President shall ensure that the Administrator, in coordination with Federal agencies with responsibilities under the National Response Plan, develops prescribed mission assignments, including logistics, communications, mass care, health services, and public safety.

(c) CERTIFICATION.—The President shall certify on an annual basis that each Federal agency with coordinating, primary, or supporting responsibilities under the National Response Plan complies with subsections (a) and (b).

(d) CONSTRUCTION.—Nothing in this section shall be construed to affect the authority of the Secretary of Defense with respect to—

(1) the command, control, training, planning, equipment, exercises, or employment of Department of Defense forces; or

(2) the allocation of Department of Defense resources.

SEC. 654. USE OF EXISTING RESOURCES.

In establishing the national preparedness goal and national preparedness system, the Administrator shall use existing preparedness documents, planning tools, and guidelines to the extent practicable and consistent with this Act.

CHAPTER 2—ADDITIONAL PREPAREDNESS

SEC. 661. EMERGENCY MANAGEMENT ASSISTANCE COMPACT GRANTS.

(a) IN GENERAL.—The Administrator may make grants to administer the Emergency Management Assistance Compact to—

(1) to carry out recommendations identified in the Emergency Management Assistance Compact after-action reports for the 2004 and 2005 hurricane season; and

(2) to administer compact operations on behalf of all member States and territories;

(3) to continue coordination with the Agency and appropriate Federal agencies;

(4) to continue coordination with the State, local, and tribal government entities and their respective national organizations; and

(5) to assist State and local governments, emergency response providers, and organizations representing such providers with credentialing emergency response providers and the typing of emergency response resources.

(b) COORDINATION.—The Administrator shall consult with the Administrator of the Emergency Management Assistance Compact to ensure effective coordination of efforts in respond-

(c) AUTHORIZATION.—There is authorized to be appropriated to carry out this section $4,000,000 for fiscal year 2008. Such sums shall remain available until expended.

SEC. 662. EMERGENCY MANAGEMENT PERFORMANCE GRANTS.

There is authorized to be appropriated for the Emergency Management Performance Grants Program for fiscal year 2008, an amount equal to the amount appropriated for the program for fiscal year 2007 and an additional $175,000,000.

SEC. 663. TRANSFER OF NOBLE TRAINING CENTER.

The Noble Training Center is transferred to the Center for Domestic Preparedness. The Center for Domestic Preparedness shall integrate the Noble Training Center into the program structure of the Center for Domestic Preparedness.

SEC. 664. NATIONAL EXERCISE SIMULATION CENTER.

The President shall establish a national exercise simulation center that—

(a) uses a mix of live, virtual, and constructive simulations to—

(b) prepare elected officials, emergency managers, emergency response providers, and emergency support providers at all levels of government to operate cohesively;

(c) provide a learning environment for the homeland security personnel of all Federal agencies;

(d) assist in the development of operational procedures and exercises, particularly those based on catastrophic incidents; and

(e) allow incident command coordination to exercise decision-making in a simulated environment; and

(f) uses modeling and simulation for training, exercises, and command and control functions that are operational level.

SUBTITLE D—Emergency Communications

SEC. 671. EMERGENCY COMMUNICATIONS.

(a) SHORT TITLE.—This section may be cited as the “21st Century Emergency Communications Act of 2006”.

(b) IN GENERAL.—The Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended by adding at the end the following new title:

“TITLE XVIII—EMERGENCY COMMUNICATIONS.”

“SEC. 1801. OFFICE OF EMERGENCY COMMUNICA-

TIONS.

(a) IN GENERAL.—There is established in the Department an Office of Emergency Communications.

(b) DIRECTOR.—The head of the office shall be the Director for Emergency Communications. The Director shall report to the Secretary for Cybersecurity and Communications.

(c) RESPONSIBILITIES.—The Director for Emergency Communications shall—

(1) assist the Secretary 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)), except as provided in section 314.

(2) administer the Emergency Communications responsibilities and authorities relating to the SAFECOM Program, excluding elements related to research,
Emergency Communications

(1) The SAFECOM Program, excluding elements related to research, development, testing, and evaluation and standards.

(2) The responsibilities of the Chief Information Officer for the development and implementation of the Integrated Wireless Network.

(3) The Interoperable Communications Technical Assistance Program.

(4) The Director for Emergency Communications shall coordinate—

(a) with appropriate, the Director of the Office for Incident Management and the Federal Emergency Management Agency with respect to the responsibilities described in section 314; and

(b) with the Administrator of the Federal Emergency Management Agency with respect to the responsibilities described in this title.

(5) SUFFICIENCY OF RESOURCES PLAN.

(6) Not later than 120 days after the date of enactment of this section, the Secretary shall submit to Congress a report on the resources and staff necessary to carry out fully the responsibilities under this title.

(7) COMPRESSER GENERAL REVIEW.—The Comptroller General shall review the validity of the report submitted by the Secretary under paragraph (1). Not later than 60 days after the date on which such report is submitted, the Comptroller General shall submit to Congress a report containing the findings of such review.

SEC. 1802. ASSESSMENTS AND REPORTS.

(a) BASELINE ASSESSMENT.—Not later than 1 year after the date of enactment of this section and not less than every 5 years thereafter, the Secretary, acting through the Director for Emergency Communications, shall conduct an assessment of Federal, State, local, and tribal governments in the United States.

(b) ASSESSMENT.—Not later than 1 year after the date of enactment of this section, the Secretary, acting through the Director for Emergency Communications, shall conduct an assessment of Federal, State, local, and tribal governments, Federal departments and agencies, emergency response providers, and the private sector, develop not later than 180 days after the completion of the baseline assessment and, periodically update, a National Emergency Communications Plan.

(c) CONTENTS.—The National Emergency Communications Plan shall—

(i) define the range of capabilities needed by emergency response providers and relevant government officials to continue to communicate in the event of natural disasters, acts of terrorism, and other man-made disasters;

(ii) define the range of interoperable emergency communications capabilities needed for such communications; and

(iii) assess the current available capabilities to meet such communications needs.

(d) IN GENERAL.—The Secretary, acting through the Director for Emergency Communications, and in cooperation with the Department of Homeland Security and regional emergency communications services, shall annually prepare a report on the progress of emergency communications and emergency response related activities conducted before, or ongoing on, the date of enactment of this section, including a timetable for the deployment of interoperable emergency communications systems.

SEC. 1803. SAVINGS CLAUSE.

Notwithstanding any provision of this title, the Federal, State, local, and tribal governments, Federal departments and agencies, emergency response providers, and the private sector, shall continue to comply with any applicable provisions of Federal, State, local, and tribal emergency management, public safety, homeland security, and emergency communications laws, regulations, and policies that are applicable to emergency response.

SEC. 1804. EXISTING AUTHORITY.

The Secretary shall, in consultation with the appropriate governments and emergency response agencies in the United States, continue to exercise all existing authority with respect to emergency communications and interoperability.

SEC. 1805. TRANSFERED FUNCTIONS.

The Secretary shall transfer to the Director for Emergency Communications the following program and responsibilities:

(a) BASELINE ASSESSMENT.

(b) ASSESSMENT.

(c) CONTENTS.

(d) PERFORMANCE OF PREVIOUSLY TRANSFERRED FUNCTIONS.

SEC. 1806. CONGRESSIONAL RECORD.

SEC. 1807. FEDERAL LAW.

SEC. 1808. RECOGNITION.

SEC. 1809. STUDY.

SEC. 1810. PROGRESS REPORT.

SEC. 1811. FEDERAL LAW.

SEC. 1812. SAVINGS CLAUSE.

SEC. 1813. TRANSFERED FUNCTIONS.

SEC. 1814. CONGRESSIONAL RECORD.

SEC. 1815. PROGRESS REPORT.

SEC. 1816. FEDERAL LAW.

SEC. 1817. SAVINGS CLAUSE.

SEC. 1818. TRANSFERED FUNCTIONS.

SEC. 1819. CONGRESSIONAL RECORD.

SEC. 1820. PROGRESS REPORT.

SEC. 1821. FEDERAL LAW.

SEC. 1822. SAVINGS CLAUSE.

SEC. 1823. TRANSFERED FUNCTIONS.

SEC. 1824. CONGRESSIONAL RECORD.

SEC. 1825. PROGRESS REPORT.

SEC. 1826. FEDERAL LAW.

SEC. 1827. SAVINGS CLAUSE.

SEC. 1828. TRANSFERED FUNCTIONS.
"3) an evaluation of the ability to continue to communicate and to provide and maintain interoperable emergency communications by emergency managers, emergency response providers and other relevant government officials in the event of—
(A) natural disasters, acts of terrorism, or other man-made disasters; and
(B) an evaluation of the feasibility and desirability of equipment development, 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 natural disasters, acts of terrorism, or other man-made disasters.

SEC. 1804. COORDINATION OF DEPARTMENT NATIONAL EMERGENCY COMMUNICATIONS GRANT PROGRAMS.

(a) COORDINATION OF GRANTS AND STANDARDS. The Secretary, through the Director for Emergency Communications, shall ensure that grant guidelines for the use of homeland security assistance administered by the Department of Homeland Security are appropriate. The Secretary shall ensure that relating to interoperable emergency communications are coordinated and consistent with the goals and recommendations in the National Emergency Communications Plan under section 1802.

(b) DENIAL OF ELIGIBILITY FOR GRANTS.—
(1) IN GENERAL.—The Secretary, acting through the Assistant Secretary for Grants and Planning, and in consultation with the Director for Emergency Communications, may prohibit any State, local, or tribal government from using homeland security assistance administered by the Department to achieve, maintain, or enhance emergency communications capabilities, if—
(A) such government has not complied with the requirement to submit a Statewide Interoperable Communications Plan as required by section 7303(j) of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 194(f)); or
(B) such government has proposed to upgrade or purchase new equipment or systems that do not meet or exceed any applicable national voluntary consensus standards and has not provided a reasonable explanation of why such equipment or systems will serve the needs of the government, and that relating to interoperable emergency communications are coordinated and consistent with the goals and recommendations in the National Emergency Communications Plan under section 1802.

(c) ASSESSMENT OF THE NATIONAL EMERGENCY COMMUNICATIONS PLAN.—
(1) IN GENERAL.—The Secretary, acting through the Assistant Secretary for Grants and Planning, and in consultation with the Director for Emergency Communications, may prohibit any State, local, or tribal government from using homeland security assistance administered by the Department to achieve, maintain, or enhance emergency communications capabilities, if—
(A) such government has not complied with the requirement to submit a Statewide Interoperable Communications Plan as required by section 7303(j) of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 194(f));
(B) such government has proposed to upgrade or purchase new equipment or systems that do not meet or exceed any applicable national voluntary consensus standards and has not provided a reasonable explanation of why such equipment or systems will serve the needs of the government, and that relating to interoperable emergency communications are coordinated and consistent with the goals and recommendations in the National Emergency Communications Plan under section 1802.

(2) ASSESSMENT.—The Secretary shall—
(A) assess the survivability, sustainability, and interoperability of local emergency communications systems to meet the goals of the National Emergency Communications Plan;
(B) coordinating the establishment of Federal Regional Emergency Communications Coordination (ECPC) Working Groups to include representatives of—
(1) Communications equipment manufacturers and vendors (including broadband data service providers).
(2) Local power exchange.
(3) Local broadcast media.
(4) Wireless carriers.
(5) Satellite communications services.
(6) Cable operators.
(7) Hospitals.
(8) Public utility services.
(9) Emergency evacuation transit services.
(10) Ambulance services.
(11) HAM and amateur radio operators.
(12) Representatives from other private sector entities and nongovernmental organizations as the Regional Administrator determines appropriate.
(C) consider, in preparing the strategic assessment under paragraph (2), the goals stated in the National Emergency Communications Plan under section 1802; and
(D) report to Congress on the progress of the Region in meeting the goals of the National Emergency Communications Plan under section 1802.

(3) ASSESSMENT.—The Secretary shall—
(A) establish the Emergency Communications Preparedness Center (in this section referred to as the ’Center’); and
(B) report to Congress on the progress of the Region in meeting the goals of the National Emergency Communications Plan under section 1802.

SEC. 1805. REGIONAL EMERGENCY COMMUNICATIONS COORDINATION WORKING GROUPS.

(a) IN GENERAL.—There is established in each Regional Office a Regional Emergency Communications Coordination Working Group (in this section referred to as an ‘RECC Working Group’). Each RECC Working Group shall report to the relevant Regional Administrator and coordinate its activities with the relevant Regional Administrator, and the Federal departments and agencies that the head of each Regional Office, and any other Federal departments and agencies that designee shall jointly operate the Center in accordance with the Memorandum of Understanding entitled, ‘Emergency Communications Preparedness Center (ECPC) Charter’.

(b) MEMBERSHIP.—Each RECC Working Group shall consist of the following:

(1) NON-FEDERAL.—Organizations representing the interests of the following:
(A) State officials.
(B) Local government officials, including sheriffs.
(C) State police departments.
(D) Local police departments.
(E) Fire agencies.
(F) Public safety answering points (9–1–1 services).
(G) State emergency managers, homeland security directors, or representatives of State Administrations Agencies.
(H) Local emergency managers or homeland security directors.
(I) Other emergency response providers as appropriate.
(2) FEDERAL.—Representatives from the Department, the Federal Communications Commission, and other Federal departments and agencies with responsibility for coordinating interoperable emergency communications with or providing emergency support services to State, local, and other emergency response providers, the private sector, and other organizations with emergency response capabilities.
(3) INDUSTRY.—Assessing the survivability, sustainability, and interoperability of local emergency communications systems to meet the goals of the National Emergency Communications Plan.
(4) REPORTING.—The Secretary shall—
(A) establish the Emergency Communications Preparedness Center (in this section referred to as the ’Center’); and
(B) report to Congress on the progress of the Regional Office in meeting the goals of the National Emergency Communications Plan under section 1802.

SEC. 1806. EMERGENCY COMMUNICATIONS PREPAREDNESS CENTER.

(a) ESTABLISHMENT.—There is established the Emergency Communications Preparedness Center (in this section referred to as the ’Center’).

(b) OPERATION.—The Secretary, the Chair of the Federal Communications Commission, the Secretary of Defense, the Secretary of Homeland Security, and the heads of the other Federal departments and agencies that designee shall jointly operate the Center in accordance with the Memorandum of Understanding entitled, ‘Emergency Communications Preparedness Center (ECPC) Charter’.

(c) MEMBERSHIP.—The Center shall—
(1) serve as the focal point for interagency efforts and as a clearinghouse with respect to emergency communications, to support and promote; (including specifically by working to avoid duplication, and counterproductive efforts among the participating Federal departments and agencies—
(A) the ability of emergency response providers and relevant government officials to continue to communicate in the event of natural disasters, acts of terrorism, and other man-made disasters;
and
(B) interoperable emergency communications.
(2) prepare and submit to Congress, on an annual basis, a strategic assessment regarding the coordination efforts of Federal departments and agencies to advance
(a) the Department-developed, 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 natural disasters, acts of terrorism, or other man-made disasters.

SEC. 1807. URBAN AND OTHER HIGH RISK AREA EMERGENCY COMMUNICATIONS CAPABILITIES.

(a) IN GENERAL.—The Secretary, in consultation with the Chairman of the Federal Communications Commission and the Secretary of Defense, and with appropriate State, local, and tribal government officials, shall provide technical guidance, training, and other assistance, as appropriate, to support the rapid establishment of consistent, secure, and effective interoperable emergency communications capabilities in the event of an emergency in urban and other areas determined by the Secretary to be at consistently high levels of risk from natural disasters, acts of terrorism, and other man-made disasters.

(b) MINIMUM CAPABILITIES.—The interoperable emergency communications capabilities established under subsection (a) shall ensure the ability of all levels of government, emergency response providers, the private sector, and other organizations with emergency response capabilities—
(1) to communicate with each other in the event of an emergency;
(2) to have appropriate and timely access to the Information Sharing Environment described in section 7303 of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 321); and
(3) to be consistent with any applicable State or urban area homeland strategy or plan.

SEC. 1808. DEFINITION.

In this title, the term ‘interoperable’ has the meaning given the term ‘interoperable communications’ under section 7303(j)(i) of the Intelligence Reform and Terrorism Prevention Act of 2004 (6 U.S.C. 194(j)(1)).

(c) CLERICAL AMENDMENT.—The table of contents in section 1(b) of the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended by adding at the end the following:

"TITLE XVIII—EMERGENCY COMMUNICATIONS"

'Sec. 1801. Office for Emergency Communications.

'Sec. 1802. National Emergency Communications Plan.

'Sec. 1803. Assessments and reports.

'Sec. 1804. Coordination of Federal emergency communications grant programs.
SEC. 315. EMERGENCY COMMUNICATIONS INTEROPERABILITY RESEARCH AND DEVELOPMENT.—

(a) IN GENERAL.—The Under Secretary for Science and Technology, acting through the Director for Emergency Communications, shall establish a comprehensive research and development program to support and promote—

(1) supporting research, development, testing, and evaluation on emergency communications capabiliti—

(b) PURPOSES.—The purposes of the program established under subsection (a) include—

(1) supporting research, development, testing, and evaluation on emergency communications capabiliti—

(2) understanding the strengths and weaknesses of the public safety communications systems in use;

(3) examining how current and emerging technology can make emergency response providers more effective, and how Federal, State, local, and tribal government agencies can use this technology in a coherent and cost-effective manner;

(4) investigating technologies that could lead to long-term advancements in emergency communications capability, in support of research on advanced technologies and potential systemic changes to dramatically improve emergency communications; and

(5) evaluating and facilitating advanced technology concepts, and facilitating the development and deployment of interoperable emergency communications capabilities.

(c) DEFINITIONS.—For purposes of this section, the term ‘interoperable’, with respect to emergency communications, has the meaning given in section 1008.

(d) CLERICAL AMENDMENT.—The table of contents in section 1(b) of the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended by inserting after the item relating to section 313 the following:

“Sec. 314. Office for Interoperability and Compatibility.”

SEC. 673. EMERGENCY COMMUNICATIONS INTEROP- ERABILITY RESEARCH AND DEVELOPMENT.—

(a) IN GENERAL.—Title III of the Homeland Security Act of 2002 (6 U.S.C. 181 et seq.), as amended by this Act, is amended by adding at the end the following:

“Sec. 315. EMERGENCY COMMUNICATIONS INTEROP- ERABILITY RESEARCH AND DEVELOPMENT.—

(a) IN GENERAL.—The Under Secretary for Science and Technology, acting through the Director for Emergency Communications, shall establish a comprehensive research and development program to support and promote—

(1) supporting research, development, testing, and evaluation on emergency communications capabiliti—

(b) PURPOSES.—The purposes of the program established under subsection (a) include—

(1) supporting research, development, testing, and evaluation on emergency communications capabiliti—

(2) understanding the strengths and weaknesses of the public safety communications systems in use;

(3) examining how current and emerging technology can make emergency response providers more effective, and how Federal, State, local, and tribal government agencies can use this technology in a coherent and cost-effective manner;

(4) investigating technologies that could lead to long-term advancements in emergency communications capability, in support of research on advanced technologies and potential systemic changes to dramatically improve emergency communications; and

(5) evaluating and facilitating advanced technology concepts, and facilitating the development and deployment of interoperable emergency communications capabilities.

(c) DEFINITIONS.—For purposes of this section, the term ‘interoperable’, with respect to emergency communications, has the meaning given in section 1008.

(d) CLERICAL AMENDMENT.—The table of contents in section 1(b) of the Homeland Security Act of 2002 (6 U.S.C. 101 et seq.) is amended by inserting after the item relating to section 313 the following:

“Sec. 314. Office for Interoperability and Compatibility.”

SEC. 674. 911 AND E911 SERVICES REPORT.

Not later than 180 days after the date of enactment of this Act, the Chairman of the Federal Communications Commission shall submit a report to Congress on the status of efforts of State, local, and tribal governments to develop plans for providing 911 and E911 services in the event that public safety answering points are disabled during natural disasters, acts of terrorism, and other man-made disasters.

SEC. 675. GUIDELINES.—The President shall promulgate and maintain guidelines to assist Governors in requesting the declaration of an emergency in advance of a natural or man-made dis- aster (including for the purpose of seeking assis- tance with special needs and other evacu- ation efforts) under this section by defining the types of assistance available to affected States and the circumstances under which such re-
SEC. 686. MAXIMUM AMOUNT UNDER INDIVIDUAL ASSISTANCE PROGRAMS.

Section 408(c)(4) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5120c(2)) is amended—

(1) by striking paragraph (2)(C); and

(2) in paragraph (3)—

(A) by striking paragraph (B); and

(B) by redesigning subparagraph (C) as subparagraph (B).
(D) by adding at the end the following:

“(D) provide information to the public about additional resources for disaster assistance; (E) work in partnership with Federal, State, and local law enforcement agencies; (F) provide technical assistance in locating displaced children; (G) share information on displaced children and displaced adults with governmental agencies; and (H) provide technical assistance in locating displaced children.”

SEC. 689c. NATIONAL EMERGENCY FAMILY REGISTRY AND LOCATOR SYSTEM.

(a) DEFINITIONS.—In this section:

(1) CHILD LOCATOR CENTER.—The term “Child Locator Center” means the National Emergency Child Locator Center established under subsection (b).

(2) DECLARED EVENT.—The term “declared event” means a major disaster or emergency.

(3) DISPLACED ADULT.—The term “displaced adult” means an individual 21 years of age or older who is displaced from the habitual residence of that individual as a result of a declared event.

(4) DISPLACED CHILD.—The term “displaced child” means an individual under 21 years of age who is displaced from the habitual residence of that individual as a result of a declared event.

(b) NATIONAL EMERGENCY CHILD LOCATOR CENTER.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Administrator shall establish a Child Locator Center.

(c) O PERATION OF SYSTEM.

(1) The National Emergency Family Registry and Locator System, including any difficulties or issues in establishing the System, including funding issues.

(d) REPORT.—Not later than 270 days after the date of enactment of this Act, the Administrator shall submit to the Committee on Homeland Security and Governmental Affairs and the Committee on the Judiciary of the Senate and the Committee on Transportation and Infrastructure and the Committee on the Judiciary of the House of Representatives a report describing in detail the status of the Child Locator Center, including funding issues and any difficulties or issues in establishing the System or completing the cooperative agreements described in subsection (b)(3)(K).

(e) COORDINATION.

(1) The Administrator shall enter into cooperative agreements with Federal and State agencies and other organizations such as the American Red Cross as necessary to implement the mission of the Child Locator Center.

(f) In this section:

(1) the term “displaced individual” means an individual displaced by an emergency or major disaster;

(2) the term “displaced individual” means an individual displaced by an emergency or major disaster; and

(3) the term “displaced individual” means an individual displaced by an emergency or major disaster.

(g) D ECLARED EVENT.

(i) the National Emergency Family Registry and Locator System as defined under section 689c(a); and

(j) REUNIFICATION.

(i) an entity designated by the Attorney General to provide technical assistance in locating displaced adults.

(ii) the National Emergency Family Registry and Locator System as defined under section 689c(a).

The administrator shall enter into cooperative agreements with Federal and State agencies and other organizations such as the American Red Cross as necessary to implement the mission of the Child Locator Center.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Administrator shall establish a National Emergency Family Registry and Locator System.

(b) GROUP SIZE.

(1) In this section:

(1) the term “displaced individual” means an individual displaced by an emergency or major disaster;

(2) the term “displaced individual” means an individual displaced by an emergency or major disaster; and

(3) the term “displaced individual” means an individual displaced by an emergency or major disaster.

SEC. 689d. FEDERAL ASSISTANCE TO INDIVIDUALS AND HOUSEHOLDS.

(a) IN GENERAL.—Consistent with section 301(a) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170) and this section, the Director of the Federal Emergency Management Agency shall—

(1) identify, in coordination with State and local governments, population groups with limited English proficiency and take into account such groups in planning for an emergency or major disaster;

(2) ensure that information made available to individuals affected by a disaster or emergency is made available in formats that can be understood by—

(A) population groups identified under paragraph (1); and

(B) individuals with disabilities or other special needs; and

(3) develop and maintain an informational clearinghouse model language assistance programs and best practices for State and local governments in providing services related to a major disaster or emergency.

(b) GROUP SIZE.

(1) the term “displaced individual” means an individual displaced by an emergency or major disaster; and

(2) the term “displaced individual” means an individual displaced by an emergency or major disaster.

SEC. 689e. DISASTER RELATED INFORMATION SERVICES.

(a) IN GENERAL.—With respect to a major disaster or emergency declared by the President under title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170 et seq.), the Federal Emergency Management Agency shall—

(1) establish, in coordination with State and local governments, population groups with limited English proficiency and take into account such groups in planning for a disaster or emergency.

(b) GROUP SIZE.

(1) the term “displaced individual” means an individual displaced by an emergency or major disaster; and

(2) the term “displaced individual” means an individual displaced by an emergency or major disaster.
their predisaster primary residences as a result of an incident declared under this Act or otherwise transported from their predisaster primary residences under section 403(a)(3) or 502, to and from emergency or secondary housing or for short-term rental or temporary accommodation or to return to an individual or household to their predisaster primary residence or alternative location, as determined necessary by the Agency.

SEC. 428. CASE MANAGEMENT SERVICES.

‘‘The President may provide case management services, including financial assistance, to State or local government agencies or qualified private organizations to provide such services, to victims of major disasters to identify and address unmet needs.’’

SEC. 326. DESIGNATION OF SMALL STATE AND RURAL ADVOCATE.

(a) IN GENERAL.—Title III of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (15 U.S.C. 5141 et seq.) is amended by adding at the end the following:

(b) DUTIES.—The Small State and Rural Advocate shall—

(1) participate in the disaster declaration process under section 601 and the emergency declaration process under section 601, to ensure that the needs of rural communities are being addressed;

(2) assist small population States in the preparation of requests for major disaster or emergency declarations; and

(3) conduct such other activities as the Director of the Federal Emergency Management Agency considers appropriate.

(c) REPORT TO CONGRESS.—Not later than 180 days after the date of enactment of this Act, the Administrator shall submit to the appropriate committees of Congress a report detailing the extent to which disaster declaration regulations—

(1) meet the particular needs of States with populations of less than 1,500,000 individuals; and

(2) comply with statutory restrictions on the use of arithmetic formulas and sliding scales based on population.

(d) STATUTORY CONSTRUCTION.—Nothing in this section or the amendments made by this section shall be construed to authorize major disaster declarations that are not authorized as of the date of enactment of this Act.

SEC. 689h. REPAIR, RESTORATION, AND REPLACE-
MENT OF DAMAGED PRIVATE NON-
PROFIT EDUCATIONAL FACILITIES.

Section 406(a)(3)(B) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5172(a)(3)(B)) is amended by inserting ‘‘education’’ before ‘‘nonprofit educational organizations.’’

SEC. 691. INDIVIDUALS AND HOUSEHOLDS PILOT PROGRAM.

(a) PILOT PROGRAM.—

(1) IN GENERAL.—The President, acting through the Administrator, shall establish a pilot program to assist individuals and households eligible for assistance under section 408 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5174) where alternative housing options are less available or less cost-effective.

(b) NEW PROCEDURES.—The new procedures established under subparagraph (A) may include 1 or more of the following:

(i) Expanding grants to persons or projects that are not approved under paragraphs (1) or (3) of section 403 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5174), providing an option for a State or local government to elect to receive an in-lieu contribution equal to 90 percent of the Federal share of the Federal estimate of the cost of repair, restoration, reconstruction, or replacement of a facility owned or controlled by the State or local government and of management expenses.

(ii) Making grants on the basis of estimates agreed to by the local government (or where no local government is involved, the Federal government) and the Administrator to provide financial incentives and disincentives for the local government (or where no local government is involved, for the Federal government) for the timely or cost effective completion of projects under sections 403(a)(3)(A), 406, and 407 of that Act.

(iii) Increasing the Federal share for removal of debris and wreckage for States and local governments that have a debris management plan approved by the Administrator and have qualified 1 or more debris and wreckage removal contractors before the date of declaration of the major disaster.

(iv) Using a sliding scale for the Federal share for removal of debris and wreckage based on the time it takes to complete debris and wreckage removal.

(v) Using a financial incentive to recycle debris.

(vi) Reimbursing base wages for employees and extra hires of a State or local government involved in or administering debris and wreckage removal.

(4) WAIVER.—The Administrator may waive such regulations or rules applicable to the provisions of this Act, provided the Administrator determines that such waiver is necessary to carry out the pilot program under this section.

(b) PILOT PROGRAM PROJECT APPROVAL.—The Administrator shall approve a project under the pilot program after December 31, 2009.

SEC. 689g. DESIGNATION OF SMALL STATE AND RURAL ADVOCATE.

(a) IN GENERAL.—The President shall designate in the Federal Emergency Management Agency a Small State and Rural Advocate.

(b) RESPONSIBILITIES.—The Small State and Rural Advocate shall be an advocate for the fair treatment of small States and rural communities in the provision of assistance under this Act.

(c) DUTIES.—The Small State and Rural Advocate shall—

(1) participate in the disaster declaration process under section 601 and the emergency declaration process under section 601, to ensure that the needs of rural communities are being addressed; and

(2) assist small population States in the preparation of requests for major disaster or emergency declarations; and

(3) conduct such other activities as the Director of the Federal Emergency Management Agency considers appropriate.

SEC. 689k. DISPOSAL OF UNUSED TEMPORARY CASH RELIEF.

In general—

(1) Notwithstanding section 406(c)(1)(A) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5174(c)(1)(A)), providing an option for a State or local government to elect to receive an in-lieu contribution equal to 90 percent of the Federal share of the Federal estimate of the cost of repair, restoration, reconstruction, or replacement of a facility owned or controlled by the President on the date of enactment of this Act and is not used to house

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individuals or households under section 408 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5174) after that date, such unit shall be disposed of under subchapter III of chapter 5 of subtitle I of title 40, United States Code.

(b) Tribal Governments.—Housing units described in subsection (a) shall be disposed of in accordance with the Department of Housing and Urban Development, or other appropriate agencies in order to transfer such units to tribal governments if appropriate.

Subtitle F—Prevention of Fraud, Waste, and Abuse

SEC. 691. ADVANCE CONTRACTING.

(a) Initial Report.—Not later than 180 days after the date of enactment of this Act, the Administrator shall submit a report under paragraph (2) identifying—

(A) recurring disaster response requirements, including specific goods and services, for which the Agency is capable of contracting for in advance of a natural disaster or act of terrorism or other man-made disaster in a cost effective manner;

(B) recurring disaster response requirements, including specific goods and services, for which the Administrator shall enter into 1 or more contracts for appropriate levels of goods and services, for which the Administrator shall have the responsibility to maintain coordination with State and local governments, local governments, or appropriate committees of Congress.

(b) Submission.—Not later than 1 year after the date of enactment of this Act, the Administrator shall submit a report under paragraph (2) identifying—

(A) recurring disaster response requirements, including specific goods and services, for which the Agency can not contract in advance of a natural disaster or act of terrorism or other man-made disaster in a cost effective manner;

(B) recurring disaster response requirements, including specific goods and services, for which the Administrator shall consider section 307 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5174) entered into by the Agency can not contract in advance of a natural disaster or act of terrorism or other man-made disaster.

SEC. 693. OVERSIGHT AND ACCOUNTABILITY OF FEDERAL DISASTER EXPENDITURES.

(a) Authority of Administrator to Designate Funds for Oversight Activities.—The Administrator may designate up to 1 percent of the total amount provided to a Federal agency for a mission assignment as oversight funds to be used by the recipient agency for performing oversight of activities carried out under the Agency reimbursable mission assignment process. Such funds shall remain available until expended.

(b) Use of Funds.—(1) Types of Oversight Activities.—Oversight funds may be used for the following types of oversight activities related to Agency mission assignments:

(A) Monitoring, tracking, and auditing expenditures of funds.

(B) Ensuring that sufficient management and internal control mechanisms are available so that Agency mission assignments are carried out in accordance with all applicable laws and regulations.

(C) Reviewing selected contracts and other activities associated with the mission assignments.

(D) Investigating allegations of fraud involving Agency funds.

(c) Plans and Reports.—Oversight funds shall transition work performed under contracts in effect on the date on which the President declares the emergency or major disaster.

(d) Methods of Oversight Activities.—(1) In General.—Oversight activities may be carried out by an agency under this section either directly or by contract. Such activities may include evaluations and financial and performance audits conducted pursuant to the inspector general, and may be carried out by contract or agreement with private organizations, firms, or individuals, not awarded to an organization, firm, or individual residing or doing business primarily in the area affected by such major disaster or emergency.

(2) Transition.—Following the declaration of an emergency or major disaster, an agency performing response, relief, and reconstruction functions shall transition any contracts in effect on the date on which the President declares the emergency or major disaster to organizations, firms, and individuals residing or doing business primarily in the area affected by the major disaster or emergency, unless the head of such agency determines that it is not feasible or practicable to do so.

SEC. 695. LIMITATION ON LENGTH OF CERTAIN NONCOMPETITIVE CONTRACTS.

(a) Regulations.—The Secretary shall promulgate regulations which will—

(1) restrict the contract period to not to exceed 150 days; and

(2) include evaluations and financial and performance audits conducted pursuant to the inspector general for the Department of Homeland Security, and may be carried out by contract or agreement with private organizations, firms, or individuals, not awarded to an organization, firm, or individual residing or doing business primarily in the area affected by such major disaster or emergency.

(b) Period.—Nothing in this subsection shall be construed to require any Federal agency to award contracts in effect before the occurrence of a major disaster or emergency.
days, unless the Secretary determines that exceptional circumstances apply.

(c) COVERED CONTRACTS.—This section applies to any contract in an amount greater than the simplified acquisition threshold (as defined by section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403)) entered into by the Department to facilitate response to or recovery from a natural disaster, act of terrorism, or other man-made disaster.

SEC. 696. FRAUD, WASTE, AND ABUSE CONTROLS.

(a) IN GENERAL.—The Administrator shall ensure that

(1) all programs within the Agency administering Federal disaster relief assistance develop and maintain proper internal management controls to prevent and detect fraud, waste, and abuse;

(2) application databases used by the Agency to collect information on eligible recipients must record disbursements;

(3) such tracking is designed to highlight and identify ineligible applications; and

(4) the databases used to collect information from applications for such assistance must be integrated with disbursements and payment records.

(b) AUDITS AND REVIEWS REQUIRED.—The Administrator shall ensure that any database or similar application processing system for Federal disaster relief assistance programs administered by the Agency undergoes a review by the Inspector General of the Agency to determine the existence and implementation of such internal controls required under this section and the amendments made by this section.

(c) VERIFICATION MEASURES FOR INDIVIDUALS AND HOUSEHOLDS PROGRAM.—Section 406 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5174) is amended—

(1) by redesignating subsection (i) as subsection (j); and

(2) by inserting after subsection (h) the following:

“(i) VERIFICATION MEASURES.—In carrying out this section, the President shall develop a system, including an electronic database, that shall allow the President, or the designee of the President, to—

“(1) verify the identity and address of recipients of assistance under this section to prevent fraud; such payments are made only to an individual or household that is eligible for such assistance;

“(2) determine the existence and implementation of such internal controls required under this section and the amendments made by this section;

“(3) collect any duplicate payment on a claim under this section, or reduce the amount of such duplicate payment;

“(4) conduct an audit and simplified review and appeal process for an individual or household whose application for assistance under this section is denied.

SEC. 697. REGISTRY OF DISASTER RESPONSE CONTRACTORS.

(a) DEFINITIONS.—In this section—

(1) the term "registry" means the registry created under subsection (b); and

(2) the term "small business concern", "small business concern owned and controlled by socially and economically disadvantaged individuals", "small business concern owned and controlled by women", and "small business concern owned and controlled by service-disabled veterans" have the meanings given those terms under the Small Business Act (15 U.S.C. 631 et seq.).

(b) REGISTRY.—

(1) IN GENERAL.—The Administrator shall establish and maintain a registry of contractors who are willing to perform debris removal, distribution of supplies, reconstruction, and other disaster or emergency relief activities.

(2) CONTENTS.—The registry shall include, for each business concern—

(A) the name of the business concern;

(B) the location of the business concern;

(C) the area served by the business concern;

(D) the type of good or service provided by the business concern;

(E) the bonding level of the business concern; and

(F) whether the business concern is—

(i) a small business concern;

(ii) a small business concern owned and controlled by socially and economically disadvantaged individuals;

(iii) a small business concern owned and controlled by women; or

(iv) a small business concern owned and controlled by service-disabled veterans.

(3) SOURCE OF INFORMATION.—

(A) SUBMISSION.—Information maintained in the registry shall be submitted on a voluntary basis and be kept current by the submitting business concerns.

(B) ATTESTATION.—Each business concern submitting information to the registry shall submit—

(i) an attestation that the information is true; and

(ii) documentation supporting such attestation.

(C) VERIFICATION.—The Administrator shall verify that the documentation submitted by each business concern supports the information submitted by that business concern.

(4) AVAILABILITY OF REGISTRY.—The registry shall be made generally available on the Internet site of the Agency.

(D) CONSULTATION.—As part of the acquisition planning for contracting for debris removal, distribution of supplies in a disaster, reconstruction, and other disaster or emergency relief activities, a Federal agency shall consult the registry.

SEC. 698. FRAUD PREVENTION TRAINING PROGRAM.

The Administrator shall develop and implement a program to provide training on the prevention of waste, fraud, and abuse of Federal disaster relief assistance relating to the response to or recovery from natural disasters and acts of terrorism or other man-made disasters and ways to identify such potential waste, fraud, and abuse.

Subtitle G—Authorization of Appropriations

SEC. 699. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this title and the amendments made by this title for the administration and operations of the Agency—

(1) for fiscal year 2008, an amount equal to the amount appropriated for fiscal year 2007 for administration and operations of the Agency, multiplied by 1.1; and

(2) for fiscal year 2009, an amount equal to the amount described in paragraph (1), multiplied by 1.1.

(3) for fiscal year 2010, an amount equal to the amount described in paragraph (2), multiplied by 1.1.

SEC. 699A. Except as expressly provided otherwise, any reference to "this Act" contained in this title shall be treated as referring only to the provisions of this title.

This Act may be cited as the "Department of Homeland Security Appropriations Act, 2007." And the Senate agree to the same.

MANAGERS ON THE PART OF THE HOUSE.

JOHN R. CARTER, JERRY LEWIS, MARTIN OLAV SAFO, DAVID E. PRICE, JOSÉ E. SERRANO, LUCILLE ROYBAL-ALLARD, SANFORD D. BISHOP, MARGON BERRY, CHERYL MILLER, DAVID R. OBRY.

MANAGERS ON THE PART OF THE SENATE.

JUDD GREGG, TRAD COCHRAN, TINO STEVENS, ARLEN SPECTER, PETER V. DOMENICI, RICHARD C. SHELBY, LARRY E. CRAIG, R.F. BENNETT, WAYNE ALLARD, ROBERT C. BYRD, DANIEL K. AKaka, PATRICK J. LEAHY, BARBARA A. MIKULSKI, HERB KOHL, PATRICK LEAHY, HARRY REID, DIANNE FEINSTEIN.

MANAGERS ON THE PART OF THE SENATE.

JOINT EXPLANATORY STATEMENT.

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 5944), making appropriations for the Department of Homeland Security (DHS) for the fiscal year ending September 30, 2007, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effects of the action agreed upon by the managers and recommended in the accompanying conference report.

Senate Amendment: The Senate deleted the entire House bill after the enacting clause and inserted the Senate bill. The conference agreement includes a revised bill. Throughout the accompanying explanatory statement, the managers refer to the Committee and the Committees on Appropriations. Unless otherwise noted, in both instances, the managers are referring to the House Subcommittee on Homeland Security and the Senate Subcommittee on Homeland Security.

The language and allocations contained in House Report 109-476 and Senate Report 109-273 should be complied with unless specifically addressed to the contrary in the conference report and subsequent managers’ statements. The statement of managers, while repeating some report language for emphasis, does not intend to negate the language referred to above unless expressly provided herein. In cases where both the House and Senate reports address a particular issue not specifically addressed in the conference report or joint statement of managers, the Senate have determined the House report and the Senate report are not inconsistent and are to be interpreted accordingly. In cases where the House or Senate report directs the submission of a report, such report is to be submitted to both Committees on Appropriations. Further, in a number of instances, House Report 109-476 and Senate Report 109-273 direct agencies to report to the Committees by specific dates. In those instances, and unless otherwise stated, any reference to the contrary in the conference report or joint statement of managers should be interpreted accordingly. In cases where the Senate report are not inconsistent and are to be interpreted accordingly. In cases where the House or Senate report directs the submission of a report, such report is to be submitted to both Committees on Appropriations. Further, in a number of instances, House Report 109-476 and Senate Report 109-273 direct agencies to report to the Committees by specific dates. In those instances, and unless otherwise stated, any reference to the contrary in the conference report or joint statement of managers should be interpreted accordingly.

CLASSIFIED PROGRAMS.

Recommended adjustments to classified programs are addressed in a classified annex accompanying this statement of managers.
The conferees agree to provide $15,000,000 for the Chief of Staff as proposed by the House and $1,284,000 as proposed by the Senate. The conferees have made reductions to the budget request due to a large number of vacancies and unobligated balances within certain offices. Funding shall be allocated as follows:

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<th>Office</th>
<th>Funding</th>
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<td>Immediate Office of the Deputy Secretary</td>
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**COMPREHENSIVE PORT, CONTAINER, AND CARGO SECURITY STRATEGY**

The conferees are committed to building upon and improving the Department’s programs directed toward port, container, and cargo security, such as Customs and Border Protection's Container Security Initiative and Customs-Trade Partnership Against Terrorism; the Coast Guard’s port security patrols and facility operations; and Science and Technology's cargo security research programs. The conferees believe these programs must evolve to combat new and emerging threats, as well as to support the continuous growth of international trade. To date, DHS has not produced a strategic plan for this critical area of homeland security. To address this issue, the conferees withhold $5,000,000 from obligation from the Office of the Secretary and Executive Management until the Secretary submits a comprehensive port, container, and cargo security strategic plan to the Committees on Appropriations; the Senate Committee on Commerce, Science and Transportation; the Senate Committee on Homeland Security and Governmental Affairs; and the House Committee on Homeland Security. This plan shall comply with all reporting and performance requirements specified in the House report.

**SECURE BORDER INITIATIVE STRATEGIC PLAN**

The conferees direct the Secretary to submit the Secure Border Initiative multi-year strategic plan to the Committees on Appropriations, the Senate Committee on Homeland Security and Governmental Affairs, the House Committee on Homeland Security, and to the Judiciary. This plan shall demonstrate how the Department of Homeland Security (DHS) will obtain operational control of the borders in five years, as specified in bill language. The conferees withhold $10,000,000 from obligation from the Office of the Secretary and Executive Management until the Secretary submits this plan.

**OFFICE OF POLICY**

The conferees agree to provide $29,305,000 for the Office of Policy instead of $27,093,000 as proposed by the House and $31,093,000 as proposed by the Senate. Within this total, funding has been provided for policy oversight for the Secure Border Initiative, counterterrorism cooperation, as well as a technical full-time equivalent (FTE) adjustment. The Secure Border Coordination Office is funded as an independent office.

The conferees support a strong, centralized Office of Policy to further the Department’s mission. The conferees are concerned that the Office of Policy is becoming specialized and encourage the Office to remain flexible to address the most pressing policy issues confronting the Department, both in the short and long term.

**SECURE BORDER COORDINATION OFFICE**

The conferees agree to provide $4,500,000 for the Secure Border Coordination Office, instead of $5,000,000 as proposed by the House for the Secure Border Initiative Program Executive Office (SBI PEO) and $4,000,000 as proposed by the Senate for the SBI PEO within the Office of Policy. Funds provided above the budget request are to enhance program planning and performance management.

The conferees fund the Secure Border Coordination Office as a distinct office within the Office of the Secretary and Executive Management because it is a functional office charged with the coordination of the Department’s border security and immigration enforcement programs rather than formulation of policy. The Office of Policy, in the Office of the Secretary, will continue to have an oversight responsibility for policy related to the Secure Border Initiative.

The conferees view the Secure Border Coordination Office as the focal point for the Department’s transition from a fragmented and stove-piped border security organization to an integrated system capable of producing measurable results by the data contained within the September 2006 bi-monthly status report on DHS’ border security performance. The conferees note both the quality of this report as a standard for DHS to emulate and recognize the timeliness with which the report was submitted. The conferees direct the Secure Border Coordination Office to provide the Office of Policy with both monthly status reports through the end of fiscal year 2007, as specified by the House. In addition, the conferees direct the Senate Committee on Appropriations to continue to assess and comment on the timeliness of these reports.

The conferees provide considerable resources to continue immigration enforcement in this Act as well as in fiscal year 2006 appropriations and view the Secure Border Coordination Office as accountable for linking these resources to the stated goal of gaining operational control of our borders within five years. The conferees expect to see a detailed justification for the staffing and resources of the Office within the fiscal year 2008 budget request.

**OFFICE OF COUNTERNARCOTICS ENFORCEMENT**

The conferees agree to provide $2,360,000 for a separate Office of Counternarcotics Enforcement, as proposed by the Senate, instead of $2,741,000 within the Office of Chief of Staff as proposed by the House. The conferees view this office as responsible for monitoring and coordinating the tradicional counternarcotics functions of the DHS agencies, as well as examining the nexus of drugs and terrorism. The conferees agree that this function be housed within the Office of the Chief of Staff and have provided funds for the establishment of an independent office within the Office of the Secretary and Executive Management. The conferees question the necessity and efficacy of separating this office from the Office of Policy given its analysis and policy formulation mission and encourage DHS to consider this as part of its fiscal year 2008 budget submission.

The Office is directed to report, in conjunction with the fiscal year 2008 budget request, on its annual productivity and performance as directed in the House report.

**EXECUTIVE STAFF**

The conferees agree to provide $4,450,000 for the Executive Secretary instead of $5,001,000 as proposed by the House and $4,000,000 as proposed by the Senate. Within this funding level, the conferees provide an additional full-time equivalent (FTE) adjustment and associated funding as requested and one additional full-time position. In late 2005, the Executive Secretary was directed with implementing the strategy given the volume of Congressional interest in DHS issues.

**TRAINING**

The conferees direct the Secretary to brief the Committees on Appropriations on the inventory of funds supporting training in the Preparedness Directorate of the Federal Emergency Management Agency (FEMA) in fiscal year 2007 as discussed in the House report. In addition, the conferees direct that greater detail be included in the fiscal year 2008 Congressional budget justifications.

**CONTRACT STAFF**

The conferees agree with Senate language directing the Secretary to update its contract staffing report, no later than February 8, 2007, to include data for fiscal year 2006, projected contract staff for fiscal year 2007, and a plan to reduce these types of contract employees.

**GRANT AWARDS**

The conferees continue to be disappointed by the Department’s slow pace of awarding important security funds to state and local governments. Therefore, bill language is included under Grants and Training requiring port, rail and transit, trucking, intercity buses, airports, border crossers, as well as State Homeland Security Grants, Law Enforcement Terrorism Prevention, and Urban Area Security Initiative funds to be awarded by a date certain in fiscal year 2007.

**UNOBLIGATED BALANCES**

The Office of the Secretary and Executive Management appears to continue to lack an appropriate plan for use of available funding, as unbudgeted dollars remain high throughout the year. The conferees are particularly disappointed the Office of Civil Rights and Liberties, the Citizenship and Immigration Services Ombudsman, and the Privacy Office are not using available resources to meet growing responsibilities. The Department is directed to provide the Committees on Appropriations with an expenditure plan for these offices no later than November 1, 2006.

**VANCOUVER OLYMPICS**

The conferees direct the Secretary to conduct a review, in conjunction with appropriate Committees, in the Judicial, and the Canadian entities, and to report to the Committees on Appropriations, the Senate Committee on Homeland Security and Governmental Affairs, and the House Committee on Homeland Security, within six months after enactment of this Act, on all relevant security issues related to the 2010 Vancouver Olympic and Paralympic Games. The conferees have directed the Department to use the Secure Border Initiative and the Border Coordination Office as accountable for linking these resources to the stated goal of gaining operational control of our borders within five years. The conferees expect to see a detailed justification for the staffing and resources of the Office within the fiscal year 2008 budget request.
crossing wait times, and the need for additional border personnel. The Secretary, in coordination with the Senate, the Federal Communications Commission, and representatives in the States of Alaska, Idaho, Montana, Oregon, and Washington, shall also evaluate the technical and operational interoperability challenges facing state, local, and federal authorities in preparing for the 2010 Olympic and Paralympic Games. The conferences direct the Secretary to submit a plan to address these issues to the Committees on Appropriations; the Senate Committee on Commerce, Science, and Transportation; the Senate Committee on Homeland Security and Governmental Affairs; the House Committee on Homeland Security; and the House Committee on Energy and Commerce, six months after enactment of this Act.

**DATA-MINING**

The conferences continue to be concerned with the Department’s possible use or development of data-mining technology and direct the DHS Privacy Officer to submit a report consistent with the terms and conditions listed in section 549 of the Senate bill. The conferences expect the report to include information on how it has implemented the recommendations laid out in the Department’s data-mining report received July 18, 2006.

**TRANSFER AUTHORITY**

The conferences direct the Secretary to provide the Committees on Appropriations a report by November 1, 2006, with any recommendations for transfers, reprogramming, and appropriate, budget requests, pursuant to 31 USC 1105, in order to implement new authorities contained in title VI.

**OFFICE OF THE UNDER SECRETARY FOR MANAGEMENT**

The conferences agree to provide $153,640,000 instead of $70,489,000 as proposed by the House and $26,018,000 as proposed by the Senate. The conferences have made reductions to the budget request due to a large number of vacancies and unobligated balances within certain offices. Funding shall be allocated as follows:

- Under Secretary for Management ........ 3,870,000
- Office of Security ........................ 1,436,000
- Office of the Chief Procurement Officer ...... 8,206,000
- Office of the Chief Human Capital Officer ...... 981,000
- MAX-HR Human Resource System ........ 25,000,000
- Office of the Chief Administrative Officer .... 40,218,000
- Nebraska Avenue Complex (DHS headquarters) .... 8,206,000

Total ........................................ 153,640,000

**OFFICE OF THE CHIEF PROCUREMENT OFFICER**

The conferences have fully funded the budget request for the Office of the Chief Procurement Officer. Because the Department has experienced numerous procurement problems, the conferences expect the Department to hire more procurement staff both within this office, as well as within a variety of DHS components. The Chief Procurement Officer shall develop a procure-ment oversight plan, identifying necessary oversight resources and how improvements in the Department’s performance of its procurement functions will be achieved. This plan shall be provided to the Committees on Appropriations and the Government Accountability Office (GAO) no later than January 28, 2007. The conferences direct GAO to brief the Committees no later than April 16, 2007, on their analysis of this plan.

The conferences direct GAO to review DHS compliance during fiscal years 2005–06 with section 503(a)(3) of P.L. 108–334 and P.L. 109–90, which prohibit DHS from reprogramming funds that were appropriated for federal civilian FTEs for contracting out similar functions, and report to the Committees on Appropriations by March 1, 2007.

**Funding for DHS Headquarters**

While the conferences have fully funded the budget request of $8,206,000 for enhancements to the DHS headquarters on Nebraska Avenue, no funding has been provided to move the U.S. Coast Guard headquarters to St. Elizabeths complex. This move has been proposed as the first phase to consolidate most of all of DHS at the St. Elizabeths campus. However, the conferences are unable to elaborate on the reasons why St. Elizabeths is the best location for a permanent DHS headquarters, what other sites have been considered, or the expenditure plan to the Committees on Appropriations. The conferees agree to provide $153,640,000 for the MAX-HR human resources system and direct the Secretary to submit an updated expenditure plan to the Committees on Appropriations within 90 days after enactment of this Act. This plan shall list all contract obligations, by contractor and year, and include any federal monies will be spent on human resources. The conferees are concerned about the Department’s inability to provide a monthly budget execution report detailing the status of the total obligatory authority available and the status of allotting, obligating and expending these funds by each agency. For the past two years, the CFO has been unable to provide this required monthly report on a timely basis. The conferences modify and retain a general provision (section 531) requiring the submission of the Working Capital Fund, at the level of detail shown in the table of detailed funding levels displayed at the end of the statement of appropriations. The conferences are concerned that these transfers exceeded the limits set forth in those general provisions, particularly with regard to funding new activities. Therefore, the conferences direct the CFO to review the use of shared services throughout the Department and specifically within Preparedness to ensure that they are in compi-lance with appropriation law and the proper use of the Economy Act. Such blatant disregard of the Appropriations Act will not be tolerated again.

**ALIGNED RESOURCES TO MISSION**

The conferences are concerned about the ability of some Departmental agencies to effectively align resource requirements to workload and mission needs. To address this issue, the conferences have included specific reporting requirements and/or re-aligned the funding structure of select agencies experiencing difficulty aligning resources to missions, such as U.S. Customs and Border Protection, Federal Protective Service, Science and Technology Directorate, Infrastructure Protection and Information Security, and Secret Service. The conferences are committed to improving the budgetary systems of these components and recognize the CFO’s efforts in mission cost modeling across the Department. In the case of the Secret Service, the conferences provide funding through an entirely new appropriations account structure and recognize this may pose unique challenges. Therefore, the conferences direct the CFO to support the Secret Service’s transition to this new account structure by assisting the agency in the improvement of its budgetary execution and real-time tracking of resource hours.

**ANNUAL APPROPRIATIONS JUSTIFICATIONS**

The conferences direct the CFO to submit all of its fiscal year 2006 budget justifications with the submission of the President’s budget request and at the level of detail specified in the House report. In addition, the annual appropriations justification shall include explicit information by appropriations account, program, project, and activity on all reimbursable agreements and uses of the Economic Act exceeding $50,000.

**MONTHLY EXECUTION AND STAFFING REPORTS**

Both the House and Senate Committees have been repeatedly frustrated over the Department’s inability to provide a monthly budget execution report detailing the status of the total obligatory authority available and the status of allotting, obligating and expending these funds by each agency. For the past two years, the CFO has been unable to provide this required monthly report on a timely basis. The conferences modify and retain a general provision (section 331) requiring the submission of the Working Capital Fund, at the level of detail shown in the table of detailed funding levels displayed at the end of the statement of appropriations. The monthly budget execution report shall include total obligatory authority appropriated (new budget authority plus unobligated balances) and obligated, current year obligations, unobligated balances, authority, amount allotted, current year obligations, unobligated authority (the difference between total obligatory authority and unobligated balances) and obligations, year-to-date obligations, and year-end unexpended obligations, of the Department of Homeland Security. The conferences instruct the CFO to report the on-board versus funded full-equivalent staffing levels, as proposed by the Senate.

**HUMAN RESOURCES SYSTEM**

The conferences agree to provide $25,000,000 for the MAX-HR human resources system and direct the Secretary to submit an updated expenditure plan to the Committees on Appropriations within 90 days after enactment of this Act. This plan shall list all contract obligations, by contractor and year, and include any federal monies spent on human resources.
The conferees direct this report to be submitted not more than 45 days after the close of each month. Based on the Department’s historical ability to deliver the reports on a timely basis, the conferees will revisit the bill provision in future appropriations Acts.

IMPROPER PAYMENTS

The conferees are concerned the Department is not complying with the Improper Payment Act of 2002. The Department reported in its fiscal year 2005 Performance and Accountability Report that none of its programs were deemed to be at significant risk of making improper payments, despite the fact that GAO found problems with billions of dollars in payments responding to Hurricanes Katrina and Rita. According to the Office of Management and Budget Memorandum 30-13, “significant” is defined to mean at least 2.5 percent of all payments made are improper, and the absolute dollar figure associated with that 2.5 percent or more totals at least $10,000,000.

The Improper Payment Information Act requires federal programs and activities deemed to be at “significant” risk of making improper payments to report improper payment information to Congress. The conferees expect the Department to comply with the Improper Payment Information Act.

OFFICE OF THE CHIEF INFORMATION OFFICER

The conferees agree to provide $349,013,000 for the Office of the Chief Information Officer (CIO) instead of $384,765,000 as proposed by the House and $384,765,000 as proposed by the Senate. Funding shall be allocated as follows:

<table>
<thead>
<tr>
<th>Description</th>
<th>Allocation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Salaries and Expenses</td>
<td>$79,521,000</td>
</tr>
<tr>
<td>Information Technology</td>
<td>$61,013,000</td>
</tr>
<tr>
<td>Security Activities</td>
<td>$89,387,000</td>
</tr>
<tr>
<td>Wireless Programs</td>
<td>$36,438,000</td>
</tr>
<tr>
<td>Homeland Secure Data</td>
<td>$32,654,000</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$349,013,000</strong></td>
</tr>
</tbody>
</table>

The conferees direct the CIO to use the remaining unobligated balances of approximately $10,000,000 from the eMerge2 program for financial management improvements, and to continue to coordinate systems improvements with the Office of the Chief Financial Officer.

INFORMATION TECHNOLOGY OVERSIGHT

The conferees support language contained in the House report on information technology oversight and direct that no funds be provided in this Act for obligations for any information technology procurement of $2,500,000 or more without approval of the DHS CIO. These procurements must conform to DHS' Enterprise Architecture or justify any deviation from it.

NATIONAL CENTER FOR CRITICAL INFORMATION PROCESSING AND STORAGE (NCCIPS)

The conferees agree to include $58,000,000 for NCCIPS expenses. Of these funds, $12,000,000 shall be provided for the ongoing efforts to develop and transition the Department’s multiple data centers to the NCCIPS. The conferees support the Senate’s recommendation to identify and secure the NCCIPS secondary site and provide the remaining $46,000,000 for those activities. To provide for operational readiness and to fill back-up requirements, the conferees direct the secondary facility and infrastructure be at a separate remote location and the site selected be coordinated in a fair and open evaluation process. NCCIPS is intended to migrate and consolidate critical infrastructure information, thereby reducing unnecessary and uneconomic investments by the Department. The conferees believe that integrating the multiple centers and infrastructures to the primary and secondary NCCIPS data centers will present significant opportunities for cost saving and provide the best investment for DHS critical information requirements.

In consolidating the data centers to the NCCIPS, consistent with section 888 of Public Law 107-296, the conferees instruct the Department to develop a consolidation plan in a manner that shall not result in a reduction to the Coast Guard’s Operations System Center mission or its government-employed or civilian employees.

COMMON OPERATING PICTURE

The conferees acknowledge that DHS has made significant progress developing systems such as the Homeland Security Information Sharing and Analysis Network and Infrastructure Critical Asset Viewer, which facilitate communications, situational awareness, and provide for the sharing of information between DHS and its federal, state, local, and commercial partners. These systems each address a specific functional or customer requirement and lay the groundwork for a comprehensive national incident prevention and response system. The conferees encourage DHS to continue developing these types of systems and that the Department integrate all federal systems into a common architecture that would address a broader functional and customer base to include integration with state fusion centers.

HOMELAND SECURITY PRESIDENTIAL DIRECTIVE

The conferees understand the Department and other federal agencies are attempting to comply with the Homeland Security Presidential Directive-12 mandate to begin using Personal Identity Verification (PIV) cards for new employees and contractors by October 27, 2006. The conferees provide the requested amount of $2,966,000 for the Smartcard program. The conferees encourage the Department to work expeditiously toward implementation of PIV card life cycle management and certificate services and provide to the Committees on Appropriations a briefing on the Department’s plans to implement this directive by December 1, 2006.

ANALYSIS AND OPERATIONS

The conferees agree to provide $299,063,000 for Analysis and Operations including $298,896,000 for the House and $301,185,000 as proposed by the Senate. Up to $1,000,000 is for an independent study on the feasibility of creating a counter terrorism intelligence agency.

SITUATIONAL AWARENESS TEAMS

The conferees direct the National Operations Center and Immigration and Customs Enforcement (ICE) to brief the Committees on Appropriations on their current status, the number and composition of the situational awareness teams, their locations, actual and planned deployments in fiscal years 2006 and 2007, operations on ICE, and the associated budgets and staffing resource needs.

FUSION CENTERS

The conferees support language contained in the House report on fusion centers and direct the Department to report on the role of these fusion centers, the total number of operational fusion centers, their effective-ness, their funding sources and amounts, and where additional fusion centers are necessary.

OPERATIONS CENTERS

The conferees support language in the Senate report on fusion centers and direct the Government Accountability Office to analyze the role of the National Operations Center and the numerous DHS component operations centers and to make recommendations regarding the operation and coordination of these centers and report to the Committees that recommended.

OFFICE OF THE FEDERAL COORDINATOR FOR GULF COAST REBUILDING

The conferees agree to provide $3,000,000 for the Office of the Federal Coordinator for Gulf Coast Rebuilding instead of no funding as proposed by the House. Within the funding provided, $1,000,000 is unavailable for obligation until the Inspector General certifies that the House instead of no funding as proposed by the Senate. Any funding above the amount provided must be reprogrammed or transferred in accordance with section 903 of this Act.

OFFICE OF INSPECTOR GENERAL

The conferees agree to provide $85,185,000 for the Office of Inspector General instead of $86,185,000 as proposed by the House and $90,185,000 as proposed by the Senate.

In addition to the funding provided above, $13,500,000 is available for transfer from the Disaster Relief Fund instead of no funding as proposed by the House and $13,500,000 as proposed by the Senate. These funds are to continue and expand audits and investigations related to the Gulf Coast hurricanes, including flood insurance issues. The Inspector General is directed by the Committees on Appropriations no less than 15 days prior to any transfer from the Disaster Relief Fund.

SECURE BORDER INITIATIVE

The conferees support the Secure Border Initiative (SBI), but are concerned that major technology contracts that are expected to be awarded through the SBI have not required procurement integration and oversight. The conferees direct the Inspector General to review and report on any contract or task order relating to the SBI program valued at more than $20,000,000. These reviews should begin no earlier than 180 days after a contract has been awarded.

ANALYSIS, DISSEMINATION, VISUALIZATION, IN-SIGHT AND SEMANTIC ENHANCEMENT (ADVISE) PROGRAM

The ADVISE program is designed to extract relationships and correlations from large amounts of data to produce actionable intelligence on terrorists. The program is currently available to analysts in Intelligence and Analysis using departmental and other data, including some on U.S. citizens. The conferees understand up to $40,000,000 has been obligated for ADVISE. The ADVISE program plan, total costs and privacy impacts are unclear and therefore the conferees direct the Inspector General to conduct a comprehensive program review and report within nine months of enactment of this Act.

TITLE II—SECURITY, ENFORCEMENT, AND INVESTIGATIONS

UNITED STATES VISITOR AND IMMIGRANT STATUS INDICATOR TECHNOLOGY (US-VISIT)

The conferees agree to provide $362,494,000 as proposed by the House instead of $399,494,000 as proposed by the Senate. Within this amount, $10,000,000 is available to implement 10-print enrollment capability, and to continue the development of interoperability between DHS’s Automated Bio- metric Identification System (IDENT) and the Federal Bureau of Investigation’s Integrated Automated Fingerprint Identification System (IAFIS).

STRATEGIC PLANNING

The conferees support language contained in the House and Senate reports concerning the submission of a strategic plan...
for US-VISIT. The conferees direct the strategic plan to include: the cost and schedule of migration to a ten-fingerprint system with interoperability of IAFIS and IDENT fingerprint databases; a complete schedule for the full implementation of the exit portion of the program; and a plan of how US-VISIT fits into the Department’s larger border and immigration initiatives.

IDENT/IAFIS and TEN-PRINT ENROLLMENT

The conferees reiterate their strong support for on-going efforts to ensure interoperability between the IDENT and IAFIS biometric databases and are pleased with the movement towards ten-print enrollment in US-VISIT. The conferees continue to believe that these critical border integrity activities must occur as expeditiously as possible.

THE WESTERN HEMISPHERE TRAVEL INITIATIVE (WHTI)

The conferees direct the Secretary to report on the architecture for the WHTI “PASS” card, as specified in the Senate report. This report should address the Department’s plans and abilities to address all requirements included within section 546 of this Act.

United States Customs and Border Protection

Salaries and Expenses

The conferees agree to provide $5,562,186,000, instead of $5,433,310,000 as proposed by the House and $5,329,874,000 as proposed by the Senate. This includes: $2,277,530,000 for border security between ports of entry, including funds to support an additional 1,500 Border Patrol agents and an additional $20,000,000 for Border Patrol vehicles. The conferees agree to transfer $31,100,000 for the costs of salaries, equipment, and operations for the Customs Patrol Officers (“Shadow Wolves”) to Immigration and Customs Enforcement.

The conference agreement includes $186,491,000 for border security inspections and trade facilitation, including: $34,800,000 for an additional 450 United States Customs and Border Protection (CBP) officers; an additional $147,000,000 for non-intrusive inspection equipment; $6,800,000, as requested, for the Immigration Advisory Program; $14,750,000 to continue textile transshipment enforcement; $10,165,000, as requested, for the operations and maintenance of the Advanced Training Center, and funds to support 100 percent validation and periodic re-validation of all Customs-Trade Partnership Against Terrorism (C-TPAT) certified partners and 100 percent manifest review of cargo shipped through the Container Security Initiative (CSI) ports. The conferees provide $1,027,000, as requested, for other technology investments, including the In-Bond Cargo Container Security Program, within a consolidated program, project, and activity for inspections, trade, and travel facilitation at ports of entry. The conferees do not include $1,200,000, as requested, for the Fraudulent Document Analysis Unit, as proposed by the Senate.

The conference agreement includes $175,796,000 for Air and Marine personnel compensation and benefits, including: $5,500,000, as requested, for the Great Falls, Montana airwing; $3,100,000 to fully staff the Air and Marine Operations Center; $5,000,000 to activate the North Dakota airwing; and $2,800,000 to fully staff the New York and Washington airwings.

The following table specifies funding by budget program, project, and activity:

| Department, Management, and Administration | $658,943,000 |
| Management and Administration, Border Security Inspections and Trade Facilitation | $1,248,389,000 |
| Management and Administration, Border Security and Control between Ports of Entry | $1,200,000 |
| Harbor Maintenance Fee Collection (Trust Fund) | $3,026,000 |
| Container Security Initiative | $139,312,000 |
| Other international programs | $8,701,000 |
| Customs-Trade Partnership Against Terrorism | $54,730,000 |
| Free and Secure Trade (FAST/NEXUS/SENTRY) | $11,243,000 |
| Inspection and Detection Technology Investments | $241,317,000 |
| Automated Targeting Systems | $27,298,000 |
| National Targeting Center | $23,635,000 |
| Training | $24,564,000 |
| Subtotal, Border Security Inspections and Trade Facilitation | $1,860,491,000 |
| Border Security and Control between Ports of Entry | $2,239,586,000 |
| Border Security and Control | $37,924,000 |
| Training | $2,277,510,000 |
| Subtotal, Border Security and Control between POEs | $175,796,000 |
| Total | $5,562,186,000 |

RESOURCES ALLOCATION MODEL

The conferees are concerned with the ability of CBP to effectively align its staffing resources to its mission requirements. The conferees direct CBP to submit by January 23, 2007, a resource allocation model for airports that are experiencing exceptional challenges. The conferees direct CBP to include the number of flights that took longer than 60-minutes to process. The airport processing section of the resource allocation model shall also include content requirements specified within the House and Senate reports. CBP shall expand the wait time information per airport on its website, as specified by the House and Senate reports.

HEADQUARTERS, MANAGEMENT, AND ADMINISTRATION

The conferees agree to provide $1,288,389,000 as proposed by the House instead of $1,258,389,000 as proposed by the Senate. The conferees are concerned with the lack of visibility into the exceptionally large CBP headquarters, management, and administration program, project, and activity levels and direct CBP to provide a detailed justification along functional or operational lines in the fiscal year 2008 budget request.

PORT, CARGO, AND CONTAINER SECURITY

The conferees recognize port, cargo, and container security as a major issue confronting CBP. To address this issue, the conferees provide $181,800,000 for an additional 450 CBP officers and critical nonintrusive inspection equipment and fully fund the budget request for all cargo security and trade facilitation programs within CBP. The conferees also stringently report on the performance and requirements for port, cargo, and container security under the Office of the Secretary and Executive Management. CBP is directed to comply with all aspects of reporting requirements specified in the statement of managers and the House report regarding the port, cargo, and container strategic plan. The conferees encourage CBP to prioritize the assignment of additional officers funded by this Act to the nation’s busiest ports of entry, especially seaports. The conferees note that sufficient funding is provided in this Act to allow CBP to meet the strategic plan requirements of 100 percent initial validation and periodic re-validation of all C-TPAT certified partners as well as for 100 percent manifest review at all CSI ports.

IMMIGRATION ADVISORY PROGRAM

The conferees believe CBP’s Immigration Advisory Program (IAP) has shown great potential to prevent people who are identified as national security threats or are inadmissible from traveling to the United States.

AGRICULTURAL INSPECTIONS

The conferees are concerned with the steps the Department is taking to improve the targeting of agricultural inspections and direct the Secretary to submit a report consistent with section 541 of the Senate bill.
ONE FACE AT THE BORDER INITIATIVE

The conferees recognize the benefits of cross-training legacy customs, immigration, and agricultural inspection officers as part of CBP’s ‘One Face at the Border Initiative’ and direct the Commissioner to ensure that all officers assigned to primary and secondary inspection duties at ports of entry have received adequate training in all relevant inspection functions.

METHAMPHETAMINE

The conferees direct CBP to continue to focus on methamphetamine in its reporting and analysis of trade flows to prevent the spread of this dangerous narcotic throughout the United States.

TEXTILE TRANSSHIPMENT ENFORCEMENT

The conferees include $4,750,000 to continue textile transshipment enforcement. The conferees direct CBP to report on its execution of the authority contained in the Comprehensive Textile Transshipment Enforcement Act of 2006, as amended. The conferees request that in all future reports, CBP includes a status report of personnel responsible for enforcing textile transshipment enforcement.

ENFORCEMENT OF TRADE REMEDIES LAWS

The conferees have ensured, within the amounts provided for this account, the availability of sufficient funds to enforce the anti-dumping duties contained in section 754 of the Tariff Act of 1930 (19 U.S.C. 1675c).

The conferees direct CBP to continue to work with the Departments of Commerce and Transportation and the Office of the United States Trade Representative, and all other relevant agencies to increase collections and to provide an annual report within 30 days of each fiscal year that summarizes CBP’s efforts to collect past due amounts and increase current collections, particularly with respect to cases involving unfair pricing and non-compliance. The conferees direct CBP to update that report, in particular, by breaking out the non-collected amounts for each of the fiscal years 2004, 2005, 2006, and each year thereafter, by order and claimant, along with a description of each of the specific reasons for the non-collection with respect to each order.

The conferees direct CBP to provide an annual report to the Committees on Appropriations no later than February 8, 2007, on the amounts of antidumping and countervailing duties held by CBP in the Clearinghouse as of October 1, 2006, segregated by case number and Department of Commerce period of review. In that same report, CBP is to explain what actions it is taking to collect unpaid duties owed the U.S. government; how it has implemented the five recommendations for executive action that were contained in GAO Report (GAO-06-379G); and explain whether CBP has completed all of the initiatives, processes, and procedures identified in its February 2006 report to the Congress (GAO Report (GAO-06-797G)); and including a full description of the process CBP uses to evaluate vehicles to meet both mission requirements and cost constraints.

BORDER TUNNEL POLICY

The conferees concur with the reporting requirement in the Senate report on development of a Departmental policy regarding tunnels as well as the need to budget for tunnel remediation in future budget submissions as discussed in the House report.

CARRIZO CANE

The conferees understand the removal of Carrizo cane from certain Rio Grande border locations may improve conditions for Border Patrol operations, and direct CBP to utilize the resources necessary for this removal, if it is determined to be necessary. Further, CBP is directed, in conjunction with the Department of the Interior, to develop a pilot project to test various means of eradication and control of Carrizo cane.

AUTOMATION MODERNIZATION

The conferees agree to provide $451,440,000 as requested by the House instead of $461,207,000 as proposed by the Senate. This amount includes funding for the Automated Commercial Environment (ACE), the Integrated Trade Data System (ITDS), and the costs of the legacy Automated Commercial System. Of this funding, not less than $316,800,000 shall be for ACE and ITDS, of which not less than $130,000,000 is for the ACE Program. The conferees prohibit the obligation of $216,800,000 until the Committees on Appropriations provide an approved modernization expenditure plan to the Congress.

ACE PROGRAM OVERSIGHT

The conferees support House language on ACE program oversight and direct CBP to improve oversight by assuring releases are timely. The conferees prohibit the obligation of $216,800,000 until the Committees on Appropriations provide an approved modernization expenditure plan to the Congress.

The conferees agree to provide $1,387,565,000 for the integrated border security fencing, tactical infrastructure, and technology system instead of $1,155,000,000 as proposed by the House within the CBP salaries and expenses appropriation and $1,351,599,000 for border security technology within the CBP construction appropriation and $106,006,000 for tactical infrastructure within the CBP construction appropriation as proposed by the Senate. Funds are available until expended with recently enacted supplemental funds, a total of $1,512,565,000 is available for this purpose in fiscal year 2007. Within the total provided, $30,500,000 is for the San Diego Border Infrastructure System and $57,823,000 is provided for tactical infrastructure in Western Arizona. The conferees direct the Secretary to submit to Congress, not less than 10 days after the date of enactment of this Act, an expenditure plan for establishing a security barrier along the border of the United States to the Committees on Appropriations, as specified in bill language. The conferees withhold $950,000,000 until the expenditure plan is received and approved.

BUDGET JUSTIFICATION

To support DHS’ integrated, systems-based approach to border security, funding requested separately for border security technology and tactical infrastructure is combined into one account. The conferees directed to integrate its future budget requests for border security fencing, tactical infrastructure, and technology within this account. CBP is further directed within the fiscal year 2008 budget justification subdivided by program, project, and activity levels for operations and maintenance, procurement, systems engineering and integration, and program management.

CONTRACT MANAGEMENT

The conferees direct CBP and the Secure Border Coordination Office to work with the Department’s Office of the Chief Financial Officer (CFO) and the Office of the Chief Financial Officer (CFO) of the Chief Financial Officer (CFO) to rigorously oversee all contracts and subcontracts awarded for the integrated border security fencing, tactical infrastructure, and technology system, and work to minimize excessive use by contractors of subcontractors or tiers of subcontractors to perform the principal work of the contract. If interagency contracts are utilized, the Secure Border Coordination Office is directed to confirm to the CFO and the Senate reports, and including a full description of the process CBP uses to evaluate vehicles to meet both mission requirements and cost constraints.

AIR AND MARINE INTERDICTION, OPERATIONS, MAINTENANCE, AND PROCUREMENT

The conferees agree to provide $602,187,000 instead of $566,000,000 as proposed by the House and $549,499,000 as proposed by the Senate. This includes: $70,000,000 for the P-3 service life extension program and additional P-3 flight hours; $30,000,000 for helicopter acquisition; $20,000,000 for the acquisition of unmanned aerial vehicles (UAVs) and related support systems; $10,000,000 for the conversion of manned surveillance aircraft; $2,000,000 for marine interceptor boat replacement; $64,000,000 for the
acquisition or refurbishment of two medium lift helicopters; $58,000,000 for the acquisition of two multi-role aircraft; and $18,700,000 for Northern Border airings, of which $12,000,000 is provided for the establishment of the fourth Northern Border airwing in Grand Forks, North Dakota, and $5,500,000 is provided for the new Northern Border airwing in Great Falls, Montana. The conferees direct CBP to include sufficient funds in its fiscal year 2008 budget submission to establish the fifth and final Northern Border airwing in Detroit, Michigan. The conferees do not include a rescission of $14,000,000 as proposed by the Senate.

UAV INCIDENT REPORT

The conferees direct CBP to submit the official findings regarding the April 25, 2006, UAV mishap to the Committees on Appropriations, the Senate Committee on Homeland Security and Governmental Affairs, and the House Committee on Homeland Security no later than January 23, 2007.

NORTHERN BORDER UAV PILOT

The conferees encourage the Secretary to work expeditiously with the Administrator of the Federal Aviation Administration to establish and conduct a pilot program to test unmanned aerial vehicles for border surveillance along the U.S.—Canada border at Northern Border airwing bases consistent with section 551 of the Senate bill.

CONSTRUCTION

The conferees agree to provide $232,978,000 instead of $175,154,000 as proposed by the House and $288,084,000 as proposed by the Senate. This includes: $59,100,000 for facilities to accommodate 1,500 additional Border Patrol agents; $50,900,000 to accelerate the CBP master plan construction; and $32,100,000 for the Advanced Training Center. The conferees have funded the $106,006,000 requested for fencing and tactical infrastructure in the new Border Security Fencing, Infrastructure, and Technology appropriation. The conferees include funding for the Ajo, Arizona station at no less than the requested level. The conferees direct CBP to provide a spending plan and a revised master plan consistent with the Senate report to the Committees on Appropriations that reflects all funding provided for CBP major construction in this Act and in P.L. 109-234.

IMMIGRATION AND CUSTOMS ENFORCEMENT

SALENDARY AND EXPENSES

The conferees agree to provide $3,887,000,000 for Immigration and Customs Enforcement (ICE) salaries and expenses, instead of $3,862,257,000 as proposed by the House and $3,796,357,000 as proposed by the Senate. This includes $153,400,000 for additional bed space capacity, with corresponding personnel and support; $94,000,000 for additional removal and transportation capacity, and $76,000,000 for 23 additional fugitive operations teams and associated bed space. When these new resources are combined with fiscal year 2006 supplemental funding, ICE will sustain an average bed space capacity of 27,500, as proposed by the President.

<table>
<thead>
<tr>
<th>Department/Program</th>
<th>Funding (in thousands)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Headquarters Management and Administration:</strong></td>
<td>$140,000,000</td>
</tr>
<tr>
<td>Personnel Compensation and Benefits, Services and other</td>
<td>$134,013,000</td>
</tr>
<tr>
<td>Headquarters Managed IT Investment</td>
<td></td>
</tr>
<tr>
<td><strong>Subtotal, Headquarters Management and Administration</strong></td>
<td>274,013,000</td>
</tr>
<tr>
<td><strong>Legal Proceedings:</strong></td>
<td>187,353,000</td>
</tr>
<tr>
<td>Investigations</td>
<td></td>
</tr>
<tr>
<td>Domestic Operations</td>
<td>1,285,229,000</td>
</tr>
<tr>
<td>International Operations</td>
<td>104,681,000</td>
</tr>
<tr>
<td><strong>Subtotal, Investigations:</strong></td>
<td>1,389,910,000</td>
</tr>
<tr>
<td><strong>Intelligence:</strong></td>
<td>51,379,000</td>
</tr>
<tr>
<td>Detention and Removal</td>
<td></td>
</tr>
<tr>
<td>Custody Operations</td>
<td>1,381,767,000</td>
</tr>
<tr>
<td>Transportation and Removal</td>
<td>2,844,000</td>
</tr>
<tr>
<td>Fugitive Operations</td>
<td>183,200,000</td>
</tr>
<tr>
<td><strong>Criminal Alien Program</strong></td>
<td>137,494,000</td>
</tr>
<tr>
<td><strong>Alternatives to Detention</strong></td>
<td>43,600,000</td>
</tr>
<tr>
<td><strong>Subtotal, Detention and Removal</strong></td>
<td>1,984,345,000</td>
</tr>
<tr>
<td><strong>Total, Salaries and Expenses</strong></td>
<td>$3,887,000,000</td>
</tr>
</tbody>
</table>

DETECTION AND REMOVALS REPORTING

The conferees direct ICE to submit a quarterly report to the Committees on Appropriations that includes information regarding the April 25, 2006, UAV mishap to the Committees on Appropriations, the Senate Committee on Homeland Security and Governmental Affairs, and the House Committee on Homeland Security no later than January 23, 2007.

DETAINEE BONDS

The conferees direct ICE to submit a report to the Committees on Appropriations on how to improve information sharing and cooperation with detention bondholders, including measures to reduce the number of aliens who abscond after receiving final Orders of Removal, and to locate and remove absconders.

LEGAL ORIENTATION PROGRAM

The conferees concur with the language expressing support for the Legal Orientation Program as described in House Report 109-476 and, consistent with the direction in the fiscal year 2006 Appropriations Act, strongly direct ICE and the Department to work with the Executive Office for Immigration Review and the Office of Management and Budget to ensure any future funding for this program is included in appropriations requests for the Department of Justice.

SECTION 287(g) ASSISTANCE

The conferees include $5,400,000 for the costs associated with implementing section 287(g) of the Immigration and Nationality Act. The conferees expect funding to be used for the training and other ICE operational costs directly associated with implementing cooperative efforts with state and local law enforcement pursuant to section 287(g) of the Immigration and Nationality Act, and not to acquire or provide information technology infrastructure for participating state and local law enforcement agencies. The conferees direct ICE to provide the Committees on Appropriations, not later than December 1, 2006, a detailed expenditure plan for use of section 287(g) funding appropriated in fiscal years 2006 and 2007, to include direct assistance to state and local agencies, and an updated report no later than June 1, 2007.

DETECTION MANAGEMENT AND CONSOLIDATION

The conferees expect ICE to make the best possible use of its detention funding, and are concerned the Secretary has not yet transmitted the national detention management plan required by the fiscal year 2006 Appropriations Act, keeping $5,000,000 unavailable for obligation. The conferees direct this report to be released as soon as possible and expect it to address the elements in the House report, including mechanisms ICE will use to accomplish consolidation and regional approaches described in its April 2006 report on a national detention contract approach.

IMMIGRATION ENFORCEMENT COOPERATION WITH STATE AND LOCAL GOVERNMENT

The conferees are greatly concerned with the burden of illegal immigration on state and local law enforcement agencies, and agree with the language in the House report calling for expanded cooperation between federal, state and local law enforcement agencies. To explore a more comprehensive approach, the conferees direct ICE, in coordination with the Secure Border Coordination Office, to examine the feasibility of establishing high intensity immigration trafficking and smuggling areas, analogous to existing programs directed at countering drugs and money laundering. The conferees
include $1,000,000 under Domestic Investigations for this purpose and direct ICE to submit its findings and implementation options to the Committees on Appropriations no later than June 30, 2007.

UNACCOMPANIED ALIEN MINORS
The conferees are concerned by reports of unaccompanied alien children not being routinely transferred from DHS custody to the Office of Refugee Resettlement (ORR) within the three-to-five day timeframe stipulated in the 1996 Flores Settlement agreement, but held in unacceptable conditions (e.g., Border Patrol stations or jail-like facilities) for many days. The conferees direct ICE to contact ORR immediately upon notification of apprehension of such children, and ensure these children are transferred to ORR custody within 72 hours. The conferees also direct ICE to continue negotiations with ORR to resolve differences over processing and transfer of custody; to explore transfer of responsibility for such children to ORR; and to encourage ORR to establish facilities near DHS detention facilities. The conferees direct ICE, in conjunction with CBP, to submit a report to the Committees on Appropriations detailing by month for each of fiscal years 2005 and 2006: the number of unaccompanied aliens detained by DHS for 72 hours; the number held more than 72 hours, with an explanation for each child held in excess of 72 hours. Further, the report should include recommendations for actions to improve coordination between DHS and ORR. The conferees direct ICE to consider using holistic age-determination methodologies as described in the House report.

The conferees are also concerned about the dearth of repatriation services for such children, who face uncertain fates in their home countries, including placement with their families or other sponsoring agencies.

ICE FIELD OFFICES
The conferees direct ICE to submit a report on the costs and need for establishing sub-offices in Colorado Springs and Greeley, Colorado.

VISA SECURITY PROGRAM
The conferees are disturbed bureaucratic obstacles have prevented ICE from deploying Visa Security Units (VSU) to key overseas locations, needlessly preventing highly trained personnel from taking their posts overseas, and leaving critical gaps in our ability to identify individuals from high-risk areas who should not acquire U.S. visas and travel to the U.S. The conferees direct the Secretary, in consultation with the Secretary of State, to brief the Committees on Appropriations not later than January 23, 2007, on progress in staffing its overseas locations, listing all planned and actual VSU positions and funding for fiscal years 2006 and 2007; the number of positions and locations not yet filled; the numbers and posting of VSU officers not deployed to their intended locations; and specific actions planned and underway, resources required, and administrative decisions necessary to ensure all planned visa security units are fully operational as soon as possible.

TEXTILE TRANSAPPRENSHIP ENFORCEMENT
The conferees include $4,750,000 to continue textile transshipment enforcement and direct ICE to report on its execution of the five-year strategic plan submitted to Congress, including metrics for ICE textile enforcement cases (number initiated, closed, and resulting in prosecutions, arrests, and penalties), as well as a status report of personnel responsible for enforcing textile laws.

FEDERAL PROTECTIVE SERVICE
The conferees agree to provide $56,281,000 for Automation Modernization instead of no appropriation as proposed by the Senate. Of these funds, $13,000,000 may not be obligated until the Committees on Appropriations receive and approve an expenditure plan.

AVIATION SECURITY
The conferees agree to provide $4,731,814,000 instead of $4,704,414,000 as proposed by the Senate. In addition to the amounts appropriated, a mandatory appropriation of $250,000,000 is available to support the Aviation Security Capital Fund. Bill language is also included to reflect the collection of $2,420,000,000 from aviation user fees as authorized. The following table specifies funding by project and activity:

<table>
<thead>
<tr>
<th>Projects and Activity</th>
<th>Funding</th>
</tr>
</thead>
<tbody>
<tr>
<td>Krome, Florida: 250-bed secure dormitory</td>
<td>$ 6,409,000</td>
</tr>
<tr>
<td>Krome, Florida, maintenance</td>
<td>5,000,000</td>
</tr>
<tr>
<td>Port Isabel, Texas, Infrastructure</td>
<td>9,000,000</td>
</tr>
<tr>
<td>Facility Repair and Alterations</td>
<td>5,873,000</td>
</tr>
<tr>
<td>Infrastructure Improvement Project</td>
<td>30,000,000</td>
</tr>
<tr>
<td>Total, Construction</td>
<td>56,281,000</td>
</tr>
</tbody>
</table>

Transportation Security Administration

The conferees agree to provide $4,731,814,000 instead of $4,704,414,000 as proposed by the Senate. In addition to the amounts appropriated, a mandatory appropriation of $250,000,000 is available to support the Aviation Security Capital Fund. Bill language is also included to reflect the collection of $2,420,000,000 from aviation user fees as authorized. The following table specifies funding by project and activity:

<table>
<thead>
<tr>
<th>Screener Workforce:</th>
<th>$148,600,000</th>
</tr>
</thead>
<tbody>
<tr>
<td>Privatized screening</td>
<td>2,618,800,000</td>
</tr>
<tr>
<td>Passenger and baggage screeners, personnel, compensation and benefits</td>
<td>244,466,000</td>
</tr>
<tr>
<td>Subtotal, screener workforce</td>
<td>2,470,200,000</td>
</tr>
<tr>
<td>Screening training and other</td>
<td>207,234,000</td>
</tr>
<tr>
<td>Human resource services</td>
<td>173,366,000</td>
</tr>
<tr>
<td>Checkpoint support</td>
<td>141,400,000</td>
</tr>
<tr>
<td>EDS/ETD Systems:</td>
<td>138,000,000</td>
</tr>
<tr>
<td>EDS purchase</td>
<td>222,000,000</td>
</tr>
<tr>
<td>EDS installation</td>
<td>23,000,000</td>
</tr>
<tr>
<td>Operation integration</td>
<td>524,400,000</td>
</tr>
</tbody>
</table>

The conferees direct ICE to continue negotiations with ORR, to de-
The conferees agree to provide $2,470,200,000 for federal screening as requested in the budget. The conferees continue longstanding bill language capping the full-time equivalent (FTE) workforce at 45,000 as proposed by the House. The conferees expect the Transportation Security Administration (TSA) to have no more than 45,000 FTE screeners by the end of fiscal year 2007. At this time, TSA is about 4,000 screeners below this level. As such, the conferees recognize TSA may need to realign its workforce throughout the year due to attrition or advances in detection technologies. TSA has the flexibility to hire screeners during the fiscal year at those airports where additional or replacement screeners are necessary to maintain sufficient levels of security and customer service.

PRIVATIZED SCREENING AIRPORTS

The conferees agree to provide $148,600,000 as proposed by the House and the Senate. TSA is directed to study the Committees on Appropriations if TSA expects to spend less than the appropriated amount due to situations where no additional airports express interest, or if TSA is unable to privatize, screen, or where airports currently using privatized screening convert to using federal screeners. TSA shall adjust its project, and any capital projects (PPA) line items, within 90 days, to account for any changes in private screening contracts and screener personnel, compensation, and benefits. TSA is directed to study the Committees on Appropriations if TSA expects to convert to using federal screeners. The conferees encourage TSA to combine funding for EDS and ETD into one PPA in fiscal year 2007. The conferees anticipate TSA will collect $76,101,000 in fees from the secure and expedited travel (SET) program, before they board commercial aircraft, that have requested screening but continue to pay for enhanced Body Inspection (EBI) at airports.

SCREENERS AT COMMERCIAL AIRPORTS AND HELIPORTS

The conferees are concerned with TSA’s current screening policy at 21 commercial airports and heliports in the United States that TSA is currently screening but continue to operate with temporary screening or none at all. The conferees remind TSA that section 49601 of the Aviation and Transportation Security Act (P.L. 108-176) further clarified TSA’s screening requirements for charter air carriers with a maximum take-off weight of more than 12,500 pounds and for the deployment of screeners to certain airports. The conferees direct TSA to provide screening at those airports and heliports that have requested screening and encourage TSA to consider contracting the screening function if TSA does not believe it would be efficient to place TSA personnel in those locations.

CHECKPOINT SUPPORT

The conferees agree to provide $173,366,000 as proposed by the House instead of $180,966,000 as proposed by the Senate. TSA shall place a priority on expanding the use of emerging technologies at the highest risk airports so screeners can better detect threats to our aviation system. The conferees do not increase funding for this activity as requested because TSA projects it will have about $56,000,000 in carryover balances from previous fiscal years to address checkpoint support activities in 2007. The conferees expect TSA to develop a strategic plan for screening passengers and carry on baggage for all types of explosives, including a timeline for deploying emerging technologies, and the percent of passengers and carry on baggage currently and projected to be screened by these emerging technologies. This plan should take into account appropriations included in this Act, as well as all prior year unobligated balances.

EXPLOSIVE DETECTION SYSTEMS PURCHASES

The conferees agree to provide $141,400,000 for the procurement of next-generation EDS systems as proposed by the Senate instead of $136,000,000 as proposed by the House. Of this total, up to $5,000,000 shall be for refurbishment of EDS machines to maximize and extend the useful life of those EDS machines. TSA shall be for the procurement of multiple next-generation, in-line and stand alone EDS systems. The conferees direct that no EDS funding shall be used to procure explosive trace detection systems (ETDs) unless they are necessary for secondary screening of checked baggage, to replace an aging ETD system in those airports that are primarily dependent on ETD technology, or to procure new ETD systems for new, small airports or heliports that are federalized.

EDS INSTALLATIONS

The conferees agree to provide a total of $386,600,000 for EDS installation, including $250,000,000 in mandatory funding from the Aviation Security Capital Fund and $136,600,000 in this Act. This funding is sufficient to install or upgrade EDS/ETD systems at airports nationwide, and complete other pending airport modifications.

EDS/ETD MAINTENANCE

The conferees agree to provide $222,000,000 for EDS/ETD maintenance instead of $234,000,000 as proposed by the House and $210,000,000 as proposed by the Senate. The conferees encourage TSA to combine funding for maintenance of all equipment (Checkpoint, EDS, and ETD) into one PPA in fiscal year 2008 to provide a more complete picture of all maintenance costs for equipment deployed throughout our nation’s airports.

AIR CARGO

TSA has been slow to obligate funding for air cargo security. TSA projects one-tenth of the air cargo budget will be carried into fiscal year 2007. If these costs exceed the air cargo budget, TSA shall be used to procure explosive trace detection systems (ETDs) unless they are necessary for secondary screening of checked baggage, to replace an aging ETD system in those airports that are primarily dependent on ETD technology, or to procure new ETD systems for new, small airports or heliports that are federalized.

SURFACE TRANSPORTATION SECURITY

The conferees agree to provide $37,200,000 as proposed by the House and the Senate. Within this total, $24,000,000 is for surface transportation staffing and operations and $13,200,000 is for rail security inspectors and canines.

TRANSPORTATION THREAT ASSESSMENT AND CREDENTIALING

The conferees agree to provide a direct appropriation of $39,700,000 instead of $74,700,000 as proposed by the House and $29,700,000 as proposed by the Senate. In addition, the conferees anticipate TSA will collect $76,101,000 in fees. Funding is provided as follows:

Direct Appropriation: Secure flight $15,000,000
Crew vetting 14,700,000
Screening administration and operations 14,700,000

Subtotal, direct appropriations 44,400,000

Fee Collections:
Registered traveler 35,100,000
Transportation identification credential 20,000,000
Hazardous materials 19,000,000
Allen flight school (transfer from DOJ) 2,000,000

Subtotal, fee collections 97,100,000

$4,731,814,000

$4,731,814,000

$4,731,814,000

$4,731,814,000

$4,731,814,000

$2,470,200,000

$37,200,000

$210,000,000

$222,000,000

$47,000,000

$6,000,000

$210,000,000
TRANSPORTATION WORKER IDENTIFICATION CREDENTIAL

The conferees are very supportive of expeditious implementation of the transportation worker identification credential (TWIC) program. Because TSA submitted a reprogramming request to expedite this program, a direct appropriation is no longer necessary in fiscal year 2007. The conferees do not incorporate either House or Senate language on TWIC.

SECURE FLIGHT

The conferees agree to provide $15,000,000 as proposed by the Senate instead of $40,000,000 as proposed by the House. While the conferees remain supportive of the Secure Flight concept, TSA has been reviewing and reassembling this program since the beginning of 2006, resulting in further delays to this program. At this time, TSA cannot justify its fiscal year 2007 budget request, cannot explain how this program will move forward or detail the associated costs. More than $21,000,000 of funding provided in fiscal year 2006 will remain available for obligation in fiscal year 2007. Within 90 days after enactment of this Act, TSA shall submit a detailed plan on achieving key milestones, as well as certification of this program as discussed in this Act.

In addition, the conferees are concerned that TSA has made little progress in ensuring the security of its Secure Flight passenger screening program, and because of this, names are checked only against the No Fly and Selectee lists, not the full terrorist watch list. The conferees direct TSA to provide a detailed program plan if the Administration believes that security vulnerability exists between the lists used for Secure Flight and the full terrorist watch list as discussed in the House report.

TECHNICAL ASSISTANCE TO AIRLINES

The conferees direct TSA to provide airlines with technical or other assistance to better align their reservation and ticketing systems with terrorist database systems to assist in alleviating travel delays and other problems associated with mistaken identification.

SCREENING ADMINISTRATION AND OPERATIONS

The conferees agree to provide $10,000,000 for screening administration and operations. The conferees expect these funds may be used to support the following programs, if necessary by the Transportation worker identification credential, armed law enforcement officer identification verification, alien flight school, and sterile area credential checks. None of the funds may be used to augment the Secure Flight program. In addition, the conferees do not expect these funds to be used to pay for airmen and pilot checks, activities that are currently a Federal Aviation Administration responsibility. TSA shall provide the Committees on Appropriations a plan further elaborating how these funds will be utilized by January 23, 2007.

TRANSPORTATION SECURITY SUPPORT

The conferees agree to provide $525,283,000 instead of $563,283,000 as proposed by the House and $618,965,000 as proposed by the Senate. The conferees are aware of a large number of vacancies within this program. Funding is provided as follows:

<table>
<thead>
<tr>
<th>Category</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Headquarters administration</td>
<td>$234,191,000</td>
</tr>
<tr>
<td>Information technology</td>
<td>$210,082,000</td>
</tr>
<tr>
<td>Intelligence</td>
<td>$21,000,000</td>
</tr>
<tr>
<td>Subtotal, transportation security support</td>
<td>$525,283,000</td>
</tr>
</tbody>
</table>

EXPENDITURE PLAN

The conferees include bill language requiring TSA to submit an expenditure plan to pay for airmen and pilot checks, activities that are currently a Federal Aviation Administration responsibility. TSA shall provide the Committees on Appropriations a plan further elaborating how these funds will be utilized by January 23, 2007.

TRANSPORTATION SECURITY LABORATORY

The conferees do not agree to a Senate provision transferring the Transportation Security Lab (TSL) from the Science and Technology Directorate (S&T) to TSA. This action is taken in large part as a result of the successful negotiation of a Memorandum of Understanding between the two agencies signed on August 22, 2006. The conferees direct TSA to work with S&T to determine appropriate research and technology requirements to sustain current and advance future aviation security capabilities. Further, S&T should clearly reflect resource needs for the TSL in the fiscal year 2007 budget request to achieve these requirements. The conferees further direct S&T to work expeditiously with TSA to develop a research execution plan that meets the needs of TSA within the amounts provided.

MULTI-MODAL SECURITY ENHANCEMENT TEAMS

The conferees agree to provide $5,477,657,000 instead of $5,461,643,000 as proposed by the House and $5,534,349,000 as proposed by the Senate. Within this total, $628,494,000 is for travel and training. The conferees recognize that this mission goes beyond what has been authorized for Federal Air Marshals (FAMs). Following the events in London, it is imperative air marshals first and foremost focus is protecting the aviation environment, including passenger flights deemed to be a high threat security, before expanding their roles into other transportation modes.

UNITED STATES COAST GUARD

The conferees agree to provide $5,776,670,000 instead of $5,841,643,000 as proposed by the House and $5,534,349,000 as proposed by the Senate. Within this amount, $340,000,000 is available for defense-related activities as proposed by both the House and the Senate. The conferees have fully funded the budget request except $5,986,000 is reduced from centrally managed accounts due to high unobligated balances and no funding is provided for the new Coast Guard headquarters at the St. Elizabeth’s campus. In addition, the conferees include $15,000,000 for port security inspections in the House and $30,000,000 in the Senate. The conferees agree to provide $2,342,434,000 for training and recruiting, $2,788,276,000 for military pay and allowance, $108,518,000 for permanent change of station, $15,000,000 for travel and training, $180,876,000 for operating expenses, $1,011,374,000 for centrally managed accounts, $1,896,000,000 for operating expenses, and $569,434,000 for civilian pay and benefits.
PERSONNEL

Bill language is provided in this Act to allow the Coast Guard to transfer up to five percent of the Operating Expenses (OE) appropriation to the Acquisition, Construction, and Improvements (AC&I) appropriation for personnel, compensation and benefits provided notice is given to the Committees on Appropriations within 30 days of the transfer. The conferences support this consolida
tion, a new structure that would move the site; the total space requirements for DHS headquarters; and total costs with using the St. Elizabeths site as a headquarters' location. Until such a plan has been completed and reviewed by Congress, it is premature to relocate the Coast Guard headquarters.

MERCHANT MARINERS LICENSING

The conferences support increasing locations where merchant mariner applicants may appear for fingerprinting and identification, as discussed in the House report, and direct the Coast Guard to complete this new rule expeditiously.

LONG RANGE AIDS TO NAVIGATION (LORAN-C)

The President's budget proposed terminating the LORAN-C program. The conferences assume the continuation of the LORAN-C program until: (1) the appropriate entities within the Executive Branch have agreed in writing to the termination, (2) the public has been notified, and (3) the appropriate countries have been notified under existing international agreements. Within 15 days of a coordinated Executive Branch decision to terminate LORAN-C, the Coast Guard is directed to provide a report to the Committees on Appropriations on the entities within the Executive Branch that agreed to the termination, the date such entities agreed to the termination, and names of the officials who agreed to the termination. Further, the report should include the date and metropolitan areas used to notify the public and foreign countries, as appropriate under existing international agreements, of the program's termination.

INAPPROPRIATE BEHAVIOR AT THE COAST GUARD ACADEMY

As discussed in the House report, the conferences direct the Secretary of Defense to study the progress made by the Coast Guard Academy in response to sexual harassment claims and report its findings to the Committees on Appropriations; the House Committee on Transportation and Infrastructure; and the Senate Committee on Commerce, Science, and Transportation no later than 180 days after enactment.

LIVE-FIRE EXERCISES

The conferences are concerned Coast Guard's recent proposal to establish live-fire zones on the Great Lakes was not well-coordinated with the public, and therefore direct the Secretary of Defense to provide public notice of safety zone closures for weapons training beyond just marine band radio to include notices to harbormasters and local media.

REPORT ON BASE CLOSURES AND THE FEDERAL CITY PROJECT

The conferences direct the Secretary of Defense to comply with the reporting requirement of Senator from the Senate.

MISSION HOUR EMPHASIS AND ACQUISITION REPORTS

The conferences direct the Secretary of Defense to continue submitting quarterly mission hour emphasis and acquisition reports to the Committees on Appropriations consistent with the deadlines articulated under section 360 of Division I of Public Law 108-7.

ENVIRONMENTAL COMPLIANCE AND RESTORATION

The conferences agree to provide $103,900,000 as proposed by the Senate instead of $113,800,000 as proposed by the House.

RESERVE TRAINING

The conferences agree to provide $122,448,000 instead of $122,348,000 as proposed by the House and $123,948,000 as proposed by the Senate.

ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

The conferences agree to provide $1,390,245,000 instead of $1,299,663,000 as proposed by the House and $1,145,329,000 as proposed by the Senate. Funding is provided as follows:

Vessels and Critical Infrastructure:
- Response boat medium ........ $24,750,000
- Special purpose craft-law enforcement ................ 1,800,000

Subtotal, vessels and critical infrastructure .................. 26,550,000

Aircraft:
- Replacement HH-60 aircraft ........ 15,000,000

Subtotal, aircraft .................. 15,000,000

Other Equipment:
- Rescue 21 .................. 39,600,000
- Automatic identification system ........ 11,258,000
- High frequency recap ........ 2,475,000

Total, Acquisition, Construction, and Improvements ....... 1,390,245,000

REPLACEMENT PATROL BOAT

The conferences remain concerned with the lack of Coast Guard leadership in addressing the impending patrol boat crisis and note the Coast Guard’s surface ship management assessment is “red” for cost, schedule, and contract administration. The Coast Guard has yet to demonstrate its ability to address this issue effectively. Given the significant gap in patrol boat hours and the lack of Coast Guard leadership in addressing the impending patrol boat crisis, the conferences strongly encourage the Coast Guard to proceed expeditiously to evaluate replacement patrol boat designs.
and conduct a proposal effort as early in 2007 as possible. The conferees provide $126,693,580 for replacement patrol boats to address an immediate need. This funding consists of a $17,000,000 request as discussed in section 521 of this Act and a new appropriation of $48,000,000 as shown on the table above. Any delay in this acquisition negates the purpose of this funding: to fill the gaps in patrol boat hours until the Fast Response Cutters are operational. This funding may also be used for service life extensions of the existing 110-foot Island class patrol boats, which become increasingly critical as replacement patrol boat decisions are delayed. The conferees direct the Coast Guard to provide monthly briefings on the patrol boat replacement effort and development of FRC, as well as a detailed plan for the replacement patrol boat, including critical decision points and dates, and planned service life extensions of existing 110-foot patrol boats, within two months after enactment of this Act.

Coast Guard

Even though C4ISR is pointed to by the Coast Guard as a Deepwater success due to new capabilities like AIS and SIPRNET, Coast Guard C4ISR design efforts are over cost and behind schedule in a report submitted to the Committees on Appropriations in August 2006. The conferees understand that the Coast Guard has been issued for Increment 2 and this increment is being “rescoped”. The conferees are concerned the Coast Guard needs to devote more management attention to resolving C4ISR design problems and directs the Coast Guard to provide a briefing on its plan to resolve them. Furthermore, the conferees direct the Coast Guard to improve their linkage between C4ISR and demonstrate its value to operations.

Rescue 21

The conferees agree to provide $39,600,000 for Rescue 21. Funding may be expended to complete the Anuenue Project as proposed by the Senate. Bill language limiting the obligation of funding for vessel subsystem, as proposed by the House, is not included. The Rescue 21 program has had repeated problems with software development, cost overruns, and schedule delays, causing the Coast Guard to terminate the vessel subsystem contract. Due to schedule failures, the conferees direct the Coast Guard to brief the Committees on Appropriations on a quarterly basis, the first briefing by January 31, 2007, on the status of this program and provide supporting documentation, including a detailed breakout of its revised cost and schedule and fully justify each estimate, as discussed in the House report.

ReplacemenT of gulfport station

Public Law 109-234 provides funds for the relocation of the Coast Guard Station in Gulfport, Mississippi. Due to changing circumstances after Hurricane Katrina, these funds are for design and construction of a replacement station on the current site in keeping with the architectural design of the community. 

COUNTERterrorism training infrastructure shoot house

The conferees do not provide funding for the counterterrorism training infrastructure shoot house as proposed by the House instead of $1,683,000 as proposed by the Senate. While the conferees are not predisposed against the need for a counterterrorism training infrastructure shoot house, the Coast Guard failed to adequately explain the complete costs of this project and outyear funding needs.

alteration of bridges

The conferees agree to provide $16,000,000 instead of $17,000,000 as proposed by the House and $15,000,000 as proposed by the Senate. Within this total, funds shall be allocated as follows: Burlington Northern Railroad Bridge in Burlington, Iowa $1,000,000, Canadian Pacific Railway Bridge in LaCrosse, Wisconsin 2,000,000, Chelsea Street Bridge, Chelsea, Massachusetts 3,000,000, Elgin, Joliet, and Eastern Railway Company Bridge in Morris, Illinois 1,000,000, Fortyfour Mile Bridge in Mobile, Alabama 7,000,000, Galveston Bridge in Galveston, Texas 2,000,000. Total 16,000,000.

research, development, test, and evaluation

The conferees agree to provide $17,000,000 instead of $13,860,000 as proposed by the Senate and $17,575,000 as proposed by the Senate.

MEdicare Eligible REtiree health care fund contribution

The conferees include a permanent and indefinite appropriation of $278,000 as proposed by the Medicare-eligible retiree health care fund contribution as proposed by both the House and the Senate.

Renewal pay

The conferees agree to provide $1,064,325,000 as proposed by both the House and the Senate.

united states secret service

New appropriations account structure

The conferees are very concerned about the ability of the US. Secret Service to effectively align its resource requirements to workload and mission needs. To ensure accountability in budgeting for the dual missions of protection and investigations, the conferees provide funding for the USSS in a new appropriations structure, depicted in detail tables that follow. The conferees recognize the agency’s concerns regarding the ability of its budgetary systems to obligate and track funds in line with this new structure and have included language directing the Office of Financial Officer directing support in budget execution and the real-time tracking of resource hours. The conferees direct the Secret Service to apply the representative transfer guidelines contained within section 503 of this Act, as needed, to adapt to the new account structure as well as to preserve the interdependent relationship between protection and investigations. The conferees direct the USSS to report on the status of its budgetary improvements, including the implementation of representative resource metrics, as specified by the House report.

Protection, Administration, and Training

The conferees agree to provide $961,779,000 instead of $856,399,000 as proposed by the House and $978,693,580 as proposed by the Senate. This includes: $18,400,000 for Presidential candidate nominee protection; $1,000,000 for National Special Security Events; and $11,500,000 to support the protection costs of the 2008 Presidential Campaign and the President’s post-Presidency protective detail. Of the funds provided under this heading, $2,000,000 is not available for obligation until the Committee on Appropriations receives the overwork workload rebalancing report, specified in the House report. The conferees include a general provision (section 559) that rescinds $2,500,000 in unobligated balances for National Special Security Events and reappropriates the same amount, extending its availability until expended.

The following table specifies funding by budget program, project, and activity:

<table>
<thead>
<tr>
<th>Project</th>
<th>Funding</th>
</tr>
</thead>
<tbody>
<tr>
<td>Protection</td>
<td>$651,247,000</td>
</tr>
<tr>
<td>Protective intelligence activities</td>
<td>$55,509,000</td>
</tr>
<tr>
<td>National Special Security Events</td>
<td>$1,000,000</td>
</tr>
<tr>
<td>Presidential Candidate Nominee Protection</td>
<td>$18,400,000</td>
</tr>
<tr>
<td>White House mail screening</td>
<td>$16,301,000</td>
</tr>
<tr>
<td>Subtotal, Protection</td>
<td>$742,357,000</td>
</tr>
<tr>
<td>Administration and management</td>
<td>$169,370,000</td>
</tr>
<tr>
<td>Training</td>
<td>$50,052,000</td>
</tr>
</tbody>
</table>

Total, Protection, Administration, and Training: $961,779,000

Funding priorities

The conferees are concerned with the Secret Service’s ability to address its critical resource needs while carrying an apparent shortfall within base budget for protection. The conferees have fully funded the request for protective terrorist countermeasures at $17,200,000 and have provided an additional $1,500,000 for the 2008 Presidential campaign and the post-Presidency protective detail. Prior to the obligation of these funds, the Secret Service shall assess the status of its base budget shortfall in fiscal year 2007 and apply these resources where required to meet the agency’s highest priority needs, in accordance with section 503 of this Act.

Investigations and Field Operations

The conferees agree to provide $311,154,000 instead of $312,499,000 as proposed by the House and $304,205,000 as proposed by the Senate. The amount provided under this heading fully funds the budget request and includes: $236,093,000 for domestic field operations; $22,616,000 for international field office administration and operations, including future training and travel, $11,500,000 for investigative tasks; and $7,366,000 for the National Center for Missing and Exploited Children, of which $6,000,000 is for grants and $1,366,000 is for forensic support.

acquisition, construction, improvements, and Related activities

The conferees agree to provide $3,725,000 as proposed by the House and Senate. Of the
TITL III—PREPAREDNESS AND RECOVERY PREPAREDNESS

MANAGEMENT AND ADMINISTRATION

The conferees agree to provide $30,572,000 for management and administration of the Preparedness Directorate as proposed by the Senate instead of $39,488,000 as proposed by the House. Included in this amount is $16,362,000 for the Under Secretary for Preparedness; $4,980,000 for the Office of the Chief Medical Officer; $2,741,000 for the Office of National Capital Region Coordination; and $6,459,000 for the National Preparedness Integration Program (NPIP).

In spite of clear direction in sections 563 and 564 of P.L. 109-199, the conferees are troubled by an apparent disregard for consistent and transparent budget execution within the Preparedness Directorate. As a result, the conferees direct the Government Accountability Office (GAO) to review the Department’s use of shared services within the entire Preparedness Directorate and report to the Committees on Appropriations. The review shall focus on compliance with appropriation law and the proper use of the Economy Act. The conferees are concerned that the Preparedness Directorate is funding new activities for which funds were not specifically appropriated and are not shared services. The conferees direct the Preparedness Directorate to provide all relevant supporting documents to GAO on an expedited basis. The conferees further direct the Preparedness Directorate to include the Governors of the State of West Virginia and the Commonwealth of Pennsylvania in the National Capital Region Coordination for mass evacuation efforts. Further, the conferees direct the Preparedness Directorate to include officials from the counties and municipalities that contain the evacuation routes and their tributaries in the planning process. The Secretary shall provide a report to the Committees on Appropriations on the implementation of the planning process, including a list of participants, no later than January 23, 2007, and quarterly thereafter, on the progress made to implement such plans.

NATIONAL PREPAREDNESS INTEGRATION

The conferees note requests for a prioritization of the initiatives proposed to be accomplished by the NPIP have not been fulfilled. Without this prioritization, the immediate needs of participants, no later than January 23, 2007, and quarterly thereafter, on the progress made to implement such plans.

NATIONAL PREPAREDNESS GOAL

The conferees are disturbed by the delay in issuing the final National Preparedness Goal (Goal). In the fiscal year 2006 statement of managers accompanying the conference report (H. Report 109-241), the conferees directed the Department to issue the final Goal, including the final Universal Task List and National Capabilities List, no later than December 31, 2005. To date, the final Goal and its component pieces have not been published. Absent the final Goal, national preparedness lacks clear direction and resources cannot be most efficiently allocated. The conferees direct the Department to publish the final Goal, without further unnecessary delays. Further, the Secretary shall provide a report to the Committees on Appropriations explaining what substantive improvements have been made to the Goal as a result of the conferees’ recommendations set forth in the July 6, 2006, Inspector General report entitled “Progress in Developing the National Asset Database.” The report shall include the status of the prioritization of assets into high-value, medium-value, and low-value asset tiers, and how such tiers will be used by the Secretary in the allocation of grant funds.

HURRICANE KATRINA LESSONS LEARNED

One year after Hurricanes Katrina, Rita and Wilma, the conferees are concerned by slow progress of improvement particularly in the areas of training and exercises to better prepare for future emergencies. The conferees expect the relevant Congressional Committees will be briefed by November 1, 2006, on improvements to training and exercises as recommended by the White House, House, and Senate investigations into Katrina.

NATIONAL EMERGENCY COMMUNICATIONS STRATEGY

The conferees direct the Preparedness Directorate and FEMA, to coordinate, revised strategy, procedures, and instructions for supporting national emergency response communications operations. The Department shall submit to the Committees on Appropriations a report addressing compliance with the recommendations set forth in the July 6, 2006, Inspector General report entitled “Progress in Developing the National Asset Database.” The report shall include the status of the prioritization of assets into high-value, medium-value, and low-value asset tiers, and how such tiers will be used by the Secretary in the allocation of grant funds.

OFFICE OF GRANTS AND TRAINING

The conferees agree that not to exceed three percent of Homeland Security Grant Program funds and discretionary grants may be used to fund salaries and expenses.

STATE AND LOCAL PROGRAMS

The conferees agree to provide $2,531,000,000 instead of $2,594,000,000 as proposed by the House and $2,400,000,000 as proposed by the Senate. State and Local Programs funding is allocated as follows:

STATE FORMULA GRANTS

- State Homeland Security Program: $525,000,000
- Technical Assistance Program: $375,000,000

SUBTOTAL, STATE FORMULA GRANTS: $900,000,000

DISCRETIONARY GRANTS

- High-Threat, High-Density Urban Area: $770,000,000
- Port Security: $210,000,000
- Trucking Security: $12,000,000
- Intercity Bus Security: $12,000,000
- Rail and Transit Security: $175,000,000
- Buffer Zone Protection Plan: $50,000,000

SUBTOTAL, DISCRETIONARY GRANTS: $1,229,000,000

COMMERCIAL EQUIPMENT DIRECT ASSISTANCE PROGRAM

National Programs:
- National Domestic Preparedness Consortium
  - National Exercise Program: $145,000,000
  - Metropolitan Medical Response System: $49,000,000
- Technical Assistance
  - Demonstration Training Grants: $30,000,000
  - Continuing Training Grants: $61,000,000
- Rural Domestic Preparedness Consortium: $12,000,000

SUBTOTAL, NATIONAL PROGRMS: $352,000,000

TOTAL, STATE AND LOCAL PROGRAMS: $2,831,000,000

For purposes of eligibility for funds under this heading, any county, city, village, town, district, borough, parish, port authority, transit authority, intercity rail provider, commuter rail system, freight rail provider, state, and local governments achieve communications interoperability, including equipment acquisition, governance structure, and training.
The conferences direct the Office of Grants and Training (G and T) to continue to dis-tribute Homeland Security Grant Program grants in a manner consistent with the fiscal year 2006. The conferences disagree with House language regarding the use of au-thorized and traditional terrorist focused funding and direct G and T to not alter the manner in which grant funds are distributed. While certain grants are authorized to be all-hazard, G and T is directed to ensure that terrorism-focused funds provided herein are not being used. Department of Homeland Security would continue its efforts to evaluate State Home-land Security Program (SHSP), Law En forcement Terrorism Protection Program (LETP), and High-Threat, High-Density Urban Area grants (also known as the Urban Areas Security Initiative or UASI) applications based on risk and on how effectively these grants will address identified home-land security needs. In those areas of the country where the risk is very high, the Depart-ment shall work aggressively to ensure these applications are produced in a manner in which appropriate levels of funding reflect the level of threat. The conferences agree that states should have the flexibility to fund appropriate levels of counter-terrorism funding and how funding will close those gaps. The Department is encouraged to con-sider the need for mass evacuation planning and prepositioning of equipment for mass evacuations in allocating first responder funds and in allocating training, exercises and technical assistance funds through the national preparedness program.

The conferences include bill language re-quiring the GAO report on the validity, relevance, reliability, timeliness, and availability of operational subject matter experts for the conferences to determine the need for mass evacuation planning and capability planning, and the conferences agree to provide GAO with the necessary information seven days after enactment of this Act. The conferences direct the Preparedness Direc-torate to brief the Committees on Appropriations by November 1, 2006, on the steps it is taking to make transparent to states its risk-based grant methodology.

The conferences agree to provide $525,000,000 for the State Homeland Security Program instead of $545,000,000 as proposed by the House and $500,000,000 as proposed by the Senate. The conferences provide $375,000,000 for the Transportation Security Administra-tion’s (TSA) Fixed-Duty Facility Security Grant Program instead of $400,000,000 as pro-posed by the House and $350,000,000 as pro-posed by the Senate.

The conferences agree to provide $2,299,000,000 instead of $2,355,000,000 as pro-posed by the House and $1,172,000,000 as pro-posed by the Senate. Within this total, $770,000,000 is made available to the Secre-tary for discretionary grants to high-threat, high-density urban areas. The conferences include bill language requiring the Secretary to certify that the funds are allocated in a manner consistent with fiscal year 2006 for grants to non-profit organ-izations determined by the Secretary to be at high risk of terrorist attack. The Secre-tary shall not allocate funds to any region against like organizations when determining risk, and shall notify the Committees on Appr opriations of the high risk or potential high risk to each designated tax exempt grantee at least five full business days in ad- vance of the announcement of any grant award.

The conferences agree that for dis cretionary transportation and infrastructure grants, Transportation Security Administra-tion (TSA) and Infrastructure Protection and Information Sharing (IPIS) shall retain operational subject matter expertise of these grants and will be fully engaged in the ad-ministration of related grant programs. The Department of Transportation and G and T shall continue to work with the Science and Technol-ogy Directorate (S&T) on the identifica-tion of possible research and design require-ments for rail, road, and transit security.

TRUCKING INDUSTRY SECURITY

The conferences agree to provide $12,000,000 for this program, $7,000,000 above the House and Senate levels, to enhance current training levels, and to work toward the Highway Watch stated goal of enrolling 1,000,000 truckers.

INTERCITY BUS SECURITY

The conferences agree to provide $12,000,000 for Intercity Bus Security grants as proposed by the Senate instead of $10,000,000 as pro-posed by the House. The conferences agree with language in the Senate report that intercity bus security grants will support the improve-ment of ticket identification, the installa-tion of driver shields, the enhancement of law enforcement commitment to interior and facility security, and further implementa-tion of passenger screening.

RAIL AND TRANSIT SECURITY

The conferences agree to provide $175,000,000, instead of $200,000,000 as proposed by the House and $150,000,000 as proposed by the Senate.

The conferences are concerned that the nation’s rail systems are vulnerable, at-risk systems since they are not designed to adequately resist, respond to, manage, or rapidly recover from natural or manmade crises. The conferences encourage G and T to continue to make transparent to states its risk-based methodology, and to work toward the Highway Watch stated goal of enrolling 1,000,000 truckers.

BUFFER ZONE PROTECTION PROGRAM

The conferences provide $50,000,000 for the Buffer Zone Protection Program (BZPP), instead of $20,000,000 as proposed by the Senate. The conferences agree with House report language directing G and T to continue to work with IPIS to identify critical infra-structure, assess vulnerabilities at those sites, and direct funding to resolve those vulnerabilities. The conferences agree to provide funds to continue to coordinate with the National Guard and to prepare a long-range strategic plan for the National Domestic Preparedness Consortium.

COMMERCIAL EQUIPMENT DIRECT ASSISTANCE PROGRAM (CEDAP)

The conferences agree to provide $20,000,000, instead of $15,000,000 as proposed by the House and $40,000,000 as proposed by the Senate. The conferences direct the Department to award funding through CEDAP only if projects or equipment are consistent with the Homeland Security strategies and the unmet essential capabilities identified through HSPD-8.

NATIONAL PROGRAMS

NATIONAL DOMESTIC PREPAREDNESS CONVENTION

The conferences agree to provide $145,000,000 as proposed by the Senate instead of $135,000,000 as proposed by the House. This funding shall be distributed in a manner con-sistent with fiscal year 2006. The conferences concur with Senate report language directing G and T to prepare a long-range strategic plan for the National Domestic Preparedness Convention.

METROPOLITAN MEDICAL RESPONSE SYSTEM

The conferences agree to provide $30,000,000 instead of $30,000,000 as proposed by the
The conferees agree to provide $35,000,000 as proposed by the Senate instead of $30,000,000 as proposed by the House.

The conferees support the House language that the Department continues the National Memorial Institute for the Prevention of Terrorism’s (MIPT) Lessons Learned Information Sharing and Responder Knowledge Base under the oversight of the Preparedness Directorate. The conferees direct the Department to continue these important public service programs and ensure MIPT’s inclusion in any competition.

**DEMONSTRATION TRAINING GRANTS**

The conferees agree to provide $30,000,000 as proposed by the House instead of $25,000,000 as proposed by the Senate.

**CONTINUING TRAINING GRANTS**

The conferees agree to provide $31,000,000 instead of $35,000,000 as proposed by the House and $30,000,000 as proposed by the Senate. The conferees recommend full funding for the graduate-level homeland security education programs currently supported by the Department and encourage the Department to leverage these existing programs to meet the growing need for graduate-level education.

**CITIZEN CORPS**

The conferees agree to provide $15,000,000 instead of $20,000,000 as proposed by the Senate. The House did not provide funds for this program.

**RURAL DOMESTIC PREPAREDNESS CONSORTIUM**

The conferees agree to provide $12,000,000 as proposed by the House. The Senate did not provide funds for this program. The conferees direct G and T to continue the development of specialized and innovative training curricula for rural first responders and ensure the coordination of such efforts with existing Office of Grants and Training partners.

**NATIONALWIDE PLAN REVIEW PHASE 2 REPORT**

The Preparedness Directorate and the Federal Emergency Management Agency are directed to brief the Committees on Appropriations 45 days after the date of enactment of this Act and quarterly thereafter, on the progress made to implement each of the conclusions of the June 16, 2006, Nationwide Plan Review Phase 2 Report. The first briefing shall include a detailed timeline for the completion of implementing each conclusion with the responsible agencies and the milestones necessary to complete the conclusion. The conferees agree to provide $65,200,000 as proposed by the House and $680,000,000 as proposed by the Senate. Of this amount, $615,000,000 shall be for the planning, design, engineering, and performance work, as requested.

**INFRASTRUCTURE PROTECTION AND INFORMATION SECURITY**

The conferees agree to provide $562,000,000 instead of $655,200,000 as proposed by the House and $680,000,000 as proposed by the Senate. Of this amount, $115,000,000 shall be for the Federal Fire Prevention and Control Act of 1974, instead of $122,500,000 as proposed by the House and $127,500,000 as proposed by the Senate.

The conferees encourage the Department to continue the MIPT’s Lessons Learned Information Sharing and Responder Knowledge Base under the oversight of the Preparedness Directorate. The conferees direct the Department to leverage these existing programs to meet the growing need for graduate-level education.

The conferees agree to provide $300,000,000 instead of $180,000,000 as proposed by the House and $220,000,000 as proposed by the Senate.

**RADIODOMICAL EMERGENCY PREPAREDNESS PROGRAM**

The conferees agree to provide $18,000,000 as proposed by the House instead of $12,000,000 as proposed by the Senate. The conferees further agree to make $3,000,000 available for implementation of section 205(c) of Public Law 108–199, the United States Fire Administration Realignment Act of 2003.

**EMERGENCY MANAGEMENT PERFORMANCE GRANTS**

The conferees agree to provide $200,000,000 instead of $180,000,000 as proposed by the Senate.

**CHEMICAL SITE SECURITY**

The conferees support the language in the Senate report directing the Department to favor those grant applications that take a regional approach in equipment purchases and their future deployment.

The conferees further agree to make $3,000,000 available for implementation of section 205(c) of Public Law 108–199, the United States Fire Administration Realignment Act of 2003.

The conferees agree to provide $18,000,000 for Critical Infrastructure Identification and Evaluation instead of $71,631,000 as proposed by the Senate. The conferees support the budget request for the Protective Security Analysis Center.

**CRITICAL INFRASTRUCTURE IDENTIFICATION AND EVALUATION**

The conferees agree to provide $69,000,000 for Critical Infrastructure Identification and Evaluation instead of $112,100,000 as proposed by the House. The conferees agree to provide $69,000,000 as proposed by the Senate for the Homeland Secure Information Network, as requested.

**CRITICAL INFRASTRUCTURE OUTREACH AND PARTNERSHIP**

The conferees agree to provide $101,100,000 for Critical Infrastructure Outreach and Partnership as proposed by the House instead of $104,600,000 as proposed by the Senate. The conferees agree to provide $5,000,000 for the Homeland Secure Information Network, as requested.

**CYBER SECURITY AND INFORMATION SHARING INITIATIVE**

The conferees agree to provide $16,700,000 to continue the National Cyber Security Division’s Cyber Security and Information Sharing Initiative instead of $11,700,000 as proposed by the Senate.

**BOMBS PREVENTION**

The conferees support language contained in the Senate report on the Office of Bombing Prevention directing the Secretary to develop a national strategy for bomb prevention, including a review of existing federal, state, and local efforts in this effort. The strategy shall be submitted to the Committees on Appropriations no later than January 23, 2007.

**BUFFER ZONE PROTECTION PROGRAM**

The conferees encourage the Department to continue the chemical and other high risk sectors’ Buffer Zone Protection Program in fiscal year 2007. The conferees note $25,000,000 was allocated in fiscal year 2006 for this program and encourage IPIS to utilize section 503 of this Act to provide appropriate funding in fiscal year 2007, if funding is available.

**TRANSPORTATION VULNERABILITY REPORT**

The conferees direct the Secretary to submit a report to the Committees on Appropriations, the Senate Committee on Commerce, Science, and Transportation; and the House Committee on Transportation and Infrastructure no later than March 1, 2007, describing the security vulnerabilities of all rail, transit, and highway bridges and tunnels connecting Northern New Jersey, New Jersey, and the critical need for a Nationwide Plan.
York and the five boroughs of New York City.

**FEDERAL EMERGENCY MANAGEMENT AGENCY**

The conferees do not incorporate Senate language on an organization review.

**ADMINISTRATIVE AND REGIONAL OPERATIONS**

The conferees agree to provide $232,000,000 instead of $254,499,000 as proposed by the House and $249,499,000 as proposed by the Senate.

**WORKFORCE STRATEGY**

The conferees remain concerned about the numerous personnel and senior leadership vacancies within the Federal Emergency Management Agency (FEMA). Therefore, the conferees provide the additional $30,000,000 to fund up to 250 permanent disaster staff to replace the existing temporary Stafford Act workforce. The House and Senate reports direct FEMA to develop a comprehensive workforce strategy, which includes hiring goals for vacant positions, re-entrainment initiatives, training needs, and resource needs to bolster its workforce. The conferees direct the Administrator to submit to the Committees on Appropriations the strategic human capital plan outlined in Title VI.

The conferees concur with House report language directing the Department to finish the national build-out of the Digital Emergency Language on an organization review. The conferees direct FEMA to develop a comprehensive digital emergency language directing the Department to finish the national build-out of the Digital Emergency Language on an organization review.

**URBAN SEARCH AND RESCUE**

Of the funds provided for Readiness, Mitigation, Response, and Recovery, the conferees agree to provide $25,000,000 for urban search and rescue instead of $19,817,000 as proposed by the House and $30,000,000 as proposed by Senate.

**CATASTROPHIC PLANNING**

The conferees concur with House report language indicating the Department to finish the national build-out of the Digital Emergency Language on an organization review. The conferees include redundant 24/7 online capability. The conferees encourage DHS to use by the first responder community that is compliant incident management system for real-time information and incident tracking to support deployment of integrated and regional near real-time information and incident tracking systems. The conferees encourage DHS to work with regional state emergency managers to develop an operationally ready National Incident Management System (NIMS) compliant incident management system for use by the first responder community that includes redundant 24/7 online capability.

**DISASTER SPENDING PROGRAMS**

The conferences are concerned by the findings of the Government Accountability Office, the DHS Inspector General, and others regarding fraud and abuse associated with victim assistance programs and other disaster funding for the 2005 Gulf Coast hurricanes. The conferences concur with language in the House and Senate reports directing FEMA to correct weaknesses in its disaster assistance programs. The conferences expect FEMA to include corrective actions for the disaster claims system in the brief to the Committees on Appropriations on Hurricane Katrina.

The conferences understand FEMA has begun comprehensive modernization of its legacy information management systems into an Enterprise Content Management System and development of such a system is a basic requirement for FEMA to have the capacity to handle expected demands. The conferences encourage FEMA to pursue this improved document reporting and tracking system.

**CONTRACTS**

**FEMA** shall provide a quarterly report to the Committees on Appropriations regarding all contracts issued during any disaster. The report shall include a detailed justification for any contract using any procedures based upon the unusual and compelling urgency exception to competitive procedures requirements under section 303(c)(2) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(c)(2)) or section 290(c)(2) of title 10, United States Code. Justification details by individual contract are required. The timeframe, the contractor, a specific reason why the contract could not be competed and how action may be taken to ensure competition of the contract in the future with or without interfering timely disaster response.

**LOGISTICS CENTERS**

The conferees direct the Department to brief the Committees on Appropriations on the strategic human capital plan outlined in Title VI. The conferees direct FEMA to support deployment of integrated and regional near real-time information and incident tracking systems related to natural disasters.

**HURRICANE KATRINA LESSONS LEARNED**

The conferences continue to be concerned about the lessons learned from Hurricane Katrina, in particular, in the areas of logistics tracking, incident management capability of the National Response Coordination Center, temporary housing for evacuated residents, and debris removal. The conferences direct FEMA to brief the Committees on Appropriations on the status of continuing improvements and changes to FEMA as a result of the lessons learned from Hurricane Katrina.

**DISASTER RELIEF**

The conferences direct FEMA to use no less than $10,000,000 to provide direct loans to businesses in communities designated as disaster areas for clean-up or restoration activities. The conferences agree to provide $25,000,000 instead of $240,199,000 as proposed by both the House and Senate.

**NEW ORLEANS**

The conferees agree and direct DHS to support deployment of integrated and regional near real-time information and incident tracking systems.

**CHILDREN**

The conferences encourage FEMA to assess how the National Incident Management System (NIMS) complies incident management system for use by the first responder community that includes redundant 24/7 online capability. The conferees agree to provide $30,000,000 for the National Incident Management System (NIMS) compliant incident management system for use by the first responder community that includes redundant 24/7 online capability.

**NATIONAL CENTER FOR MISSING AND EXPLOITED CHILDREN**

The conferees agree to provide $30,000,000 for the National Incident Management System (NIMS) compliant incident management system for use by the first responder community that includes redundant 24/7 online capability.

**PUBLIC HEALTH PROGRAMS**

**INCLUDING TRANSFER OF FUNDS**

The conferences agree to provide $33,885,000 for public health programs to fund the National Disaster Medical System (NDMS), as proposed in the budget, and $244,000,000 instead of $240,199,000 as proposed by both the House and Senate.

**DISASTER ASSISTANCE DIRECT LOAN PROGRAM ACCOUNT**

The conferences agree to provide $569,000 for administrative expenses incurred by both the House and Senate.

**FLOOD MAP MODERNIZATION FUND**

The conferences agree to provide $198,980,000 as proposed by both the House with a focus specifically on standards identification, testing and evaluation of equipment, and gap and lessons learned identification.

**LEVEE RECERTIFICATION**

The conferences agree the lack of coordination among levee districts, and changes to FEMA as a result of lessons learned from Hurricane Katrina, in particular, in the areas of logistics tracking, incident management capability of the National Response Coordination Center, temporary housing for evacuated residents, and debris removal. The conferees understand FEMA is in the process of revising its levee certification regulations and guidance. The conferences expect FEMA to utilize the latest findings of the Army Corps of Engineers levee inventories when developing its regulations and guidance. The conferences direct FEMA to provide an interim report, no later than 60 days after enactment of this Act, on its processes for levee certification. This status report should include the Army Corps of Engineers levee inventories, the number of levees that require certification, the estimated costs of recertifying, the resources required to fulfill the new certification regulations, and a description of the Administration’s policy on how these cost requirements should be met.

**EMERGENCY PREPAREDNESS DEMONSTRATION PROGRAM**

The conferences agree the lack of coordination among levee districts, and changes to FEMA as a result of lessons learned from Hurricane Katrina, in particular, in the areas of logistics tracking, incident management capability of the National Response Coordination Center, temporary housing for evacuated residents, and debris removal. The conferees understand FEMA intends to utilize the funds to develop an aggressive approach in managing the manufacture and location of unoccupied manufactured units. The conferences are concerned a portion of the 128,000 units currently occupied will come back into the FEMA stock as previous disaster victims find other living arrangements and units are refurbished in accordance with FEMA policy. The conferences direct FEMA to take an aggressive approach in managing the manufacture and location of unoccupied manufactured units. The conferees expect FEMA to include corrective actions for the disaster claims system in the brief to the Committees on Appropriations on Hurricane Katrina.

The conferences understand the emergency preparedness demonstration program is in the information collection phase. The conferences expect FEMA to expand this pilot demonstration project based upon the Katrina Katrina victims can be added to this study. The conferences encourage FEMA to include, at least, emergency alert messages from authorized local and state officials.

**PUBLIC HEALTH PROGRAMS**

**INCLUDING TRANSFER OF FUNDS**

The conferences agree to provide $33,885,000 for public health programs to fund the National Disaster Medical System (NDMS), as proposed in the budget, and $244,000,000 instead of $240,199,000 as proposed by both the House and Senate.

**DISASTER RELIEF**

The conferences agree to provide $33,885,000 for public health programs to fund the National Disaster Medical System (NDMS), as proposed in the budget, and $244,000,000 instead of $240,199,000 as proposed by both the House and Senate.

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and Senate for Flood Map Modernization Fund. The conferees recognize the importance of the Flood Map Modernization Program to state and local governments. When allocating funds for this program, the conferees encourage FEMA to prioritize as criteria the number of stream and coastal miles within the state, the state’s participation in the Flood Map Modernization Program with other state programs to enhance greater security efforts and capabilities in the areas of emergency management, mitigation, planning, and disaster response. The conferees recognize the usefulness of updated flood maps in state planning, and encourage this efficient use of federal dollars.

The conferees are concerned the Flood Map Modernization Program is using outdated and inaccurate data when developing its maps. The conferees direct FEMA, in consultation with the Office of Management and Budget, to review technologies by other Federal agencies, such as the National Oceanic and Atmospheric Administration, the National Geospatial Intelligence Agency, and the Department of Defense, to collect elevation data. The conferees expect a briefing no later than 180 days after enactment of this Act on the technologies available, the resources needed for each technology, and a recommendation of what is most efficient for the Flood Map Modernization Program.

NATIONAL FLOOD INSURANCE FUND
(INCLUDING TRANSFER OF FUNDS)

The conferees agree to provide $38,230,000 for salaries and expenses as proposed by both the House and Senate. The conferees further agree to provide up to $50,000,000 for severe repetitive loss property mitigation expenses under the National Flood Insurance Act of 1968 and a repetitive loss property mitigation pilot program under section 1233 of the National Flood Insurance Act; and up to $90,358,000 for other flood mitigation activities, of which up to $131,900,000 is available for transfer to the National Flood Mitigation Fund. Total funding of $125,568,000 is offset by premium collections. The conferees further agree on limitations of $70,000,000 for operating expenses, $692,999,000 for agent commissions and taxes and “such sums” for interest on Treasury borrowings.

NATIONAL FLOOD MITIGATION FUND
(INCLUDING TRANSFER OF FUNDS)

The conferees agree to provide $31,000,000 by transfer from the National Flood Insurance Fund as proposed by the House and Senate.

NATIONAL PREDISASTER MITIGATION FUND

The conferees agree to provide $100,000,000 as proposed by the House instead of $139,900,000 as proposed by the Senate for United States Citizenship and Immigration Services. The conferees agree to provide $47,000,000 for USCIS system and information technology transformation, including converting immigration record processing into an electronic format, to remain available until expended; $21,100,000 for the Systematic Alien Verification for Entitlements (SAVE) program; and $133,890,000 to expand the Employment Eligibility Verification (EVEP) program. Current estimates of fee collections are $1,804,000,000, for total resources available to USCIS of $1,985,900,000. The conferees direct that, of these collections, not to exceed $5,000,000 shall be for official reception and representation expenses. The following table specifies funding by budget activity, and includes both direct appropriations and estimated collections:

<table>
<thead>
<tr>
<th>Appropriations</th>
<th>Amount</th>
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</thead>
<tbody>
<tr>
<td>Direct Appropriations</td>
<td>$47,000,000</td>
</tr>
<tr>
<td>Systematic Alien Verification for Entitlements (SAVE)</td>
<td>$21,100,000</td>
</tr>
<tr>
<td>Employment Eligibility Verification (EVP)</td>
<td>$113,890,000</td>
</tr>
<tr>
<td>Subtotal, Direct Appropriations</td>
<td>$181,990,000</td>
</tr>
<tr>
<td>Adjudication Services (fee accounts)</td>
<td>$624,600,000</td>
</tr>
<tr>
<td>Operating Expenses:</td>
<td></td>
</tr>
<tr>
<td>District Operations</td>
<td>$385,400,000</td>
</tr>
<tr>
<td>Service Center Operations</td>
<td>$267,000,000</td>
</tr>
<tr>
<td>Asylum, Refugee and International Operations</td>
<td>$75,000,000</td>
</tr>
<tr>
<td>Records Operations</td>
<td>$67,000,000</td>
</tr>
<tr>
<td>Subtotal, Adjudication Services</td>
<td>$1,419,000,000</td>
</tr>
<tr>
<td>Information and Customer Services (Immigration and Naturalization Fee Accounts):</td>
<td></td>
</tr>
<tr>
<td>Pay and Benefits</td>
<td>$81,000,000</td>
</tr>
<tr>
<td>Operating Expenses:</td>
<td></td>
</tr>
<tr>
<td>National Customer Service Center</td>
<td>$48,000,000</td>
</tr>
<tr>
<td>Information Services</td>
<td>$15,000,000</td>
</tr>
<tr>
<td>Subtotal, Information and Customer Services</td>
<td>$144,000,000</td>
</tr>
<tr>
<td>Administration (Immigration and Naturalization Fee Accounts):</td>
<td></td>
</tr>
<tr>
<td>Pay and Benefits</td>
<td>$45,000,000</td>
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<tr>
<td>Operating Expenses</td>
<td>$196,000,000</td>
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<tr>
<td>Subtotal, Administration</td>
<td>$281,000,000</td>
</tr>
<tr>
<td>Fraud Detection Fee Account</td>
<td>$31,000,000</td>
</tr>
<tr>
<td>H-1B Non-Immigrant Petitioner Fee Account</td>
<td>$13,000,000</td>
</tr>
<tr>
<td>Subtotal, Total, U.S. Citizenship and Immigration Services</td>
<td>$1,985,900,000</td>
</tr>
</tbody>
</table>

The conferees include $47,000,000 to support the business system and information technology transformation process at USCIS. The conferees direct USCIS not to obligate these funds until the Committees on Appropriations have received and approved a strategic transformation plan that is consistent with the existing Homeland Security Transformation Plan, and a detailed breakout of costs associated with the USCIS business and information technology transformation effort in fiscal year 2007, a report on how the transformation process is aligned with USCIS and Departmental Enterprise Architecture, and details on expected project performance and deliverables.

The Department stated in its request that it would also apply $65,000,000 in fee revenues to this effort, for a total fiscal year 2007 program of $112,000,000. The conferees expect the aforementioned expenditure plan will reflect all resources associated with transformation efforts, and address the impact of any availability.

SECURITY AND INTERNAL AFFAIRS

The conferees are concerned with reports that USCIS may be at risk for security lapses, in part because the Office of Security and Investigations has a significant case backlog, and in part because some USCIS adjudicators may lack necessary security clearances. Adjudicator actions could be delayed, or adjudicators could find themselves unable to access relevant watchlist databases, increasing the risk that immigration benefits should be granted to ineligible recipients. The conferees direct USCIS to work closely with Immigration and Customs Enforcement and the Inspector General to address these security vulnerabilities.

FEDERAL LAW ENFORCEMENT TRAINING CENTER

The conferees agree to provide $211,033,000, instead of $210,507,000 as proposed by the House and $207,634,000 as proposed by the Senate. Included in this amount is $213,000,000 for the construction of the Counterterrorism Operations Training Facility. The increase from the budget request includes $4,691,000 for training resources provided to be funded in the Office of Border Protection and $4,444,000 for training resources proposed to be funded in Immigration and Customs Enforcement. The conferees also extend the rehired annuitant authority through December 31, 2007.

ACQUISITION, CONSTRUCTION, IMPROVEMENTS, AND RELATED EXPENSES

The conferees agree to provide $63,246,000, instead of $42,246,000 as proposed by the House and $65,246,000 as proposed by the Senate. Included in this amount is $1,000,000 for the construction of the Counterterrorism Operations Training Facility. The increase from the budget request includes $22,000,000 for renovation and construction needs at the Artesia, New Mexico, facility.

SCIENCE AND TECHNOLOGY

MANAGEMENT AND ADMINISTRATION

The conferees agree to provide $135,000,000 for management and administration of Science and Technology (S&T) instead of $180,901,000 as proposed by the House and $104,411,000 as proposed by the Senate. This amount includes $7,594,000 for the Inspector General and $127,406,000 for other salaries and expenses.

The conferees provide funding under this account for the salary, expenses and benefits of full-time federal and contract employees; S&T’s portion of the Working Capital Fund; and for S&T Business Operations.

Funding for other management and administration costs such as laboratory construction and maintenance; individuals and
The conferees believe new technologies may significantly help the Department as it seeks to secure our homeland. The conferees encourage the Department to develop such new technologies as singlet oxygen generating chemical and enzymatic systems, airborne rapid imaging, privacy Real ID technology, compound core honeycomb lightweight miniaturized cooling systems for protective gear, body armor designed to reduce back problems, security of open source systems, and problem-solving and prototype standards for intelligent video software.

**EMERGENT AND PROTOTYPICAL TECHNOLOGIES**

The conferees provide $19,451,000 for Emergent and Prototypical Technologies as proposed by the Senate. The conferees support House report language supporting the budget request for the Public Safety and Security Institute for Technology centralized clearinghouse. The conferees direct DHS to work with the operators of the relevant emerging and pilot websites and tools, including the Responder Knowledge Base, to integrate this information into the centralized clearinghouse.

**CRITICAL INFRASTRUCTURE PROTECTION**

The conferees agree to provide $5,513,000 for Critical Infrastructure Protection research, including $2,000,000 to support existing work in research and development and $3,513,000 for technology for Community-based critical infrastructure protection efforts. The conferees agree to fund $5,000,000 for modeling and simulation.

**UNIVERSITY PROGRAMS**

The University program has the potential to facilitate cutting-edge research on homeland security issues. The conferees encourage S&T to solicit a wide variety of research projects from the plethora of universities engaged in homeland security research that focus on the greatest risks facing the nation. The conferees direct the Under Secretary of Science and Technology to brief Committees on Appropriations, no later than 60 days after the date of the enactment of this Act, on the University-Based Centers of Excellence Program in 2007 and outcomes projected for each center for the next three years.

**COUNTER-MAN PORTABLE AIR DEFENSE SYSTEMS**

The conferees provide $35,000,000 as proposed by the Senate for a comprehensive passenger aircraft suitability assessment. The conferees urge S&T to include the passenger airline industry in the evaluation phase of this assessment. The conferees direct the Under Secretary to brief the Committees on Appropriations, no later than 60 days after the enactment of this Act, on the plans for further development efforts.

**PROJECT 25 STANDARDS**

Federal funding for first responder communication equipment should be compliant with Project 25 standards, where necessary. The Committee directs the Under Secretary of Science and Technology, in conjunction with the Director of the National Institute of Standards and Technology, to establish a procedure to assess the compatibility of next generation responder communications equipment with Project 25 standards.

**TUNNEL DETECTION**

The conferees support the language in Senate Appropriations report 109-273 requiring the Under Secretary on tunnel detection technologies being researched and developed to
detect and prevent illegal entry into the United States. The briefing should also provide an assessment of the applicability of using existing military and other tunnel detection technologies along our borders.

INTERNET PROTOCOL INTEROPERABILITY

The conferees direct the Office of Interoperability and Compatibility to amend SAFECOM guidelines to clarify that, for purposes of improving long-term interoperability, funding requests to improve interoperability need not be limited to the purchase of new radios, but can also fund the purchase of Protocol Internet Protocol (IP) interoperability solutions that connect existing and future radios over an IP interoperability network. Likewise, funding requests for traditional construction of physical auxiliary aid channels and upgrade such channels with IP connectivity will also be considered, so long as P-25 and other digital radios utilizing the public safety portions of the 700 MHz band can operate over an IP interoperability network.

DOMESTIC NUCLEAR DETECTION OFFICE
MANAGEMENT AND ADMINISTRATION

The conferees agree to provide $30,958,000 for management and administration, proposed by both the House and the Senate.

ARCHITECTURE INVESTMENTS AND BUDGETING

The conferees direct the Domestic Nuclear Detection Office (DNDO) to provide a report to the Committees on Appropriations by August 1, 2006, on the budget crosscut of federal agencies involved in domestic nuclear detection. The budget crosscut should include investments of all agencies, how these investments will meet the goals of the global strategy, the performance measures associated with these investments, identification of investment gaps, and what budgeting and funding mechanisms DNDO will use to ensure it requests appropriate resources.

RADIOACTIVE SOURCES

The conferees are concerned with vulnerabilities of radioactive sources may not have been adequately characterized and addressed. DNDO should work with the Nuclear Regulatory Commission to determine the risks associated with, and strengthen the regulation and control of, radioactive sources as necessary.

RESEARCH, DEVELOPMENT, AND OPERATIONS

The conferees agree to provide $272,500,000 for Research, Development, and Operations. Within these funds, sufficient funding is provided for the Cargo Advanced Automated Radiography Systems as well as the Radiological and Nuclear Forensic and Attribution programs. The total also includes no more than $9,000,000 for the new university research program proposed in the budget. The conferees make $15,000,000 available for obligation until the Secretary provides notification it has entered into a Memorandum of Understanding with each federal agency and organization participating in its global architecture to describe the roles, responsibilities, and resource commitments of each.

SYSTEMS ACQUISITION

ADVANCED SPECTROSCOPIC PORTALmonitors

The conferees are concerned preliminary testing of Advanced Spectroscopic Portal (ASP) monitors indicates the effectiveness of the new technology may fall well short of levels anticipated in DNDO’s cost-benefit analysis. The conferees request the Secretary provide a detailed justifications of the increases and offsets, and any specific impact the proposed changes will have on the budget request for the following fiscal year and future-year appropriations requirements. Each request submitted to reprogram appropriations may be merged with other appropriations accounts with 15-day advance notification of the Committees on Appropriations. A detailed funding table including each Congressional control level for reprogramming purposes is included at the end of this report. These reprogramming guidelines shall be used to complete the funding requested by the Department of Homeland Security Appropriations Act, 2007.

The conferees expect the Department to submit reprogramming requests on a timely basis, and to provide complete explanations of the reallocations proposed, including detailed justifications of the increases and offsets, and any specific impact the proposed changes will have on the budget request for the following fiscal year and future-year appropriations requirements. Each request submitted to reprogram appropriations may be merged with other appropriations accounts with 15-day advance notice to the Committees on Appropriations. A detailed table showing the proposed revisions to the programmatic and funding levels for the current fiscal year and to the levels requested in the President’s budget for the following fiscal year.

The conferees expect the Department to manage its programs and activities within the levels appropriated. The conferees will not approve any program restructuring without the prior written agreement of the Committees on Appropriations. The conferees are concerned that the proposed changes will not be a significant increase in operational effectiveness merits such a decision. The conferees are concerned that the potential benefit of ASP technology and the importance of ASP monitors until the Secretary has certified and reported to the Committees on Appropriations that a significant increase in operational effectiveness merits such a decision. The conferees are concerned that the potential benefit of ASP technology and the importance of ASP monitors until the Secretary has certified and reported to the Committees on Appropriations that a significant increase in operational effectiveness merits such a decision.

CONTAINER SECURITY

As described under the Office of the Secretary and Executive Management, the conferees strongly support port, container, and cargo security. As part of the Department’s strategy to address the National Nuclear Protection and DNDO are directed to achieve 100 percent radiation examination of containers entering the United States through the busiest 25 ports by September 30, 2007.

TITLE V—GENERAL PROVISIONS

Section 501. The conferees continue a provision proposed by the House and Senate that no part of any appropriation shall remain available for obligation beyond the current year unless expressly provided.

Section 502. The conferees continue a provision proposed by the House and Senate that unemployment compensation payments may not be merged with new appropriations accounts and used for the same purposes, subject to guidelines.

Section 503. The conferees continue a provision proposed by the House and Senate that provides authority to reprogram appropriations for the purposes of providing near-term interoperability and Compatibility to amend the Buy American Act.

Section 504. The conferees continue a provision proposed by the Senate that none of the funds appropriated or otherwise available to the Department may be used to make a decision regarding the potential benefit of ASP technology and the importance of ASP monitors until the Secretary has certified and reported to the Committees on Appropriations that a significant increase in operational effectiveness merits such a decision. The conferees are concerned that the potential benefit of ASP technology and the importance of ASP monitors until the Secretary has certified and reported to the Committees on Appropriations that a significant increase in operational effectiveness merits such a decision.

Section 505. The conferees continue a provision proposed by the House and Senate that not to exceed 50 percent of unobligated balances remaining at the end of fiscal year 2007 from appropriations made for salaries and expenses shall remain available for obligation fiscal year 2008 subject to reprogramming guidelines.

Section 506. The conferees continue a provision proposed by the House and Senate deeming that funds for intelligence activities are specifically authorized during fiscal year 2007 until the enactment of an Act authorizing intelligence activities for fiscal year 2007.

Section 507. The conferees continue a provision proposed by the House and Senate direct the Office of Interoperability and Compatibility to amend the Buy American Act.

Section 508. The conferees direct the Office of Interoperability and Compatibility to amend the Buy American Act.

Section 509. The conferees agree to provide $272,500,000 for Research, Development, and Operations.

Section 510. The conferees continue a provision proposed by the House and Senate that not to exceed 50 percent of unobligated balances remaining at the end of fiscal year 2007 from appropriations made for salaries and expenses shall remain available for obligation during fiscal year 2008 subject to reprogramming guidelines.

Section 511. The conferees continue a provision proposed by the House and Senate that none of the funds may be used for any construction, repair, alteration, and acquisition project for which a prospectus, as required by the Public Buildings Act of 1959, has not been submitted.

Section 512. The conferees continue a provision proposed by the House and Senate that FLETC shall schedule basic and advanced law enforcement training at all four training facilities under its control to ensure that training centers are operated at the highest capacity.

Section 513. The conferees continue a provision proposed by the House and Senate that none of the funds may be used for any construction, repair, alteration, and acquisition project for which a prospectus, as required by the Public Buildings Act of 1959, has not been submitted.

Section 514. The conferees continue a provision proposed by the House and Senate that none of the funds may be used for any construction, repair, alteration, and acquisition project for which a prospectus, as required by the Public Buildings Act of 1959, has not been submitted.

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used to expeditiously process background in-
vestigations, including updates and reinves-
tigations, as necessary.

Section 514. The conferees continue and modify a provision proposed by the House and Senate directing TSA to prohibit the obligation of funds for the Secure Flight program, except on a temporary basis. Section 522 of Public Law 108–334 has been met and certified by the Secretary of DHS and re-
ported by the Government Accountability Office. The conferees direct the OIG to continue to evaluate DHS and Transpor-
tation Security Administration (TSA) ac-
tivities to meet the ten conditions listed in section 522 of Public Law 108–334 and report to the Committees on Appropriations, either incrementally as the Department meets additional conditions, or when all condi-
tions have been met by the Department.

The provision also prohibits the obligation of funds to develop or test algorithms assigning risk to passengers not on government watch lists and for a commercial database that is obtained from or remains under the control of a non-federal entity, excluding Passenger Name Record data obtained from air car-
rriers. After enactment of this Act, TSA shall submit a detailed plan on achieving key milestones, as well as certification that this plan will be implemented.

Section 515. The conferees continue a pro-
vision proposed by the House and Senate pro-
hibiting funds to be used to amend the oath of allegiance section of the Immigration and Nationality Act (8 U.S.C. 1448).

Section 516. The conferees continue a pro-
vision proposed by the House and Senate regard-
ning competitive sourcing.

Section 517. The conferees continue and modify a provision proposed by the House and Senate regarding the reimbursement to the Secret Service for the cost of protective services.

Section 518. The conferees continue a pro-
vision proposed by the House and Senate di-
recting the Secretary of Homeland Security, in consultation with industry stakeholders, to develop standards and protocols for in-
creasing the use of explosive detection equip-
ment to screen air cargo when appropriate.

Section 519. The conferees continue and modify a provision proposed by the House and Senate directing TSA to utilize existing checked baggage explosive detection equipment to screen carry-on baggage on passenger aircraft when practical and requiring TSA to report air cargo inspection sta-
tistics to the Committees on Appropriations within 5 days of the end of each quarter of the fiscal year.

Section 520. The conferees include a new provision regarding the designation of funds.

Section 521. The conferees include and modify a provision proposed by the House re-
scinding $78,693,568 for the Coast Guard’s service life extension program of the 110-foot Island Class patrol boat and accelerated de-
sign and production of the fast response cutter and appropriating the same amount for acquisition of fast response cutters for service life extensions. The Senate bill con-
tained a similar provision in Title II.

Section 522. The conferees continue a pro-
vision directing the Secretary of Homeland Security to modify a provision that directs that only the Privacy Officer, appointed pursuant to section 222 of the Homeland Security Act of 2002, may alter, direct, or advise any device to, deliver or en-
hance the transmission of a Privacy Officer re-
port to Congress.

Section 523. The conferees continue a pro-
vision proposed by the House and Senate re-
quiring only those employees who are trained in contract management to perform contract management.

Section 524. The conferees continue and modify a provision proposed by the House and Senate directing that any funds appro-
riated or transferred to TSA “Aviation Secu-
rity”, “Administration” and “Transporta-
tion Security Support” in fiscal years 2004, 2005, and 2006, recovered or deobligated shall be available only for pro-
curement and installation of explosive detect-
sion systems for air cargo, baggage and checkpoint, screening systems subject to noti-
fication.

Section 525. The conferees continue and modify a provision proposed by the House and Senate directing the House and Senate to review within 30 days after enactment, its management di-
rective on Sensitive Security Information (SSI) to among other things, provide for the release of information that is more than three years old unless the Secretary makes a written determination that identifies a na-tional reason why the information must re-
main SSI. The conferees expect this national reason written determination to identify and describe the specific risk to the national transportation system. The provision also contains a mechanism for SSI to be used in civil judicial proceedings if the judge deter-

Section 526. The conferees continue a pro-
vision proposed by the House and Senate pro-
hibiting funds to be used to implement an amendment to section 101 of the Homeland Security Act of 2002, may alter, modify a provision proposed by the House re-

Section 527. The conferees continue and modify a provision proposed by the Senate re-

Section 528. The conferees continue and modify a provision proposed by the Senate re-

Section 529. The conferees continue and modify a provision proposed by the Senate re-

Section 530. The conferees continue a pro-
vision proposed by the Senate requiring the use of funds to contravene section 303 of the National Energy Conservation Act. The Senate bill contained no similar provision.

Section 531. The conferees continue and modify a provision proposed by the House and Senate prohibiting the use of funds to contravene section 303 of the Energy Policy Act. The Senate bill contained no similar provision.

Section 532. The conferees continue and modify a provision proposed by the Senate re-

Section 533. The conferees continue and modify a provision proposed by the Senate re-

Section 534. The conferees continue a pro-
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vision proposed by the Senate prohibiting the use of funds to contravene section 303 of the National Energy Conservation Act. The Senate bill contained no similar provision.

Section 546. The conferees continue and modify a provision proposed by the Senate...
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regarding the Western Hemisphere Travel Initiative. The House bill contained no similar provision.

Section 547. The conferees continue a provision proposed by the Senate prohibiting the use of funds to award a contract for major disaster or emergency assistance activities under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, except in accordance with section 307 of that Act. The Senate bill contained no similar provision.

Section 548. The conferees continue a provision proposed by the Senate prohibiting the use of funds to reimburse L.B. & B. Associates, Inc. or Olgoonik Logistics LLC for attorneys fees related to litigation against the Secretary of Homeland Security to reorganize a federal entity within the Department of Homeland Security. The provision is already enacted into law (section 607 of Public Law 109-197).

PROVISIONS NOT ADOPTED

The conference agreement deletes section 520 of the Senate bill and Section 520 of the House bill allowing the Coast Guard to buy law enforcement patrol boats. This requirement is addressed in the statement of managers under Under Immigration and Customs Enforcement.

The conference agreement deletes section 554 of the Senate bill that authorizes the Coast Guard to buy law enforcement patrol boats. This requirement is addressed in the statement of managers under Under Immigration and Customs Enforcement.

The conference agreement deletes section 555 of the Senate bill requiring the reorganization of FEMA into law (section 607 of Public Law 109-197).
compliance with the recommendations of the Inspector General relating to the National Asset Database. This requirement is addressed in the statement of managers under Preparedness.

The conference agreement deletes section 568 of the Senate bill requiring the Inspector General to review any Secure Border Initiative contracts awarded over $20,000,000. This requirement is addressed in the statement of managers under Office of Inspector General.

The conference agreement deletes section 569 of the Senate bill permitting funds from Title VI to be used for the establishment of the Northern Border air wing site in Michigan. This requirement is addressed in the statement of managers under Customs and Border Protection.

The conference agreement deletes section 572 of the Senate bill to expand the National Infrastructure Simulation and Analysis Center. This issue is addressed in Title VI of this Act.

The conference agreement deletes section 573 of the Senate bill requiring the Secretary of Homeland Security to consult with the National Council on Radiation Protection and Measurement and other organizations in preparing guidance with respect to radiological terrorism, threats, and events. This requirement is addressed in the statement of managers under Preparedness.

The conference agreement deletes section 574 of the Senate bill requiring the Comptroller General to report on the effect on public safety and screening operations from modifications to the list of items prohibited from being carried on commercial aircraft. This requirement is addressed in the statement of managers under Transportation Security Administration.

**TITLE VI—BORDER SECURITY INFRASTRUCTURE ENHANCEMENTS**

The conference agreement does not include Title VI of the Senate bill, "Border Security Infrastructure Enhancements." The House bill contained no similar matter. These matters are addressed in Titles I–IV of this Conference Report and the accompanying statement of managers.

**TITLE VII—SUPPLEMENTAL APPROPRIATIONS FOR PORT SECURITY ENHANCEMENTS**

The conference agreement does not include Title VII of the Senate bill, "Supplemental Appropriations for Port Security Enhancements." The House bill contained no similar matter. These matters are addressed in Titles I–IV of this Conference Report and the accompanying statement of managers.

**TITLE VIII—UNITED STATES EMERGENCY MANAGEMENT AUTHORITY**

The conference agreement does not include Title VIII of the Senate bill, "United States Emergency Management Authority." The House bill contained no similar matter. The conferees include new National Emergency Management authority in Title VI of this Conference Report.

**TITLE IX—BORDER ENFORCEMENT RELIEF ACT**

The conference agreement does not include Title IX of the Senate bill, "Border Enforcement Relief Act." The House bill contained no similar matter.

The conference agreement contains no appropriations as defined in House Resolution 1000 that were not otherwise addressed in the House or Senate bills or reports.

**CONFERENCE RECOMMENDATIONS**

The conference agreement's detailed funding recommendations for programs in this bill are contained in the table listed below.
### DEPARTMENT OF HOMELAND SECURITY

*Amounts in thousands*

<table>
<thead>
<tr>
<th>Title I - DEPARTMENTAL MANAGEMENT AND OPERATIONS</th>
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<td><strong>Departmental Operations</strong></td>
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<td><strong>Office of the Secretary and Executive Management:</strong></td>
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<td>Immediate Office of the Secretary</td>
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<td>Secure Border Coordination Office</td>
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### DEPARTMENT OF HOMELAND SECURITY  
(Amounts in thousands)

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#### Office of the Federal Coordinator for Gulf Coast Rebuilding
- **Budget Request**: ---
- **Conference**: 3,000

#### Office of Inspector General
- **Budget Request**: 96,185
- **Conference**: 85,185

#### Total, Departmental Management and Operations
- **Budget Request**: 1,073,599
- **Conference**: 1,010,971

### TITLE II - SECURITY, ENFORCEMENT, AND INVESTIGATIONS

#### U.S. Visitor and Immigrant Status Indicator Technology
- **Budget Request**: 399,494
- **Conference**: 362,494

#### Customs and Border Protection

**Salaries and expenses:**
- **Headquarters, Management, and Administration:**
  - Management and administration, border security inspections and trade facilitation: 663,943
  - Management and administration, border security and control between ports of entry: 594,446
- **Subtotal, Headquarters, Mgt, & Admin.**: 1,258,389

**Border security inspections and trade facilitation:**
- **Inspections, trade, and travel facilitation at ports of entry**: 1,282,102
- **Harbor maintenance fee collection (trust fund)**: 3,026
- **Container security initiative**: 139,312
- **Other international programs**: 8,701
- **Customs-Trade Partnership Against Terrorism/Free and Secure Trade (FAST) NEXUS/SENTRI**: 75,909
- **Customs-Trade Partnership Against Terrorism (C-TPAT)**: ---
- **Free and Secure Trade (FAST) NEXUS/SENTRI**: ---
- **Inspection and detection technology investments**: 94,317
- **Emergency appropriations**: ---
- **Subtotal**: 94,317

**Automated targeting systems**: 27,298
**National Targeting Center**: 23,635
**Other technology investments, including information technology**: 1,027
**Training**: 24,564

- **Subtotal, Border security inspections and trade facilitation**: 1,679,891

**Border security and control between ports of entry:**
- **Budget Request**: 2,420,866
- **Conference**: 2,277,510
## Department of Homeland Security
(Amounts in thousands)

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<td>(1,265,231)</td>
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Total, Customs and Border Protection                                    |         |            |
| Appropriations                                                          | (7,839,113) | (9,301,587) |
| Emergency appropriations                                                | (6,573,882) | (6,435,156) |
| (Fee accounts)                                                          | (1,265,231) | (1,265,231) |

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## DEPARTMENT OF HOMELAND SECURITY

(Amounts in thousands)

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<td>Conference</td>
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### DEPARTMENT OF HOMELAND SECURITY

(Amounts in thousands)

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<td>Subtotal, Transportation security support</td>
<td>527,283</td>
</tr>
<tr>
<td>Federal Air Marshals:</td>
<td></td>
</tr>
<tr>
<td>Management and administration</td>
<td>628,494</td>
</tr>
<tr>
<td>Travel and training</td>
<td>70,800</td>
</tr>
<tr>
<td>Subtotal, Federal Air Marshals</td>
<td>699,294</td>
</tr>
<tr>
<td>Total, Transportation Security Administration (gross)</td>
<td>6,299,462</td>
</tr>
<tr>
<td>Offsetting fee collections</td>
<td>(2,650,000)</td>
</tr>
<tr>
<td>Aviation security capital fund</td>
<td>(250,000)</td>
</tr>
<tr>
<td>Fee accounts</td>
<td>(76,101)</td>
</tr>
<tr>
<td>Total, Transportation Security Administration (net)</td>
<td>2,323,361</td>
</tr>
</tbody>
</table>

United States Coast Guard

<table>
<thead>
<tr>
<th>Operating expenses:</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Military pay and allowances</td>
<td>2,788,276</td>
<td>2,788,276</td>
</tr>
<tr>
<td>Civilian pay and benefits</td>
<td>569,434</td>
<td>569,434</td>
</tr>
<tr>
<td>Training and recruiting</td>
<td>180,876</td>
<td>180,876</td>
</tr>
<tr>
<td>Operating funds and unit level maintenance</td>
<td>1,061,574</td>
<td>1,011,374</td>
</tr>
<tr>
<td>Centrally managed accounts</td>
<td>207,954</td>
<td>201,966</td>
</tr>
<tr>
<td>Intermediate and depot level maintenance</td>
<td>710,729</td>
<td>710,729</td>
</tr>
<tr>
<td>Port Security</td>
<td>15,000</td>
<td>15,000</td>
</tr>
<tr>
<td>Less adjustment for defense function</td>
<td>(340,000)</td>
<td>(340,000)</td>
</tr>
</tbody>
</table>
## DEPARTMENT OF HOMELAND SECURITY

(Amounts in thousands)

<table>
<thead>
<tr>
<th>Budget Request</th>
<th>Conference</th>
</tr>
</thead>
<tbody>
<tr>
<td>Defense function</td>
<td>340,000</td>
</tr>
<tr>
<td>Subtotal, Operating expenses</td>
<td>5,518,843</td>
</tr>
<tr>
<td>Appropriations</td>
<td>(5,178,843)</td>
</tr>
<tr>
<td>Defense function</td>
<td>(340,000)</td>
</tr>
<tr>
<td>Environmental compliance and restoration</td>
<td>11,880</td>
</tr>
<tr>
<td>Reserve training</td>
<td>123,948</td>
</tr>
</tbody>
</table>

### Acquisition, construction, and improvements:

#### Vessels:
- Response boat medium (41ft UTB and NSB replacement) | 24,750 | 24,750 |
- Special purpose craft - Law enforcement (emergency) | --- | 1,800 |

Subtotal, Vessels | 24,750 | 28,550 |

#### Aircraft:
- HH-60 replacement | --- | 15,000 |

#### Other equipment:
- Automatic identification system | 11,238 | 11,238 |
- National distress and response system modernization (Rescue 21) | 39,600 | 39,600 |
- HF Recap | 2,475 | 2,475 |
- National Capital Region Air Defense | 48,510 | 48,510 |
- Emergency appropriations | --- | 18,000 |

Subtotal | 48,510 | 66,510 |

#### Counter Terrorism Training Infrastructure - shoothouse | 1,683 | --- |

Subtotal, Other equipment | 103,506 | 119,823 |

### Personnel compensation and benefits:
- Core acquisition costs | 500 | 500 |
- Direct personnel cost | 80,500 | 80,500 |

Subtotal, Personnel compensation and benefits | 81,000 | 81,000 |

### Integrated deepwater systems:

#### Aircraft:
- Aircraft, other | 216,513 | 211,513 |
- Emergency appropriations | --- | 100,500 |
- HH-65 re-engining | 32,373 | 32,373 |

Subtotal, Aircraft | 248,886 | 344,386 |

#### Surface ships:
- Emergency appropriations | --- | 55,500 |

Subtotal, Surface ships | 498,366 | 553,866 |

#### C4ISR:
- Logistics | 60,786 | 50,000 |
- Systems engineering and integration | 42,273 | 36,000 |
- Government program management | 35,145 | 35,145 |

Subtotal, Integrated deepwater systems | 934,431 | 1,085,872 |

### Shore facilities and aids to navigation:
- Shore operational and support projects | 2,600 | --- |
### DEPARTMENT OF HOMELAND SECURITY
(Amounts in thousands)

<table>
<thead>
<tr>
<th>Description</th>
<th>Request</th>
<th>Conference</th>
</tr>
</thead>
<tbody>
<tr>
<td>Shore construction projects</td>
<td>2,850</td>
<td>---</td>
</tr>
<tr>
<td>Renovate USCGA Chase Hall barracks, phase I</td>
<td>2,000</td>
<td>---</td>
</tr>
<tr>
<td>Coast Guard housing - Cordova, AK</td>
<td>5,500</td>
<td>---</td>
</tr>
<tr>
<td>ISC Seattle Group, sector admin ops facility phase II</td>
<td>2,600</td>
<td>---</td>
</tr>
<tr>
<td>Replace multi-purpose building - Group Long Island Sound</td>
<td>1,000</td>
<td>---</td>
</tr>
<tr>
<td>Construct breakwater - Station Neha Bay</td>
<td>1,100</td>
<td>---</td>
</tr>
<tr>
<td>Rebuild station and waterfront at Base Galveston phase I</td>
<td>5,200</td>
<td>---</td>
</tr>
<tr>
<td>Waterways aids to navigation infrastructure</td>
<td>3,000</td>
<td>---</td>
</tr>
<tr>
<td>Undistributed distributions</td>
<td>---</td>
<td>22,000</td>
</tr>
<tr>
<td><strong>Subtotal, Shore facilities and aids to navigation</strong></td>
<td>25,850</td>
<td>22,000</td>
</tr>
<tr>
<td><strong>Subtotal, Acquisition, construction, and improvements</strong></td>
<td>1,169,537</td>
<td>1,330,245</td>
</tr>
<tr>
<td>Appropriations</td>
<td>(1,169,537)</td>
<td>(1,154,445)</td>
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<tr>
<td>Emergency appropriations</td>
<td>---</td>
<td>(175,800)</td>
</tr>
<tr>
<td>Alteration of bridges</td>
<td>---</td>
<td>16,000</td>
</tr>
<tr>
<td>Research, development, test, and evaluation</td>
<td>13,860</td>
<td>17,000</td>
</tr>
<tr>
<td>Health care fund contribution</td>
<td>278,704</td>
<td>278,704</td>
</tr>
<tr>
<td><strong>Subtotal, U.S. Coast Guard discretionary</strong></td>
<td>7,116,772</td>
<td>7,252,934</td>
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<tr>
<td>Retired pay (mandatory)</td>
<td>1,063,323</td>
<td>1,063,323</td>
</tr>
<tr>
<td><strong>Total, United States Coast Guard</strong></td>
<td>8,180,095</td>
<td>8,316,257</td>
</tr>
<tr>
<td>Appropriations</td>
<td>(8,180,095)</td>
<td>(8,140,457)</td>
</tr>
<tr>
<td>Emergency appropriations</td>
<td>---</td>
<td>(175,800)</td>
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</table>

#### United States Secret Service

**Protection, Administration, and Training:**

<table>
<thead>
<tr>
<th>Description</th>
<th>Request</th>
<th>Conference</th>
</tr>
</thead>
<tbody>
<tr>
<td>Protection</td>
<td>639,747</td>
<td>651,247</td>
</tr>
<tr>
<td>Protective intelligence activities</td>
<td>55,509</td>
<td>55,509</td>
</tr>
<tr>
<td>National special security event</td>
<td>---</td>
<td>1,000</td>
</tr>
<tr>
<td>Presidential candidate nominee protection</td>
<td>---</td>
<td>18,400</td>
</tr>
<tr>
<td>White House mail screening</td>
<td>16,201</td>
<td>16,201</td>
</tr>
<tr>
<td><strong>Subtotal, Protection</strong></td>
<td>711,457</td>
<td>742,357</td>
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</table>

**Field operations:**

<table>
<thead>
<tr>
<th>Description</th>
<th>Request</th>
<th>Conference</th>
</tr>
</thead>
<tbody>
<tr>
<td>Domestic field operations</td>
<td>236,093</td>
<td>---</td>
</tr>
<tr>
<td>International field office administration, operations and training</td>
<td>21,616</td>
<td>---</td>
</tr>
<tr>
<td>Electronic crimes special agent program and electronic crimes task forces</td>
<td>44,079</td>
<td>---</td>
</tr>
<tr>
<td><strong>Subtotal, Field operations</strong></td>
<td>301,788</td>
<td>---</td>
</tr>
</tbody>
</table>

**Administration:**

<table>
<thead>
<tr>
<th>Description</th>
<th>Request</th>
<th>Conference</th>
</tr>
</thead>
<tbody>
<tr>
<td>Headquarters, management and administration</td>
<td>169,370</td>
<td>169,370</td>
</tr>
<tr>
<td>Grants for National Center for Missing and Exploited Children</td>
<td>7,811</td>
<td>---</td>
</tr>
<tr>
<td><strong>Subtotal, Administration</strong></td>
<td>177,181</td>
<td>169,370</td>
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</table>

**Training:**

<table>
<thead>
<tr>
<th>Description</th>
<th>Request</th>
<th>Conference</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rowley training center</td>
<td>50,052</td>
<td>50,052</td>
</tr>
<tr>
<td><strong>Subtotal, Protection, Admin and Training</strong></td>
<td>1,240,478</td>
<td>961,779</td>
</tr>
</tbody>
</table>
## DEPARTMENT OF HOMELAND SECURITY
(Amounts in thousands)

<table>
<thead>
<tr>
<th>Budget Request</th>
<th>Conference</th>
</tr>
</thead>
<tbody>
<tr>
<td>Domestic field operations</td>
<td>236,095</td>
</tr>
<tr>
<td>International field administration and operations</td>
<td>22,616</td>
</tr>
<tr>
<td>Electronic crimes special agent program and electronic crimes task forces</td>
<td>44,079</td>
</tr>
<tr>
<td>Forensic support and grants to NCMEC</td>
<td>8,366</td>
</tr>
<tr>
<td>Subtotal, Investigations and Field operations</td>
<td>311,154</td>
</tr>
<tr>
<td>National special security event fund</td>
<td>2,500</td>
</tr>
<tr>
<td>Candidate nominee protection (equip and training)</td>
<td>18,400</td>
</tr>
<tr>
<td>Subtotal, Special Event Fund</td>
<td>20,900</td>
</tr>
<tr>
<td>Acquisition, construction, improvements and related expenses (Rowley training center)</td>
<td>3,725</td>
</tr>
<tr>
<td><strong>Total, United States Secret Service</strong></td>
<td>1,265,103</td>
</tr>
<tr>
<td><strong>Total, title II, Security, Enforcement, and Investigations</strong></td>
<td>22,670,507</td>
</tr>
<tr>
<td>Appropriations</td>
<td>25,578,337</td>
</tr>
<tr>
<td>Emergency appropriations</td>
<td>(23,217,137)</td>
</tr>
<tr>
<td>(Fee Accounts)</td>
<td>(1,807,000)</td>
</tr>
<tr>
<td><strong>Total, title II, Security, Enforcement, and Investigations</strong></td>
<td>25,578,337</td>
</tr>
<tr>
<td><strong>Title III - PREPAREDNESS AND RECOVERY</strong></td>
<td></td>
</tr>
</tbody>
</table>
### Preparedness

<table>
<thead>
<tr>
<th>Management and administration</th>
<th>Budget Request</th>
<th>Conference</th>
</tr>
</thead>
<tbody>
<tr>
<td>Immediate Office of the Under Secretary</td>
<td>17,497</td>
<td>16,392</td>
</tr>
<tr>
<td>Office of the Chief Medical Officer</td>
<td>4,980</td>
<td>4,980</td>
</tr>
<tr>
<td>Office of National Capital Region Coordination</td>
<td>1,991</td>
<td>2,741</td>
</tr>
<tr>
<td>National Preparedness Integration Program</td>
<td>50,000</td>
<td>6,459</td>
</tr>
<tr>
<td><strong>Subtotal, Management and administration</strong></td>
<td>74,468</td>
<td>30,572</td>
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</table>

### Grants and Training

#### State and Local Programs

<table>
<thead>
<tr>
<th>State formula grants</th>
<th>Budget Request</th>
<th>Conference</th>
</tr>
</thead>
<tbody>
<tr>
<td>State Homeland Security Grant Program</td>
<td>633,000</td>
<td>525,000</td>
</tr>
<tr>
<td>Emergency management performance grants</td>
<td>170,000</td>
<td>210,000</td>
</tr>
<tr>
<td>Law enforcement terrorism prevention grants</td>
<td>55,000</td>
<td>375,000</td>
</tr>
<tr>
<td><strong>Subtotal, State formula grants</strong></td>
<td>838,000</td>
<td>900,000</td>
</tr>
</tbody>
</table>

#### Discretionary grants

| High-threat, high-density urban area | 838,000 | 770,000 |
| Port security grants | 210,000 | 210,000 |
| Trucking security grants | 12,000 | 12,000 |
| Intercity bus security grants | 12,000 | 12,000 |
| Rail and transit security | 175,000 | 175,000 |
| Buffer zone protection program | 50,000 | 50,000 |
| Targeted infrastructure protection | 600,000 | 600,000 |
| **Subtotal, Discretionary grants** | 1,438,000 | 1,229,000 |

| Commercial equipment direct assistance program | 50,000 | 50,000 |
### DEPARTMENT OF HOMELAND SECURITY

(Amounts in thousands)

<table>
<thead>
<tr>
<th>Budget Request</th>
<th>Conference</th>
</tr>
</thead>
<tbody>
<tr>
<td>National Programs:</td>
<td></td>
</tr>
<tr>
<td>National Domestic Preparedness Consortium</td>
<td>89,351</td>
</tr>
<tr>
<td>National exercise program</td>
<td>48,708</td>
</tr>
<tr>
<td>Technical assistance</td>
<td>11,500</td>
</tr>
<tr>
<td>Metropolitan Medical Response System</td>
<td>---</td>
</tr>
<tr>
<td>Demonstration training grants</td>
<td>---</td>
</tr>
<tr>
<td>Continuing training grants</td>
<td>3,000</td>
</tr>
<tr>
<td>Citizen Corps</td>
<td>---</td>
</tr>
<tr>
<td>Evaluations and assessments</td>
<td>23,000</td>
</tr>
<tr>
<td>Rural Domestic Preparedness Consortium</td>
<td>---</td>
</tr>
<tr>
<td>Management and Administration</td>
<td>5,000</td>
</tr>
<tr>
<td><strong>Subtotal, National Programs</strong></td>
<td><strong>180,559</strong></td>
</tr>
<tr>
<td><strong>Subtotal, State and Local Programs</strong></td>
<td><strong>2,456,559</strong></td>
</tr>
<tr>
<td>Firefighter assistance grants:</td>
<td></td>
</tr>
<tr>
<td>Grants</td>
<td>293,450</td>
</tr>
<tr>
<td>Staffing for Adequate Fire and Emergency Response (SAFER) Act</td>
<td>---</td>
</tr>
<tr>
<td><strong>Subtotal, Firefighter Assistance Grants</strong></td>
<td><strong>293,450</strong></td>
</tr>
<tr>
<td>Emergency management performance grants</td>
<td>---</td>
</tr>
<tr>
<td><strong>Subtotal, Grants and Training</strong></td>
<td><strong>2,750,009</strong></td>
</tr>
<tr>
<td>Radiological Emergency Preparedness Program</td>
<td>-477</td>
</tr>
<tr>
<td>U.S. Fire Administration and Training:</td>
<td></td>
</tr>
<tr>
<td>United States Fire Administration</td>
<td>40,887</td>
</tr>
<tr>
<td>Noble Training Center</td>
<td>5,962</td>
</tr>
<tr>
<td><strong>Subtotal, U.S. Fire Administration and Training</strong></td>
<td><strong>46,849</strong></td>
</tr>
<tr>
<td>Infrastructure Protection and Information Security</td>
<td></td>
</tr>
<tr>
<td>Management and administration</td>
<td>84,650</td>
</tr>
<tr>
<td>Critical infrastructure outreach and partnership</td>
<td>101,100</td>
</tr>
<tr>
<td>Critical infrastructure identification and evaluation</td>
<td>71,631</td>
</tr>
<tr>
<td>National Infrastructure Simulation and Analysis Center</td>
<td>16,021</td>
</tr>
<tr>
<td>Biosurveillance</td>
<td>8,218</td>
</tr>
<tr>
<td>Protective actions</td>
<td>32,043</td>
</tr>
<tr>
<td>Cyber security</td>
<td>92,205</td>
</tr>
<tr>
<td>National Security/Emergency Preparedness Telecommunications</td>
<td>143,272</td>
</tr>
<tr>
<td><strong>Subtotal, Infrastructure Protection and Information Security</strong></td>
<td><strong>549,140</strong></td>
</tr>
<tr>
<td><strong>Total, Preparedness</strong></td>
<td><strong>3,419,989</strong></td>
</tr>
</tbody>
</table>

| Federal Emergency Management Agency | | |
| Administrative and regional operations | 206,259 | 232,760 |
| Defense function | 49,240 | 48,240 |
| Readiness, mitigation, response, and recovery: | | |
| Operating activities | 213,682 | 219,000 |
| Urban search and rescue teams | 19,817 | 25,000 |
**DEPARTMENT OF HOMELAND SECURITY**
(Amounts in thousands)

<table>
<thead>
<tr>
<th>Budget Request</th>
<th>Conference</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Subtotal, Readiness, mitigation, response, and recovery</strong></td>
<td>233,499</td>
</tr>
<tr>
<td>Public health programs</td>
<td>33,885</td>
</tr>
<tr>
<td>Disaster relief</td>
<td>1,941,390</td>
</tr>
<tr>
<td><strong>Disaster assistance direct loan program account:</strong></td>
<td></td>
</tr>
<tr>
<td>(Limitation on direct loans)</td>
<td>(25,000)</td>
</tr>
<tr>
<td>Administrative expenses</td>
<td>569</td>
</tr>
<tr>
<td><strong>Flood map modernization fund</strong></td>
<td>198,980</td>
</tr>
<tr>
<td><strong>National flood insurance fund:</strong></td>
<td></td>
</tr>
<tr>
<td>Salaries and expenses</td>
<td>38,230</td>
</tr>
<tr>
<td><strong>Flood hazard mitigation</strong></td>
<td>90,358</td>
</tr>
<tr>
<td><strong>Offsetting fee collections</strong></td>
<td>-128,588</td>
</tr>
<tr>
<td><strong>Transfer to National flood mitigation fund</strong></td>
<td>(-31,000)</td>
</tr>
<tr>
<td><strong>National flood mitigation fund (by transfer)</strong></td>
<td>(31,000)</td>
</tr>
<tr>
<td>National predisaster mitigation fund</td>
<td>149,078</td>
</tr>
<tr>
<td>Emergency food and shelter</td>
<td>151,470</td>
</tr>
<tr>
<td><strong>Total, Federal Emergency Management Agency</strong></td>
<td>2,965,270</td>
</tr>
<tr>
<td><strong>Total, title III, Preparedness and Recovery</strong></td>
<td>6,385,259</td>
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<tr>
<td>(Limitation on direct loans)</td>
<td>(25,000)</td>
</tr>
<tr>
<td>(Transfer out) (including emergency)</td>
<td>(-31,000)</td>
</tr>
<tr>
<td>(By transfer) (including emergency)</td>
<td>(31,000)</td>
</tr>
</tbody>
</table>

**TITLE IV - RESEARCH AND DEVELOPMENT, TRAINING, AND SERVICES**

**U.S. Citizenship and Immigration Services**

<table>
<thead>
<tr>
<th>Budget Request</th>
<th>Conference</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Salaries and expenses:</strong></td>
<td></td>
</tr>
<tr>
<td>Business transformation</td>
<td>47,000</td>
</tr>
<tr>
<td>Systematic Alien Verification for Entitlements (SAVE)</td>
<td>24,500</td>
</tr>
<tr>
<td>Employment Eligibility Verification (EEV) program</td>
<td>110,490</td>
</tr>
<tr>
<td><strong>Subtotal, Salaries and expenses</strong></td>
<td>181,990</td>
</tr>
<tr>
<td><strong>Adjudication services (fee account):</strong></td>
<td></td>
</tr>
<tr>
<td>Pay and benefits</td>
<td>(624,600)</td>
</tr>
<tr>
<td>District operations</td>
<td>(385,400)</td>
</tr>
<tr>
<td>Service center operations</td>
<td>(267,000)</td>
</tr>
<tr>
<td>Asylum, refugee and international operations</td>
<td>(75,000)</td>
</tr>
<tr>
<td>Records operations</td>
<td>(67,000)</td>
</tr>
<tr>
<td><strong>Subtotal, Adjudication services</strong></td>
<td>(1,419,000)</td>
</tr>
<tr>
<td><strong>Information and customer services (fee account):</strong></td>
<td></td>
</tr>
<tr>
<td>Pay and benefits</td>
<td>(81,000)</td>
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<tr>
<td><strong>Operating expenses:</strong></td>
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</tr>
<tr>
<td>National Customer Service Center</td>
<td>(48,000)</td>
</tr>
<tr>
<td>Information services</td>
<td>(16,000)</td>
</tr>
<tr>
<td><strong>Subtotal, Information and customer services</strong></td>
<td>(144,000)</td>
</tr>
</tbody>
</table>
### DEPARTMENT OF HOMELAND SECURITY
(Amounts in thousands)

<table>
<thead>
<tr>
<th>Budget Request</th>
<th>Conference</th>
</tr>
</thead>
<tbody>
<tr>
<td>Administration (fee account):</td>
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DEPARTMENT OF HOMELAND SECURITY
(Amounts in thousands)

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<th>Budget Request</th>
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<td>(Fee Accounts)</td>
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TITILE V - GENERAL PROVISIONS

Sec. 521 (fiscal year 2007):
Rescission, Fast Response Cutter (P.L. 109-90) | --- | -78,693 |
Replacement patrol boat | --- | 78,693 |
Sec. 527: Rescission, Counter Terrorism Fund | -16,000 | -16,000 |
Sec. 529: Rescission, S&T unobligated balances | --- | -125,000 |
Sec. 537: Rescission, TSA unobligated balances | --- | -4,776 |
Sec. 539: Rescission, USCG AC&I/AIS unobligated bal... | --- | -20,000 |
Sec. 540: Rescission, USCG AC&I/AIS unobligated bal... | --- | -4,100 |
Sec. 560: Rescission, US Secret Service unobligated balances | --- | -2,500 |
US Secret Service national special security events | --- | 2,500 |

Total, title V, General Provisions | -16,000 | -231,812 |
Appropriations | --- | (81,183) |
Rescissions | (-16,000) | (-313,005) |

Grand total | 32,077,970 | 34,797,323 |
Appropriations, fiscal year 2007 | (32,093,970) | (33,281,528) |
Emergency appropriations | --- | (1,829,000) |
Rescissions | (-16,000) | (-313,005) |
Fee funded programs | (3,397,861) | (3,813,802) |

(Limitation on direct loans) | (25,000) | (25,000) |
(Transfer out) (including emergency) | (-31,000) | (-31,000) |
(By transfer) (including emergency) | (31,000) | (31,000) |
The total new budget (obligational) authority for the fiscal year 2007 recommended by the Committee of Conference, comparisons to the 2007 budget estimates, and the House and Senate bills for 2007 follow:

(In thousands of dollars)

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<th>Comparison</th>
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<tr>
<td>Conference agreement compared with:</td>
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<td>Budget estimates of new</td>
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<tr>
<td>fiscal year 2007</td>
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</tbody>
</table>


NOTICE
Incomplete record of House proceedings.
Today's House proceedings will be continued in the next issue of the Record.
The Senate met at 9:30 a.m. and was called to order by the Honorable JOHN E. SUNUNU, a Senator from the State of New Hampshire.

PRAYER

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

Let us pray.

Lord and King, You are forever. Send Your light and truth to guide our Senators. Give our lawmakers insights that will help them solve the riddles of our day. Empower them to possess discernment in order to know what is right. Imbue them with a passion for truth that will make them refuse to compromise principles.

Strengthen them also with a humility that seeks to listen and learn. May they find joy in their work as they seek to please You. Remove from them discouragement and despair. Make them partners with You in building a world where truth and righteousness will reign.

We pray in Your powerful Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable John E. Sununu led the Pledge of Allegiance, as follows:

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

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
To the Senate:

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

TED STEVENS, President pro tempore.

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

RECOGNITION OF THE MAJORITY LEADER

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

PROGRAM

Mr. FRIST. Mr. President, this morning after a period for the transaction of morning business, the Senate will resume consideration of the Military Commissions Act. Under the agreement that was reached yesterday, we have a limited number of amendments to consider and debate. Yesterday, we defeated the Levin substitute amendment, and Senator SPECTER offered his amendment on habeas. The Specter amendment is the pending amendment, and we will have more debate on it this morning.

Following the disposition of the Specter amendment, there are three additional amendments in order followed by a vote on passage of the bill. Once we conclude our work on this bill, we will return to the border fence bill with a cloture vote.

We still have a number of important items to complete before the recess, including the DOD appropriations conference report, additional conference reports that become available, executive items and nominations, and the child custody bill, on which I filed cloture yesterday.

We will have votes throughout the course of today's session and into the evening and over the remaining days until we complete our work.

RECOGNITION OF THE MINORITY LEADER

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

TIME TO SPEAK

Mr. REID. Mr. President, it is my understanding we have basically 3½ amendments remaining. We have one on which debate is nearing completion, and then we have three other amendments. We have an hour equally divided on each of those three amendments. On the amendment that is before the Senate dealing with the habeas corpus aspect of this legislation, we have a number of people—and we have conveyed this to the majority—who wish to speak. It takes up about an hour of extra time.

I say to everyone within the sound of my voice—namely, 44 Democrats, especially those who have indicated to the cloakroom they want to speak on this issue—we had time lined up yesterday, and because of quorum calls time was lost. Unless we get more time from the majority, there will be no time to speak, other than the time that is in the unanimous consent agreement that is the order before the Senate on the three amendments, and whatever time is remaining on the amendment being led by Senator SPECTER and Senator LEAHY.

Again, if somebody wants time, they can't always have it so when they get here, they can walk on. Senators might have to wait around for a little while because yesterday we lost a significant amount of Democratic time as a result of Senators not being available to speak.

We have a couple more days. Hopefully, we can finish this tomorrow or Saturday, but we have a lot to do. We will need cooperation from all Senators if, in fact, they want to cooperate. The ACTING PRESIDENT pro tempore. The majority leader.
Mr. FRIST. Mr. President, to expand a little bit on the Democratic leader’s comments, we entered into a unanimous consent agreement to address this bill with a reasonable amount of time. We are going to need to stick to that in large part because I have, as I outlined, the Hamdan legislation, we have the other three amendments, we have the fence border legislation, which has been pending for several days, DOD appropriations, the Child Custody Act, Homeland Security appropriation, and possibly the port security bill. We have an important Cabinet nomination, the Peters nomination, and then we have an adjournment resolution. That list is big.

As the Democratic leader and I have repeatedly said, we are going to finish this week, and it is already Thursday morning. Once we set a plan, we need to stick with a unanimous consent agreement set out. As we go through these issues, it is going to take a lot of cooperation to accomplish what has been laid out.

With that, I think we will begin a period for morning business.

RESERVATION OF LEADER TIME

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

MORNING BUSINESS

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

HOMELAND SECURITY

Ms. COLLINS. Mr. President, I rise this morning to take note of the real progress this Congress has made and is on the verge of making in strengthening our homeland security.

This progress—reform of FEMA, protection of our chemical facilities and improved security for our seaports—should be celebrated. It is that kind of work that, as we conclude, we can look back on and know we have accomplished.

In the midst of all the charges that Congress has failed to accomplish all that we should, I want to call attention to the many times when, in fact, Members have cooperated among committee members, between Chambers, and across party lines to make real progress to benefit the American people.

The 109th Congress has had many such accomplishments that belie the stereotype of a rancorous debating society that is unable to enact and improve the security of our country.

Let me focus on three major accomplishments by Congress in the area of homeland security. I note that these accomplishments should become law shortly as we complete work on the Homeland Security appropriations bill.

The first accomplishment was reaching agreement on a broad array of reforms to the Department of Homeland Security, including urgently needed reform and reinforcement of the Federal Emergency Management Agency.

The recommendations for improvements to the reauthorization of the Senate Committee on Homeland Security’s 7-month investigation into the failed preparations and response to Hurricane Katrina. This investigation, which was completely bipartisan, included 23 hearings, testimony and interviews of some 400 people, and a review of more than 838,000 pages of documents.

The committee’s recommendations will make FEMA a distinct entity within DHS, Why does that matter? It matters because it gives FEMA the same kind of command enjoyed by the Coast Guard and the Secret Service. It protects FEMA from arbitrary budget cuts or departmental reorganizations that are implemented without congressional review.

Another important reform is that the legislation reunites preparedness and response and makes FEMA responsible and empowered for all phases of emergency management—preparation, mitigation, response, and recovery.

A very important reform will be the creation of response strike teams to ensure a more effective response to disasters.

What we will do is create in the 10 regions of the United States multi-agency task forces comprising representatives from every Federal agency that is involved in responding to or preparing for disaster. They will train and exercise with their State and local counterparts, with NGOs, such as the Red Cross, and with the key for-profit businesses, such as utility companies. That will ensure that they won’t need to be exchanging business cards in the midst of the next disaster.

I was struck during our investigation of Hurricane Katrina that so many people from FEMA Region 5—the region I represent and I am from, New England—were sent down to Louisiana to help with the response to Hurricane Katrina. The problem, of course, is they didn’t know the people, they didn’t know the geography, they didn’t know the culture, they didn’t have knowledge of what assets could be mobilized in the response. These regional teams will ensure that this will not happen again.

We addressed issues such as chronic staff shortages at FEMA, the need for better pre-positioning of emergency supplies and tracking of shipments, better grant-making authority to improve coordination regionally and with local responders, and the need to provide survivable and interoperable communications.

We also revised the Stafford Act to bring it up to date and make it more flexible and responsive.

Another important homeland security accomplishment of this Congress is still a work in progress, but I am very optimistic that it will, in fact, become law, and that is the port-security bill which this Chamber recently passed unanimously, Senator MURRAY and I have led a bipartisan effort to enact this legislation. There have been many other Members on both sides of the aisle involved, including on my committee Senator COLEMAN and Senator LIEBERMAN.

With 361 ports in this country and some 11 million shipping containers arriving each year, we desperately need better assurances that our seaports and these containers are not going to be used to bring weapons, explosives, bio-terror compounds, or even a squad of terrorists into our country.

The vulnerability of our seaports is perhaps best underscored by an incident that occurred in Seattle in April, when 22 Chinese nationals were successful in coming all the way from China to Seattle in a shipping container. If 22 illegal Chinese nationals can come to our country via a shipping container, it shows we still have a lot of work to do to ensure better security at our seaports.

The legislation this Chamber passed is balanced legislation that strengthens our security while recognizing the importance of trade and not bringing the shipment of containers to a halt. The port-security package fills a dangerous gap in our defenses. I hope we will enact it before leaving here this week.

The third area of accomplishment involves the security of chemical plants, plants that either use, store, or manufacture large quantities of hazardous chemicals.

Last January, I held a hearing in which I asked several experts: What are your greatest concerns? What gaps do we have in our homeland security? The lack of regulation of our chemical plants came up time and again. Our existing protections are a patchwork of different authorities—State, Coast Guard, and voluntary industry standards. They are inadequate, given the threats we face.

Now, this has been a very difficult debate, but I think it is so important to remember that right now, the Department of Homeland Security lacks the authority to set risk- and performance-based standards for security at our chemical facilities despite the fact that terrorism experts tell us al-Qaida is focused on chemical plants and chemical explosions.

We have some 15,000 chemical facilities around the country, including more than 3,000 sites where a terrorist
I compliment all of the Members of the Senate, our partners on the House side, as well as members of the administration who have stepped forward and worked so hard to make these reforms a reality. Our success in advancing these achievements in strengthening our homeland security should be a source of justifiable pride to the Members of this body.

Mr. DORGAN. Mr. President, could you describe the circumstances of the Senate? Are we in morning business?

The ACTING PRESIDENT pro tempore. The circumstances are as follows: The Senate is in a period of morning business. The minority holds 15 minutes. The majority has used all of its time.

Mr. DORGAN. So the minority’s 15 minutes is now available and ready for use?

The ACTING PRESIDENT pro tempore. The Senator from North Dakota is recognized.

HABEAS CORPUS

Mr. DORGAN. Mr. President, because the truncated time on the amendments to the underlying bill includes a very short amount of time for the Specter amendment, I am going to use only 5 minutes now to talk about my support of the Specter amendment.

The Specter amendment is about habeas corpus. That is a big term, a kind of complicated term. Let me describe it by describing this picture. This is a young woman. She is a young woman named Mitsuye Endo. Mitsuye Endo looked out from behind barbed-wire fences where she was incarcerated in this country some decades ago during the Second World War. Let me tell you about her. She was a 22-year-old clerical worker in California’s Department of Motor Vehicles in Sacramento, CA. She had never been to Japan. She didn’t speak Japanese. She had been born and raised in this country. She was a Methodist. She had a brother in the U.S. Army, unquestioned loyalty to the United States of America, but she had never been to Japan. She was incarcerated—picked up, taken from her home, her job, her community, and put behind barbed-wire fences.

Now, she eventually got out of that incarceration, and her plea to the courts was what really led to the unlocking of those camps, and let those tens of thousands of Japanese Americans out of those camps. They had been unjustly viewed as enemies of our country and incarcerated. And with one young woman’s writ of habeas corpus, an awful chapter in our country’s history soon came to an end. Her question to the courts was a simple but powerful one: Why am I being detained?

What is habeas corpus? Well, it answers the question, by giving access to the courts, of whether you can hold someone indefinitely without charges, without a trial, and without a right for anyone to have a review of their circumstances. What habeas corpus has the right to file a habeas corpus petition, it is the right of someone to go to the court system in this country to say to that court system: There has been a mistake. I am innocent; I didn’t do it; I shouldn’t be here.

The court then asks the question: Why are these people locked up? Should they be locked up? Is there a basis for it? Is it a mistake? Is it warranted?

Everyone in this Chamber will have read the story in the Washington Post about a week ago, and after I read that story, I just hung my head a bit. A Canadian in this country was apprehended at an American airport, at a U.S. airport in New York City. That Canadian citizen, apprehended in New York City by our authorities, was then sent to Syria, where he was tortured for some 8 or 9 months. He was put in a coffin-like structure, a cement coffin-like structure, in isolation, and tortured. It turns out, at the end of nearly a year of his incarceration, it was all a big mistake. He wasn’t a terrorist. He wasn’t involved with terrorists. But he was apprehended and held incommunicado, in fact, rendered to another country where torture occurred. A big mistake. His wife didn’t know where he was. He has a young 2- or 3-year-old child.

What does all this say? Why is this country a country that is different from others? We have been different from others because it is in this country where you can’t be picked up off of a street and held indefinitely, held without charges, held without a trial, held without a right to go to a court. It is this country in which that exists.

Let me make another point. Why should we care about how the United States treats noncitizens and taking away the right of habeas corpus for noncitizens? Because every U.S. citizen is a noncitizen in every other country of the world. There are 193 countries in this world. We are citizens of only one. And when an American travels anywhere in America, anywhere—we are noncitizens in those countries.

What would our reaction be? What will our reaction be as Americans if—as an example, recently, a journalist who was detained and arrested and put in jail, I believe in Sudan, who then asked his captors to be able to see the American consulate: I need the ability to contact the American consulate. His captors said: You have no such rights.

He complained: But I do have that right.

His captors said: No. Those you have detained in the United States are not given those rights, and you are not given those rights, either.

This is why this issue is so important, and that is why I support the Specter amendment. I hope very much the Senate will not make a profound mistake by turning down that amendment.

The ACTING PRESIDENT pro tempore. The Senator from Connecticut is recognized.
FORGET NUREMBERG: HOW BUSH’S NEW TORMURE BILL EVISCERATES THE PROMISE OF NUREMBERG

(By David J. Luban)

The burning question is: What did the Bush administration do to break John McCain when a North Vietnamese prison camp couldn’t do it? Could it have been “ego up”? I’m told ego issues are not an essential. That probably also rules out ego down. Fear up harsh? McCain doesn’t have the reputation of someone who scares easily. False flag? Did he think they brought him to the vice president’s office? No, he already knew he was in the vice president’s office. Wait, I think I know the answer: futility—which the Army’s old interrogation definition as explaining rationally to the prisoner why holding out is hopeless. Yes, the explanation must be that the Bush lawyers would have successfully loopholed any law McCain might write, so why bother? Futility might have done the trick.

How else can we explain McCain’s surrender this week on the torture issue, one on which he has been as passionate in the past as Lindsey Graham was on secret evidence?

Marty Lederman at Balkinization explains here and here how the Department of Justice’s proposed “compromise legislation” on detainee treatment. But the fact is, virtually every word of the proposed bill is a capitulation to the Bush view of what constitute torture. Take yesterday’s draft is even worse than last week’s. It unexpectedly broadens the already broad definition of “unlawful enemy combatant” to include those who ‘fight against the United States as well as those who give them ‘material support’”—a legal term that appears to mandate with ruthless efficiency the execution of those men who committed horrendous crimes. There knew this 60 years ago when they determined how to deal with Nazi leaders guilty of horrendous crimes. The Nuremberg trials presupposed some- thing crystal clear, it’s the burning desire of any American to bring to the bar of justice those who committed war crimes, the tribunal held, the恶魔, such as Lindsey Graham was on secret evidence, will have as well. We can and must balance our responsibilities to bring terrorists to justice while at the same time protecting what it means to be an American. To choose the rule of law over the passion of the moment takes courage, but it is the right thing to do if we are to uphold the values of equal justice and of a process that are codified in our Constitution.

Our Founding Fathers established the legal framework of our country on the premise that those in government are not infallible. America’s leaders knew this—this was a fortunate point—that the war on terror requires us to make a choice, both here in this Chamber and across the country, between protecting America from terrorism and the choice of upholding the basic tenets upon which our Nation was founded—but not both. This canard, in my view, has been showcased far too often.

I fully reject that reasoning. Americans throughout the previous 200 years have as well. We can and must balance our responsibilities to bring terrorists to justice while at the same time protecting what it means to be an American. To choose the rule of law over the passion of the moment takes courage, but it is the right thing to do if we are to uphold the values of equal justice and of a process that are codified in our Constitution.

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There being no objection, the article was ordered to be printed in the RECORD.

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MILITARY COMMISSIONS

Mr. DODD. Mr. President, America was attacked on September 11, 2001, by a ruthless enemy of our Nation. It is my strong belief, as I believe it is the belief of all of us in this Chamber, that those who are responsible for orchestrating this plot and anyone else who seeks to do harm to our country and citizens should be brought to the bar of justice and punished severely. On that I presume there is no debate whatsoever.

These are extraordinary times, and we must act in a way that fully safeguard America at all levels.

The administration and the Republican leadership on this issue would have the American people believe—and this is an unfortunate point—that the war on terror requires us to make a choice, both here in this Chamber and across the country, between protecting America from terrorism and the choice of upholding the basic tenets upon which our Nation was founded—but not both. This canard, in my view, has been showcased far too often.

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Our Founding Fathers established the legal framework of our country on the premise that those in government are not infallible. America’s leaders knew this—this was a fortunate point—that the war on terror requires us to make a choice, both here in this Chamber and across the country, between protecting America from terrorism and the choice of upholding the basic tenets upon which our Nation was founded—but not both. This canard, in my view, has been showcased far too often.

I fully reject that reasoning. Americans throughout the previous 200 years have as well. We can and must balance our responsibilities to bring terrorists to justice while at the same time protecting what it means to be an American. To choose the rule of law over the passion of the moment takes courage, but it is the right thing to do if we are to uphold the values of equal justice and of a process that are codified in our Constitution.
On Aug. 1, 2006, The Onion ran a story headlined “Bush Grants Self Permission To Grant More Power To Self.” It began: “In a decisive 1-0 decision Monday, President Bush voted to grant himself additional international power to grant himself additional powers.” It ended thusly: “Republicans fear that the president’s new power under-mines the standing in the world, so, too, do the postwar period affected our Enemies we despised.

walking in the very footsteps of the en-

ognition that if we did, we would be

that this Nation must not tailor its
ing that decision was the conviction

to confront evidence against

from their crimes. Rather, they were

given the opportunity to walk away

and moving to international law. The

trials of the 20th century was taking us

No. 2, as the executive trial counsel at

was the prime purpose of the tribunal.

American representative insisted that cre-

objected to criminalizing aggressive war for

law—a task that summary justice at execu-

on them for purposes of establishing future

a legal, decision. The trials happened as they

propaganda. Stalin favored conducting trials

out of fear, they would use the trials for

Britain initially opposed the Nuremberg

international law using those trials. Great

The Armed Services Committee, and

Several Senators addressed the

Chair.

Mr. WARNER. Madam President, will

I listened very intently. The Senator from Connecticut and I have, over

many years, formed a very close personal and professional rela-

relationship. I know the deep, abiding respect you have for your father and his

work, particularly at that historic mom-

ent in the history of world jurispru-

dence, the Nuremberg trials. I regret that you perceive that this bill on the

floor falls short of your ideals of the

goals. But I assure you the group with which I worked did everything we

could—and I think we have succeeded,

I say in all respects—certainly with re-

gard to the 1949 treaty, which, as you

know, was in four parts, and the Com-

mon Article 3 to all four of those tream-

ies, preserving this Nation’s obliga-

tions under that treaty.

So while we have our differences, I

just wish to conclude that I respect your views, and I wish to assure you that I have for your father, as do I have for

my father, who was a doctor during that period, I thank you for the opportu-

nity to listen to you.

Mr. DODD. If I may respond to my

colleague from Virginia, for whom I

have the greatest respect, it is not only my love and affection for my father; more importantly, it is my love and af-

fection for what he and a group of Americans did at a time when others said the

words did everything they could for this Senate in my almost 30 years serv-

ing in this body.

I hope my colleagues, with a few days

to go before the election, put this aside. Let’s come back afterward and think more clearly. Too much of polit-

cics is written into these decisions. This is the United States of America.

The PRESIDING OFFICER (Ms. Mur-

kowski). The time of the Senator has

expired.

Mr. DODD. I yield the floor.
CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is now closed.

MILITARY COMMISSIONS ACT OF 2006

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. 3930, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 3930) to authorize trial by military commission for violations of the law of war, and for other purposes.

Pending:
Specter amendment No. 5087, to strike the provision regarding habeas review.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. KYL. Madam President, yesterday Senator SPECTER argued that one sentence in the Hamdi opinion that refers to habeas corpus rights as applying to all “individuals” inside the United States indicates that alien enemy combatants have constitutional habeas rights when they are held inside this country. I believe that Senator SPECTER is incorrect, for the following reasons:

(1) The Hamdi plurality repeatedly makes clear that “the threshold question before us is whether the Executive has the authority to detain citizens who qualify as ‘enemy combatants.’” The plurality expressly frames the issue before it in terms of the rights of citizens no fewer than eight times. It is clear that it is only the rights of citizens that the Hamdi plurality studied and ruled on.

(2) Elsewhere the Hamdi plurality criticized a rule that would prevent a detainee’s right to hold someone as an enemy combatant turn on whether they are held inside or outside of the United States. The plurality characterized such a rule as creating “pervasive incentives,” noted that it would simply encourage the military to hold detainees abroad, and concluded that it should not create a “determinative constitutional difference.” The same effect would, of course, be felt if enemy soldiers’ habeas rights were made turn on whether they were held inside or outside the United States.

(3) Had Hamdi extended habeas rights to alien enemy combatants held inside the United States, that would have been a major ruling of tremendous consequence. Because courts typically do not hide elephants in mouseholes, if Whitman v. ATA, it is fair to conclude that no such groundbreaking ruling is squirreled away in one ambiguous sentence in the Hamdi plurality opinion on the floor Wednesday evening. I presented the arguments today that the correct interpretation of habeas corpus does not extend to alien enemy soldiers held during wartime.

Senator SPECTER responded by quoting out of context cast doubt on the theory that habeas rights of citizens no fewer than eight times. It is clear that it is only the rights of citizens that the Hamdi plurality studied and ruled on. (2) Elsewhere the Hamdi plurality criticized a rule that would prevent a detainee’s right to hold someone as an enemy combatant turn on whether they are held inside or outside of the United States. The plurality characterized such a rule as creating “pervasive incentives,” noted that it would simply encourage the military to hold detainees abroad, and concluded that it should not create a “determinative constitutional difference.” The same effect would, of course, be felt if enemy soldiers’ habeas rights were made turn on whether they were held inside or outside the United States. The fact that the Hamdi plurality rejected this type of geographical gamesmanship in one context casts doubt on the theory that habeas rights of citizens no fewer than eight times. It is clear that it is only the rights of citizens that the Hamdi plurality studied and ruled on.

(3) Had Hamdi extended habeas rights to alien enemy combatants held inside the United States, that would have been a major ruling of tremendous consequence. Because courts typically do not hide elephants in mouseholes, if Whitman v. ATA, it is fair to conclude that no such groundbreaking ruling is squirreled away in one ambiguous sentence in the Hamdi plurality opinion on the floor Wednesday evening. I presented the arguments today that the correct interpretation of habeas corpus does not extend to alien enemy soldiers held during wartime.

Senator SPECTER responded by quoting from a passage in Justice O’Connor’s plurality opinion in Hamdi v. Rumsfeld, 542 U.S. 507 (2004), that he believes establishes that alien combatants are entitled to habeas rights if they are held within the United States. That statement, towards the beginning of section III.A of the court’s opinion, is a part of a statement of general principle. It is in that, absent suspension, habeas corpus remains available to every “individual” within the United States. Senator
SPECTER reads this statement, unadorned by any qualification as to whether the individual in question is a U.S. citizen, an illegal immigrant, or an alien enemy combatant, to stand for the proposition that even the latter has a constitutional right to habeas corpus when held within the United States.

I would suggest that this single, ambiguous statement cannot be construed to bear that much weight, for three reasons.

Elsewhere in its opinion, the Hamdi plurality repeatedly makes clear that the only issue it is actually considering is whether a U.S. citizen has habeas and due process rights as an enemy combatant. The plurality’s emphasis on citizenship is repeatedly made clear throughout Justice O’Connor’s opinion. For example, on page 509, in its first sentence, the plurality opinion says: “we are not disposed to strike the illegality of the detention of a United States citizen on United States soil as an ‘enemy combatant’ and to address the process that is constitutionally owed to one who seeks to challenge his detention as such.” On page 516, the plurality again notes: “The threshold question before us is whether the Executive has the authority to detain citizens who qualify as ‘enemy combatants.’” On page 532, the plurality once again emphasizes: “there remains the question of what process is constitutionally owed to a citizen who disputes his enemy-combatant status.” On page 531: “We reaffirm today the fundamental liberty of a United States citizen is detained in the United States during this period could have been allowed to sue our government in our courts to challenge their detention. And were their right to do so made to turn on whether they were held inside or outside of the United States, our Armed Forces inevitably would have been forced to accommodate them for in foreign territory. And since holding enemy combatants near the war zone is neither practical nor safe, our nation’s whole ability to fight a war would be made to depend on whether we lose some third country where we could hold enemy war prisoners. I would submit that this elephant of a result simply will not fit in the small space for it created by the one ambiguous passage in the Hamdi plurality opinion.

For these three reasons, I believe that Senator SPECTER is incorrect to interpret the Hamdi plurality opinion to extend constitutional habeas corpus rights to alien enemy combatants held inside the United States.

Just to conclude by summarizing the point as follows: On eight separate times, the plurality opinion in Hamdi refers to the rights of citizens. That is the opinion. The plurality opinion is what it rules on. This is our holding. At no point does it extend it to citizens. There is one sentence rather loosely framed that refers to individuals. Had the courts in that decision intended to apply the habeas right to all individuals in the United States rather than citizens, it would most assuredly have said so.

I don’t think, with all due respect to my great friend, the chairman of the committee, that relying on that one loose word in one sentence of the opinion overrides all of the other reasoning, all of the other clear statements, and the obvious intent of the opinion to relate it to citizens only. With all due respect, I disagreed with the majority of the case and conclude that there is nothing wrong with this legislation before us limiting the rights of habeas to those who are citizens and not extending it to alien enemy combatants.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. Madam President, by way of brief reply to the comments of the Senator from Arizona, he argues that the Hamdi decision does not apply to aliens but only to citizens, trying to draw some inferences. But that does not stand up in the face of explicit language by Justice O’Connor to this effect:

All agree that absent suspension the writ of habeas corpus remains available to every individual detained in the United States.

The Senator from Arizona can argue all he wants about inferences, but that stands up to an explicit statement on individuals. And Justice O’Connor knows the difference between referring to an individual or referring to a citizen or referring to an alien. And “individuals” covers both citizens and aliens.

Following the reference to individuals is the citation of the constitutional provision that you can’t suspend
habeas corpus except in time of rebellion or invasion.

Buttressing my argument is the Rasul v. Bush case where it applied specifically to aliens; and it is true that the consideration was under the statute, section 2241. The Court says that section 2241 "draws no distinction between Americans and aliens held in Federal custody."

That again buttresses the argument I have made in two respects. First, Rasul specifically grants habeas corpus, albeit restricted to aliens and says there is no distinction. So on the face of the explicit language of the Supreme Court of the United States there is a constitutional requirement, and it is fundamental that Congress cannot legislate in contradiction to a constitutional interpretation of the Supreme Court. That requires a constitutional amendment—not legislation.

I yield the floor.

The PRESIDING OFFICER. Who yields the floor? The Senator from Vermont.

Mr. LEAHY. Madam President, will the Senator from Pennsylvania yield?

Mr. SPECTER. Madam President, how much time remains under my control?

The PRESIDING OFFICER. Thirty minutes.

Mr. SPECTER. Madam President, I yield 10 minutes to the distinguished Senator from Vermont.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Thank you, Madam President. If I require further time beyond 10 minutes I will take time from that reserved to the Senator from Vermont.

Let's understand exactly what we are talking about here. There are approximately 12 million lawful permanent residents in the United States today. Some came here initially the way my grandfather came, my wife's parents did. These are people who work for American firms, they raise American kids, they pay American taxes.

Section 7 of the bill before us represents a choice about how to treat them. This bill could have been restricted to traditional notions of enemy combatants—foreign fighters captured on the battlefield—but the drafters of this bill chose not to do so.

Let's be very clear. Once we get past all of the sloganeering, all the fund-raising letters, all the sound bites, all the short headlines in the paper, let's be clear about the choice the bill makes.

Let's be absolutely clear about what it says to lawful permanent residents of the United States. Then let's decide if it is the right message to send them and if it is really the face of America that we want to show.

Take an example. Imagine you are a law-abiding, lawful, permanent resident, and in your spare time you do charity work to support international relief agencies to lend a helping hand in disasters. You send money abroad to those in need. You are selective in the charities you support, but you do not discriminate on the grounds of religion. Then one day there is a knock on your door. The Government thinks that the Muslim charity you sent money to may be funneling money to terrorists and thinks you may be involved. You are an ordinary neighbor who saw a group of Muslims come to your House has reported "suspicious behavior." You are brought in for questioning.

Initially, you are not very worried. After all, you live in America. You are innocent, and you have faith in American justice. You know your rights, and you say: I would like to talk to a lawyer. But no lawyer comes. Once again, since you know your rights, you refuse to answer any further questions. Then the interrogators get angry. Then comes solitary confinement, then fierce dogs, then freezing cold that induces hypothermia, then waterboarding, then threats of being sent to a country where you will be tortured, then Guantanamo. And then nothing, for years, for decades, for the rest of your life.

That may sound like an experience from some oppressive and authoritarian regime, something that may have happened under the Taliban, something that Saddam Hussein might have ordered or something out of Kafka. There is a reason why that does not and cannot happen in America. It is because we have a protection called habeas corpus. It is like the Latin phrase by which it has been known throughout our history, call it access to the independent Federal courts to review the authority and the legality by which the Government has taken and is holding someone in custody. It is a fundamental protection. It is woven into the fabric of our Nation.

Habeas corpus provides a remedy against arbitrary detentions and constitutional violations. It guarantees an opportunity to go to court, with the aid of a lawyer, to prove that, yes, you are innocent.

As Justice Scalia stated in the Hamdi case:

The very core of liberty secured by the Anglo-Saxon system of separated powers has been freedom from indefinite imprisonment at the will of the Executive.

Of course, the remedy that secures that most basic freedom is habeas corpus.

Habeas corpus does not give you any new rights, it just guarantees you have a chance to ask for your basic freedom. If we pass this bill today, that will be gone for the 12 million lawful, permanent residents of this nation and we will be gone. If you do not like the millions of other legal immigrants and visitors who we welcome to our shores each year. That will be gone for another estimated 11 million immigrants the Senate has been working to bring out of the shadows with comprehensive immigration reform.

The bill before the Senate would not merely suspend the great writ, the great writ of habeas corpus, it would eliminate it permanently. We do not have to worry about nuances, such as how long it will be suspended. It is gone. Gone.

Over 200 years of jurisprudence in this country, and following an hour of debate, we get rid of it. My God, have any Members of this Senate gone back and read their oath of office upholding the Constitution? This cuts off all habeas petitions, not founded on relatively technical claims but those founded on claims of complete innocence.

We hundred Members in the Senate, we privileged men and women, are supposed to be the conscience of this Nation. We are about to put the darkest blot possible on this Nation's conscience. It would not be limited to enemy combatants in the traditional sense of foreign fighters captured in the field, but anyone who have taken up arms against the United States. That is why the definition of enemy combatant has been so expansively redefined behind closed doors in the dark of night.

This bill is designed instead to sweep others into the net. It would not even require an administrative determination that the Government's suspicions have a reasonable basis in fact. By its plain language, it would deny all access to the courts to anyone who has taken up arms anywhere in the world and suspected of possibly supporting enemies of the United States.

We do not need this bill for those two terrorist captured on the battlefield who have taken up arms against the United States. That is why the definition of enemy combatant has been so expansively redefined behind closed doors in the dark of night.

One need only look at Guantanamo. Every country in the battlefields has a number of people are in there by mistake, but we will not get around to making that determination. Maybe in 5 years, maybe 10, maybe 20, maybe 30. And we wonder why some of our closest allies ask us, what in heaven's name has happened to the conscience and moral compass of this great Nation? Are we so terrified of some terrorists around this country that we will run scared and hide? Is that what we will do, tear down all the structures of liberty in this country because we are so frightened?

It brings to mind that famous passage in "A Man for All Seasons." Thomas More is talking to his protege, William Roper, and says something to the effect that England is planted thick like a forest with laws. He said, Would you cut down those laws to get after the devil? And Roper said, of course I would cut down all the laws in England to get the devil. And then More said, Oh, and when the last law was down and the devil turned on you, what will protect you?
This legislation is cutting down laws that protect all 100 of us, and now almost 300 million Americans. It is amazing the Senate would be talking about doing something such as this, especially after the example of Guantanamo. We can pick up people intentionally or by mistake and hold them forever.

How many speeches have I heard in my 32 years in the Senate during the cold war and after, criticizing totalitarian governments that do things such as that? And we can then proudly say it would never happen in America; this would never happen in America because we have rights, we have habeas corpus, and people are protected.

I am not here speculating about what the bill says. This is not a critic’s characterization of the bill. It is what the bill plainly says, on its face. It is what the Bush-Cheney administration is demanding. It is what any Member who votes for the Specter-Levin amendment and for the bill today is going to be endorsing.

The habeas stripping provisions in the bill go far beyond what Congress did in the Detainee Treatment Act in 2005. As the Supreme Court pointed out in Hamdan, the DTA removed habeas jurisdiction only prospectively, for future cases. This new bill strips habeas jurisdiction retroactively, even for pending cases. This is an extraordinary action that runs counter to long-held U.S. policies disfavoring retroactive legislation.

Second, the DTA applied only to detainees at Guantanamo. This new legislation goes far beyond Guantanamo and strips the right to habeas of any alien living in the United States if the alien has been determined an enemy combatant, or even if he is awaiting a determination—and that wait can take years and years and years. Then, 20 years later, you can say: We made a mistake. Tough. It allows holding an alien, any alien, forever, without the right of habeas corpus, while the Government makes up its mind as to whether he is an enemy combatant.

And third, the impact of those provisions is extended by the new definition of enemy combatant proposed in the current bill. The bill extends the definition to include persons who supported hostilities against the United States, even if they did not engage in armed conflict against the United States or its allies. That, again, is an extraordinary extension of existing laws.

If we vote today to abolish rights of access to the justice system to any alien detainee who is suspected—not determined, not even charged; these people are not even charged, just suspected—of assisting terrorists, that will do by the back door what cannot be done up front. That will remove the check on the administration's abuse of power and give the administration will never again be embarrassed by a U.S. Supreme Court decision reviewing its unlawful abuses of power. The Supreme Court said, you abused your power. And they said, we will fix it. Congress, that will set that aside and give us power that nobody—no king or anyone else setting foot in this land—had ever thought of having.

In fact, the irony is this conservative Supreme Court—seven out of nine members are Republicans—has been the only check on the Bush-Cheney administration because Congress has not had the courage to do that. Congress has not had the courage to uphold its own oath of office.

With this bill, the Congress will have completed the job of eviscerating its role as a check and balance on the administration. The Senate has turned its back on the Warner-Levin bill, a bipartisan bill reported by the Committee on Armed Services, so it can jam through the Bush-Cheney bill. This bill gives up the ghost. It is not a check on the administration but a voucher for future wrongdoing.

Abolishing habeas corpus for anyone the Government thinks might have assisted enemies of the United States is unnecessary and morally wrong, a betrayal of the most basic values of freedom for which America stands. It makes a mockery of the Bush-Cheney administration's lofty rhetoric about exporting freedom across the globe. We can export freedom across the globe, but we will cut it out in our own country. What hypocrisy.

I read yesterday from former Secretary of State Colin Powell’s letter in which he voiced concern about our country's moral authority in the war against terrorism. The general and former head of the Joint Chiefs of Staff and former Secretary of State was right.

Admiral John Hutson testified before the Judiciary Committee that stripping the courts of habeas corpus jurisdiction was inconsistent with our history and our tradition. The admiral concluded:

We don’t need to do this. America is too strong.

When we do this, America will not be a stronger nation. America will be a weaker nation. America will be a weaker nation because we turned our back on our Constitution. We turned our back on our rights. We turned our back on our history.

I ask unanimous consent to have printed in the Record a letter from more than 60 law school deans and professors who state that the Congress would gravely disserve our global reputation by doing this.

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

**September 27, 2006.**

To United States Senators and Members of Congress:

Dear Senators and Representatives: We, the undersigned law deans and professors, write in our individual capacity to express our deep concern about two bills that are rapidly moving through Congress. These bills, the Military Commissions Act and the National Security Surveillance Act, would make the indefinite detention of those labeled as enemy combatants and the executive’s program of domestic surveillance effectively unreviewable by any independent judge sitting in public session. While different in character, both bills unwisely contract the jurisdiction of courts and deprive them of the ability to decide critical issues that must be subject to judicial review in any free and democratic society.

Although the Military Commissions Act of 2006 (S. 3929/S. 3930) was drafted to improve and codify military commission procedures following the Supreme Court’s June 2006 decision in Hamdan v. Rumsfeld, it summarily eliminates the right of habeas corpus for the detaineesefined by the Government as those who have or may be deemed to be enemy combatants: Detainees will have no ability to challenge the conditions of their detention in court unless the executive administration decides to try them before a military commission. Those who are not tried will have no recourse to any independent court at any time. Enacting this provision into law would be a grievous error. As several witnesses testified before the Senate Judiciary Committee on Monday, Article I, Section 9 of the Constitution states that [the] Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it;” conditions that are plainly not satisfied here.

Similarly, the National Security Surveillance Act of 2006 (S. 3876) would strip courts of jurisdiction over pending cases challenging the legality of the administration’s domestic spying program and would transfer these cases to the court established by the Foreign Intelligence Surveillance Act of 1978 (FISA). The transfer of these cases to a secret court that issues secret decisions would shield the administration’s electronic surveillance program from effective and transparent judicial scrutiny.

These bills exhibit a profound and unwarranted distrust of the judiciary. The historic role of the courts is to ensure that the legislature promulgates and the executive faithfully executes the law of the land with due respect for the rights of even the most despised. Any protections embodied in these bills would be rendered worthless unless the courts can hold the executive accountable to enacted law. Moreover, the bills ignore a central teaching of the Supreme Court’s decision in Hamdan v. Rumsfeld: the importance of shared institutional powers and checks and balances in crafting lawful and sustainable responses to the war on terror. Absent effective judicial review, there will be no way to enforce any of the limitations in the bill that Congress is seeking to place upon the executive’s claimed power.

We recognize the need to prevent and punish crimes of terrorism to investigate and prosecute such crimes. But depriving our courts of jurisdiction to determine whether the executive has acted properly when it detains individuals in a manner that endangers the rights of our own soldiers and nationals abroad, by limiting our ability to demand
that they be provided the protections that we deny to others. Eliminating effective judicial review of executive acts as significant as detention and domestic surveillance cannot be justified under the principles of transparency and rule of law on which our constitutional democracy rests.

The Congress would gravely disserve our global leadership in the law-abiding country by enacting bills that seek to combat terrorism by stripping judicial review. We respectfully urge you to amend the judicial review provisions of the Military Commissions Act and the National Security Surveillance Act to ensure that the rights granted by those bills will be enforceable and reviewable in a court of law.

Sincerely,

James J. Alfini, President and Dean, South Texas College of Law.

Michelle J. Anderson, Dean, CUNY School of Law.

Katharine T. Bartlett, Dean and A. Kenneth Pye Professor of Law, Duke Law School.

Molly K. Beutz, Yale Law School.

Harold Hongju Koh, Dean and Gerard C. & Bernice F. ShKLyn Professor of International Law, Yale Law School.

Harold J. Krent, Dean & Professor, Chicago-Kent College of Law.

Lydia Pallas Lewis, Interim Dean and Professor of Law, Lewis & Clark Law School.

Dennis Lynch, Dean, University of Miami School of Law.

John Charles Boger, Dean, School of Law, University of North Carolina at Chapel Hill.

Jeffrey S. Brand, Dean, Professor and Chairman, Center for Law & Global Justice, University of San Francisco Law School.

Katherine S. Broderick, Dean and Professor, University of the District of Columbia, David A. Clarke School of Law.

Brian Bromberger, Dean and Professor, Loyola Law School.

Robert Butkin, Dean and Professor of Law, University of Pittsburgh School of Law.

Evan Caminker, Dean and Professor of Law, University of San Francisco Law School.

Jane Louis, Dean, School of Law, University of San Diego.

John L. Carroll, Dean and Ethel P. Malugen Professor of Law, Cumberland School of Law, Samford University.

Neil H. Cogan, Vice President and Dean, Whittier Law School.

Mary Crowe, Dean and Professor of Law, University of Pittsburgh School of Law.

Mary C. Daly, Dean & John V. Brennan Professor Law and Ethics, St. John’s University School of Law.

Richard A. Matasar, President and Dean, New York Law School.

Philip J. McConnaughay, Dean and Donald J. Farago Professor of Law, The Pennsylvania State University, Dickinson School of Law.

Richard J. Morgan, Dean William S. Boyd School of Law, University of Nevada, Las Vegas.

Fred L. Morrison, Popham Haik Schnobrich/Lindquist & Vennum Professor of Law and Interim Co-Dean, University of Minnesota Law School.

Kenneth M. Murchison, James E. & Betty M. Phillips Professor of Law, Louisiana State University, Paul M. Hebert Law Center.

Cynthia Nance, Dean and Professor, University of Arkansas, School of Law.

Nell Jessup Newton, William B. Lockhart Professor of Law, Chancellor and Dean, University of California at Hastings College of Law.

Maureen A. O’Rourke, Dean and Professor of Law, Michaels Faculty Research Scholar, Boston University School of Law.

Margaret L. Price, Dean, Elmer Sahlstrom Senior Fellow, University of Oregon School of Law.

Stuart L. Deutsch, Dean and Professor of Law, Rutgers School of Law-Newark.

Stephen Dycus, Professor, Vermont Law School.

Allen K. Easley, President and Dean, William Mitchell College of Law.

Christopher Edley, Jr., Dean and Professor, Boalt Hall School of Law, UC Berkeley.

Cynthia L. Fountaine, Interim Dean and Professor of Law, Texas Wesleyan University School of Law.

Stephen J. Friedman, Dean, Pace University School of Law.

Dean Bryant G. Garth, Southwestern Law School, Los Angeles, California.

Charles W. Goodnow, Jr., Dean and Professor of Law, William H. Bowen School of Law, University of Arkansas at Little Rock.

Mark C. Gordon, Dean and Professor of Law, University of Detroit Mercy School of Law.

Thomas F. Guernsey, President and Dean, Albany Law School.

Don Guter, Dean, Duquesne University School of Law.

Jack A. Guttenberg Dean and Professor of Law, LeRoy Fernald, Dean and Professor, North- ern Illinois University College of Law.

Rex R. Pershubicher, Dean and Professor of Law, University of California at Davis School of Law.

Raymond C. Pierce, Dean and Professor of Law, North Carolina Central University School of Law.

Peter Pittsgeoff Dean and Professor of Law, University of Maine School of Law.

Efren Riveras Ramos, Dean, School of Law, University of Puerto Rico.

William J. Rich, Interim Dean and Professor of Law, Washburn University School of Law.

James V. Rowan, Associate Dean, Northeastern University School of Law, Boston, Massachusetts.

Edward Rubin, Dean and John Wade-Kent Syverud Professor of Law, Vanderbilt University.

David Rudenstine, Dean, Cardozo School of Law.

Lawrence G. Sager, Dean, University of Texas School of Law, Alice Jane Drysdale Sheffield Regents Chair in Law, Capital University Law School.

Joseph D. Harbaugh, Dean and Professor, Shepard Broad Law Center, Nova Southeastern University.

Lawrence K. Hellman, Dean and Professor of Law, Oklahoma City University School of Law.

Patrick E. Hobbs, Dean and Professor of Law, Seton Hall University School of Law.

José Roberto Juarez, Jr., Dean and Professor of Law, University of Denver Sturm College of Law.

W. H. Knight, Jr., Dean and Professor, University of Washington School of Law.

Brad Saxton, Dean & Professor of Law, Quinnipiac University School of Law.

Stewart J. Schwab, the Allan R. Teesler Dean & Professor of Law, Cornell Law School.

Geoffrey B. Shields, President and Dean and Professor of Law, Vermont Law School.

Alyamy Soufer, Dean and Professor, William S. Richardson School of Law, University of Hawai'i.

Emily A. Spieler, Dean, Edwin Hadley Professor of Law, Northeastern University School of Law.

Kurt A. Strasser, Interim Dean and Phillip I. Blumkin Professor, University of Connecticut Law School.

Leonard P. Strickman, Dean, Florida International University, College of Law.

Steven L. Willborn, Dean & Schmoker Professor of Law, University of Nebraska College of Law.

Frank H. Wu, Dean, Wayne State University Law School.

David Yellen, Dean and Professor, Loyola University Chicago School of Law.

Mr. LEAHY. Kenneth Starr, the former independent counsel and Solicitor General for the first President Bush, wrote that the Constitution’s conditions for suspending habeas corpus have not been met and that doing it would be problematic.

The post-9/11 world requires us to make adjustments. In the original PATRIOT Act five years ago, we made adjustments to accommodate the needs of the Executive, and more recently, we sought to fine-tune those adjustments. I think some of those adjustments sacrificed civil liberties unnecessarily, but I also believe that many provisions in the PATRIOT Act were appropriate. I wrote many of the provisions of the PATRIOT Act, and I voted for it.

This bill is of an entirely different nature. The PATRIOT Act took a cautious approach to civil liberties and while it may have gone too far in some areas, this bill goes much further than that. It takes an entirely different and cavalier approach to basic human rights and to our Constitution.

In the aftermath of 9/11, Congress provided in section 412 of the PATRIOT Act that an alien may be held without charge if, and only if, the Attorney General certifies that he is a terrorist or that he is engaged in activity that endangers the national security. He may be held for seven days, after which he must be placed in removal proceedings, charged with a crime, or released. There is judicial review through habeas corpus proceedings, with appeal to the D.C. Circuit.

Compare that to section 7 of the current bill. The current bill does not provide for judicial review. It would preclude that. It does not even provide for certification by the Attorney General that the alien is a terrorist. It would apply if the alien was “awaiting” a Government determination whether the alien is an “enemy combatant.” And it is not limited to seven days. It would enable the Government to detain an alien for life without any recourse whatsoever to justice.

What has changed in the past 5 years that justifies not merely suspending but abolishing the writ of habeas corpus for a broad category of people who have not been found guilty, who have not even been charged with any crime? What has turned us? What has made us so frightened as a nation that now the United States will say, we can pick up somebody on suspicion, hold them forever, they have no right to even ask why they are being held, and besides that, we will not even charge them with anything, we will just hold them? What has changed in the last 5 years? Government or for so inept and our people so terrified that we have to do what no bomb or attack could ever do, and that is take away
the very freedoms that define America? We fought two world wars, we fought a civil war, we fought a revolutionary war, all these wars to protect those rights.

And now, think of those people who have given their lives, who fought so hard to protect those rights. What do we do? We sit here, privileged people of the Senate, and we turn our backs on that. We throw away those rights.

Why would we allow the terrorists to win? Why would we allow ourselves what they could never do and abandoning the principles for which so many Americans today and throughout our history have fought and sacrificed? What has happened that the Senate is willing to turn America from a bastion of freedom into a cauldron of suspicion, ruled by a government of unchecked power?

Under the Constitution, a suspension of the writ may only be justified during an invasion or a rebellion, when the public safety demands it. Six weeks after the attacks of September 11, any American soil in our history, the Congress that passed the PATRIOT Act rightly concluded that a suspension of the writ would not be justified.

But now, with terrorism a threat to the United States, the point is whether the suspension of habeas corpus is justified. Under the Constitution, habeas corpus is the right to have your complaints heard while in custody—its meaning is what did "habeas" mean? What does it mean today and at the time it was adopted? It was never, ever, ever intended or imagined during the War of 1812, if British soldiers were captured burning the Capitol of the United States—as they did—that they would have been given habeas corpus rights. It was never thought to be. Habeas corpus was applied to citizens, really, at that time. I believe that is so plain as to be without dispute.

So to say: Habeas corpus, what does it mean? What did those words mean when the people ratified it? They did not intend that those who were attacking the United States of America. We provide special protections for prisoners of war who lawfully conduct a war that might be against the United States. We give them great protections. But unlawful combatants, the kind we are dealing with today, have never been given the full protections of the Geneva Conventions.

Second, my time is limited, and I have been so impressed with the debate that has gone on with Senators KYL and CORNYN that I associate myself generally with those remarks, but I want to recall that in a state of an effort to appease critics and those who had "vague concerns," not too many years ago, this Congress passed legislation that said that CIA-gathered information could not be shared with the FBI. We passed a law in this Congress to appease the left in America, the critics of our efforts against communism. And we have put a wall between the CIA and FBI.

So that was politically good. Everybody must have been happy about that. I was not in the Senate then. Then they complained that he was talking out assertions who had criminal records who may have been involved in violence, and this was somehow making our CIA complicit in dealing with dangerous people, and we banned that. We passed a statute that eliminated that. And everybody felt real good that we had done something special.

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

Mr. SESSIONS. After 9/11, we realize both of those were errors of the heart perhaps, but of the brain. And so what happened? We reversed both of them. We reversed them both. And we need to be sure that the legislation we are dealing with today does not create a long-term battle with the courts over everybody who is being detained. That is a function of the military and the executive branch to conduct a war.

Mr. FEINGOLD addressed the Chair. The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Madam President, I understand I have 6 minutes on the bill in general.

The PRESIDING OFFICER. The Senator is recognized.

Mr. FEINGOLD. Madam President, I oppose the Military Commissions Act.

Let me be clear: I welcomed efforts to bring terrorists to justice. Actually, it is about time. This administration has too long been distracted by the war in Iraq from the fight against al-Qaida. We need a renewed focus on the terrorist networks that present the greatest threat to this country.

We would not be where we are today. 5 years after September 11, we do not have a single Guantanamo Bay detainee having been brought to trial, if the President had come to Congress in the first place, rather than unilaterally creating military commissions that did not comply with the law. The Hamdan decision was a historic rebuke to an administration that has acted for years as if it is above the law.

I have hoped that we would take this opportunity to pass legislation that allows us to proceed in accordance with our Constitution and our values. That is what separates America from our enemies.

These trials, conducted appropriately, have the potential to demonstrate to
the world that our democratic constitutional system of government is our greatest strength in fighting those who attack us.

That is why I am saddened I must oppose this legislation because the trials conducted under this legislation send a very different signal to the world, one that I fear will put our troops and personnel in jeopardy both now and in future conflicts. To take just a few examples, this legislation would allow people indefinitely and arbitrarily to be held without trial for years now, it would eliminate the right of habeas corpus.

One of the most disturbing provisions of this bill eliminates the right of habeas corpus for those detained as enemy combatants. I support an amendment by Senator SPECTER to strike that provision from the bill.

Habeas corpus is a fundamental recognition that in America the Government does not have the power to detain people indefinitely and arbitrarily. And in America, the courts must have the power to review the legality of executive detention decisions.

This bill would fundamentally alter that historical equation. Faced with an executive branch that has detained hundreds of people without trial for years now, it would eliminate the right of habeas corpus.

Under this legislation, some individuals, at the designation of the executive branch alone, could be picked up, even in the United States, and held indefinitely without trial and without any access whatsoever to the courts. They would not be able to call upon the courts to review their detention because they would have been put outside the reach of the law.

Some have suggested that terrorists who take up arms against this country should not be allowed to challenge their detention in court before a neutral decision-maker. The alternative is to allow people to be detained indefinitely with no ability to argue that they are not, in fact—that they are not, in fact—enemy combatants.

There is another reason we must not deprive detainees of habeas corpus, and that is the fact that the American system of government is supposed to set an example for the world as a beacon of democracy. A group of retired diplomats sent a very moving letter to explain their concerns about this habeas-stripping provision. Here is what they said:

"To proclaim democratic government to the rest of the world as the supreme form of government at the very moment we eliminate the most important avenue of relief from arbitrary governmental detention will not serve our interests in the world.

Many dedicated patriotic Americans share these grave reservations about this particular provision of this bill. Unfortunately, the suspension of the Great Writ is not the only problem with this legislation. Unfortunately, I do not have time to discuss them all.

But the bill also appears to permit individuals to be convicted, and even sentenced to death, on the basis of coerced testimony. According to the legislation, statements obtained through cruel, inhuman, or degrading treatment, as long as it was obtained prior to December 2005, when the McCain amendment became law, would apparently be admissible in many instances in these military commissions.

Now, it is true that the bill would require the commission to find these statements have sufficient and probative value. But why would we go down this road of trying to convict people based on statements obtained through cruel, inhuman, or degrading interrogation techniques? Either we are a nation that stands against this type of cruelty and for the rule of law or we are not. We cannot have it both ways.

In closing, let me do something I do not do very often, and that is quote my former colleague, John Ashcroft. According to the New York Times, in a private meeting of high-level officials in 2003 about the military commission structure, then-Attorney General Ashcroft reportedly said:

"Timothy McVeigh was one of the worst killers in U.S. history. But at least we had fair procedures for him.

How sad that this Congress would seek to pass legislation about which the same cannot be said.

Mr. President, I strongly support Senator SPECTER’s amendment to strike the habeas provision from this bill.

At its most fundamental, the writ of habeas corpus protects against abuse of government power. It ensures that individuals detained by the government without trial have a method to challenge their detention. Habeas corpus is a fundamental recognition that in America, the government does not have the power to detain people indefinitely and arbitrarily. And that in America, the courts must have the power to review the legality of executive detention decisions.

It goes without saying that this is not a new concept. Habeas corpus is a longstanding vital part of our American tradition, and is enshrined in the U.S. Constitution, article 1, section 9, where it states:

The Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it.

The Founders recognized the importance of this right. Alexander Hamilton in Federalist Paper No. 84 explained the importance of habeas corpus and its centrality to the American system of government and the concept of personal liberty. He quoted William Blackstone, who warned against the “dangerous engine of arbitrary government” that could result from unchallengeable confinement, and the “bulwark” of habeas corpus against this abuse of government power.

As a group of retired judges wrote to Congress, habeas corpus “safeguards the most hallowed judicial role in our constitutional democracy—ensuring that no man is imprisoned unlawfully.”

This bill would fundamentally alter that historical equation. Faced with an administration that has detained hundreds of people without trial for years now, it would eliminate the right of habeas corpus for anyone the executive branch labels an alien “enemy combatant.”

That’s right. It would eliminate the right of habeas corpus for any alien detained by the United States, anywhere in the world, and held in conditions, at the designation of the government as an enemy combatant. And it would do so in the face of years of abuses of power that—thus far—have been reined in primarily through habeas corpus challenges in our Federal courts.

Let me be clear about what it does. Under this legislation, some individuals, at the designation of the executive branch alone, could be picked up, even in the United States, and held indefinitely without trial, without any access whatsoever to the courts. They would not be able to call upon the laws of our great Nation to challenge their detention because they would have been put outside the reach of the law.

That is unacceptable, and it almost surely violates our Constitution. The rule of law is something deeper and more profound than the collection of laws that we have on paper. It is a principle that underpins our society, and that has been central to our nation since its very founding. As Thomas Paine explained at the time of our country’s birth in 1776, the rule of law is that principle, that paramount commitment, “that in America, the law is king, and there is no other.” The rule of law tells us that no man is above the law—and as an extension of that principle—that no executive will be able to act unchecked by our legal system.

Yet by stripping the habeas corpus rights of any individual who the executive branch decides to designate as an enemy combatant, that is precisely
where we end up—with an executive branch subject to no external check whatsoever. With an executive branch that is king.

Now, it may well be that this provision will be found unconstitutional as an illegal abridgment of the writ of habeas corpus. But that determination will take years of protracted litigation. And for what? The President has been urging Congress to pass legislation so that Khalid Sheikh Mohammed, the allegedly mastermind of 9-11, and other ‘high value’ al-Qaida detainees can be tried. This bill is supposed to create a framework for prosecuting unlawful enemy combatants for war crimes that the Supreme Court can accept following the decision this summer in the Hamdan case. There is absolutely no reason why we need to restrict judicial review of the detention of individuals who have not been charged with any crime.

That raises another point. People who are actually subject to trial by military commission will at least be able to argue their innocence before some tribunal, even if I have grave concerns about how those military commissions would proceed under this legislation, who have not been charged with any crime will have no guaranteed venue in which to proclaim and prove their innocence. As three retired generals and admirals explained in a letter to Congress:

The perception of hypocrisy on our part—a sense that we demand of others a behavior that we fail to observe—is an acid which can overwhelm our diplomacy, no matter how well intended and generous.

That is a quote.

Let’s not go down this road. Let’s remove this provision from the bill.

As is already clear, I’m not the only one who has serious concerns about this provision. There is bipartisan support for this amendment. And Congress has received numerous letters objecting to the habeas provision, including from Kenneth Starr; a group of former diplomats; two different groups of law professors; a group of retired judges; and a group of retired generals. Many, many justly-indignant Americans have grave reservations about this particular provision of the bill.

They have reservations not because they sympathize with suspected terrorists. Not because they are soft on national security. Not because they don’t understand the threat we face. No. They, and we in the Senate who support this amendment, are concerned about this provision because we care about the Constitution, because we care about the image America presents to the world as we fight the terrorists. Because we know that the writ of habeas corpus provides one of the most significant protections of human freedom against arbitrary government action ever created. If we sacrifice it here, we will head down a road that history will judge harshly and our descendants will regret.

Let me close with something that this group of retired judges said.

For two hundred years, federal judiciary has maintained Chief Justice Marshall’s solemn admonition that ours is a government of laws, and not of men. The proposed legislation imperils this proud history by abandoning the Great Writ.

Mr. President, we must not imperil our proud history. We must not abandon the Great Writ. We must not jeopardize our Nation’s proud traditions and principles by suspending the writ of habeas corpus, and permitting our government to pick people up off the street, even in U.S. cities, and detain them indefinitely without court review. That is not what America is about.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mr. CORNYN. Madam President, I ask unanimous consent for 3 minutes from our time.

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

Mr. CORNYN. First of all, Madam President, I would like to point out there are many myths about this legislation. We need to get to the facts and get to the truth so people can understand what the choices are.

Our distinguished colleague from Wisconsin, in my view, also perverted another myth by saying this war is all about Iraq, when, in fact, the new leader of al-Qaida in Iraq, succeeding al-Zarqawi, just reported in an Associated Press story that 4,000 al-Qaida foreign fighters have been killed in Iraq due to the war effort there. But this is a global war, and it requires a uniformed treatment of the terrorists in a way that reflects our values but also the fact that we are at war.

I think our colleagues need to be reminded of legislation which we passed in December of 2005, known as the Detainee Treatment Act. When people come here and say that we are stripping all legal rights from terrorists who are detained at Guantanamo Bay, they are simply flying in the face of the Detainee Treatment Act that we passed in December 2005, which provides not only a review through a combattant status review tribunal, with elaborate procedures to make sure there is a fair hearing, but that right is tied to the D.C. Circuit Court of Appeals, not only to make sure that the right standards were applied—that is, whether the military applied the right rules to the cases, but also to attack the constitutionality of the system itself, how they chose to do so. So those who claim we are simply stripping habeas corpus rights are simply flying in the face of the facts as laid out in the Detainee Treatment Act.

Now, the question may be: Are we going to provide what the law requires? Are we going to provide additional rights and privileges that some would like to confer upon these high-value detainees located at Guantanamo Bay? One fact is, that proponents of this amendment propose would be to divert our soldiers from the battlefield and to tie their hands in ways with frivolous litigation and appeals. And the last thing that I would think any of us would want to do would be to provide an easy means for terrorists to sue U.S. troops in U.S. courts, particularly when it is not required by the Constitution, laws of the United States, not mandated by the Supreme Court, and we have the adequate substitute remedy, which I believe is entirely consistent with the U.S. Supreme Court’s decisions in this area.

We have provided an avenue or a process by which these detainees can have their rights protected, such rights as they have been unlawful combatants attacking innocent civilians. America is conferring rights upon them that we do not have to confer, but we are conferring them because we believe that we have the right to be their protectors, and we ought to be consistent with our Constitution and with the decisions of the U.S. Supreme Court.
The last thing I would think any of us would want to do would be to tie the hands of our soldiers to permit terrorists to sue U.S. troops in Federal court at will.

The PRESIDING OFFICER (Mr. Ensign). The Senator’s time has expired.

The Senator from Missouri is recognized.

Mr. BOND. Mr. President, I ask unanimous consent for 10 minutes from Senator Warner on the bill.

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

Mr. BOND. Mr. President, I appreciate the opportunity to talk generally about how we have already seen about the importance of not affording habeas corpus to the unlawful combatants when they have more protections than international law requires, or than any other country provides.

Speaking on the bill, for the last 5 years, our most important job has been to protect our families from another terrorist attack.

Our children, our mothers, fathers, grandparents and children—all of them deserved to die in the 9/11 attacks; none deserve to die in another terrorist attack. That is why we are doing everything we can to protect our families by stopping terrorists, capturing them, learning their secrets, foiling their plots, and bringing the terrorists to justice.

Through our hard work, there has not been another direct attack on U.S. soil since 9/11. We have worked hard to prevent and stop attacks in the last 5 years and must continue to prevent future attacks. We dramatically boosted airport and airline security. We hired new airport screeners, implemented new checks, and even put armed agents on flights where necessary.

We added thousands of new FBI agents, thousands of new intelligence officers, and increased their budgets by billions to provide new armies against terrorism.

We passed the PATRIOT Act to provide the tools needed to discover terrorist plots and stop them. We reorganized our intelligence agencies to bring a single focus and purpose against terrorism.

We tore down the walls between law enforcement and intelligence to get terror planning and plot information to authorities as quick as possible.

All of this is going on as I speak, as we sleep at night, as our children go to school, as we are fighting the war on terrorism.

The President recently highlighted some of the successes we have had because of our terror fighting tools and efforts. He recounted how we have captured terrorists, used new tools to learn their secrets, captured additional terrorists, connected the dots of their conspiracies, and foiled their terror attack plans.

But now some want to tie the hands of our terror fighters, they want to take away the tools we use to fight terror—handcuff us, hamper us—in our fight to protect our families.

It’s not new, really. Partisans have slowed our efforts to fight terror every step of the way.

Many on the other side voted against the PATRIOT Act.

Many blocked authorization of the PATRIOT Act for months. The Democrat Leader actually boasted, “We killed the PATRIOT Act.”

Thank heavens that wasn’t true. Now, I know that they all love our country, they are not unpatriotic. They just don’t understand the terrorist enemies we face.

These critics are not willing to do what is necessary to protect fully our families from terrorists.

You don’t have to take my word for it, just look at their record over the last 5 years. Whether or not you would say terror war critics have a weak record on terror, they have certainly tried to block, slow down, and take away our terror fighting tools.

Some congressional Democrats voted to cut and run from Iraq. Nothing would embolden terrorists more than to see the U.S. turn tail and run home. Osama bin Laden cited America quitting Somalia, and failing to respond to the U.S.S. Cole bombing, as signs of U.S. weakness and vulnerability. We all know what happened later.

Democrats in the Senate have blocked the appointment of senior anti-terror officials. The 9/11 commission report recommended better coordination between law enforcement and intelligence officials. Only last week did Democrats stop blocking the appointment of the senior Justice Department official for National Security.

Partisans readily spread classified information leaked to the public or the media. They call news conferences to highlight cherry-picked intelligence information, or quote newspaper articles betraying our Nation’s secret terror fighting programs. Don’t they think this encourages the enemy or demoralizes our anti-terror officials? The 9/11 commission report recommended better coordination between law enforcement and intelligence officials.

Some propose to handcuff our ability to discover terrorist plots. They propose to make it hard to listen in on potential terrorist calling from a foreign country, or to a foreign country to discuss terror plans.

If al-Qaeda calls in, we ought to be listening. That is authorized under the Constitution. The Constitution clearly gives the President the power to intercept phone calls under the foreign intelligence exception in the Constitution.

In my meetings with intelligence officials both abroad and here at home I have heard repeatedly how the disclosure, not only of classified information, but also of our interrogation techniques, is so extremely damaging.

Our personnel have encountered enemy combatants trained to resist disclosed interrogation techniques thanks to leakers in our media.

If we lay out precisely the techniques that will bring in and protect them in the Federal Register, they will be in an al-Qaeda training manual within 48 hours.

I’m pleased that with the current Military Commissions legislation moving forward, we have clarified our strict adherence to standards that forbid torture in any way, shape or form and we are allowing our CIA to move forward with a humane interrogation program whose techniques will not be published in the Federal Register, or even worse, in another newspaper disclosure.

Critics support trial procedures that would give terrorists secret intelligence information.

Why on Earth would we hand over classified evidence and information to terrorists so that information could be used against us in the future?

Remember the 1993 World Trade Center bombing? The prosecution of terror suspects there involved giving over 200 names of terror suspects to the attorneys representing the terrorists. They gave them that in a trial, and some months later, after an investigation of the bombings in Africa, we captured the al-Qaeda documents which had all of that information that had been given to the attorneys. So once you give it to a detainee or the detainee’s attorney, you can count on it getting out.

One other thing is important. Some would propose exposing our terror fighters to legal liability. They oppose giving our terror fighters certainty and clarity in how to go about their jobs. They leave them in an uncertain prosecution program has already succeeded in breaking apart terror conspiracies and preventing several terror attacks. Critics are being tough on targets. Terrorists argue that we should treat them like prisoners of war under the
Geneva Conventions. Article 72 of the Geneva Conventions on treatment of prisoners of war says POWs shall be allowed to receive parcels containing foodstuffs. Is that what critics think the 9/11 Commission conspirators desire? ARTICLE 71 says POWs shall be allowed to send and receive letters and cards. Is that what opponents of the bill believe people who conspire to cut off our heads deserve—letters from home? 

Mail call: Bin al-Shibh.

Article 60 requires us to grant all POWs monthly advances of pay. It even says how much: below sergeant, 8 Swiss francs; officers, 50 Swiss francs; generals, 75 Swiss francs. 

Do the critics think Khalid Sheik Mohammed deserves 50 Swiss francs or 75?

Critics of being tough on terrorists say that we should adhere to international standards of decency. Where was the decency when international troops withdrew without a fight from Srebrenica, Bosnia allowing the genocide of its men and boys? 

What was the decency when the U.N. allowed Sudan, guilty of genocide in Darfur, to serve on the Human Rights Commission, and allowed Cuba to help monitor international human rights? This was neither moral nor decent.

Someday the world will laugh at our tough treatment we are debating will lead to bad treatment of America’s soldiers in the future. That is a close cousin to the argument that if we leave the terrorists alone they will stop attacking us, or that America can make them do it.

Do we need a reminder of how badly they are already treating us? The Wall Street Journal reporter kidnapped by terrorists, Daniel Pearl, had his head cut off long before the criminal acts of Abu Grahib or news of the CIA prisons.

The charred bodies of our Special Forces dragged through the streets of Mogadishu tell us what the vague standards of the Geneva Convention got us. 

As I said before, I support a torture ban. I also support provisions that clearly ban cruel, inhuman treatment or intentionally causing great suffering or serious injury. These are serious felonies, as they should be. But what we cannot do is give up tough treatment short of this that protects our families from attack.

What do critics think would happen if we were soft on terrorists? Would they be satisfied with only name, rank and serial number? Would they have us say to our terror suspects, “Oh gosh darn, I was so hoping you would willingly tell us your terror plots. Oh well, here’s your 50 Swiss franc advance pay, don’t eat too much from your cookie care package, we’ve scheduled a dentist appointment for you for Tuesday.”

Of course not, that would be absurd to think that terrorists will willingly tell us their plots. Terror war critics have the moral basis of this bill. They have some hokey good cop—bad cop law enforcement approach will work on al-Qaeda. 

These people flew airplanes into buildings for heaven’s sake, or should I say for hell’s sake. America must fight with honor. We must fight from the moral high ground. But do not tell me we lack a moral basis for this war. Show me someone who doubts America’s moral basis in this fight against terror and I will show you someone who has lost their own moral compass.

The critics make a future points to this bill. We live in an era where we must fight terror. To win, we must fight tough in that fight against terror. We must give our terror fighters the tools they need and the protections they require to protect our families from terror.

We cannot fall into the traps our terror war critics suggest: handcuffing our law enforcement and intelligence agents, blocking our terror fighting leadership, releasing and spreading our terror suspects. Our terror fighting methods and techniques, granting terrorists overly- comfortable protections, going soft on terrorists who hold the secrets of their plots, their attacks.

Our agents deserve better, our soldiers deserve better, our families deserve better.

To start where I began, this is what all our efforts are about. Protecting our vulnerable families, protecting our children, protecting our mothers and fathers, protecting grandparents and grandchildren. None of the vulnerable it protects deserved to die in the 9/11 attacks, and none deserve to die again in another terrorist attack.

I urge my colleagues to support this legislation.

Mr. WARNER. Mr. President, we are anxious to move to a vote on the Specter amendment to accommodate a number of colleagues. Therefore, I urge to that vote.

Mr. LEVIN. That is not a unanimous Mr. WARNER. No.

Mr. LEVIN. We have three Senators who have been allocated time specifically, and that time may be used relative to the amendment or in general debate on the bill. I will not agree to any restriction of time that the Senator has been allocated.

Mr. WARNER. I recognize that. It is in our mutual interests to the move ahead on the bill. There will be time after the vote for Senators to speak. You have 18 hours under my control on general debate.

The PRESIDING OFFICER. The Senator from California is recognized.

Mr. WARNER. Mr. President, the time for the Senator from California is under which category?

The PRESIDING OFFICER. General debate time.
Guantanamo, described how he was held for years, even though he had never been a terrorist or a soldier. He was never even on a battlefield. He had been sold by Pakistani bounty hunters to the United States military for $5,000. Quadros combined the reasons why the availability of habeas corpus that this mistake was able to be corrected. That is why Senator SPECTER’s amendment is right.

If innocent people are at Guantanamo—and they presumably are and have abuses regarding internment—only because of the expediency of the moment or the political winds of an impending election or the political pressure of an administration. But it is something that has been at the forefront of demanding humane treatment of all people. We must not turn our back on these fundamental principles.

I am disappointed to be voting against this bill. I had hoped a real bipartisan compromise could be reached. The PRESIDING OFFICER. The Senator’s time has expired. Who yields time?

Mr. SPECTER. Mr. President, I yield 10 minutes to the distinguished Senator from Oklahoma.

The PRESIDING OFFICER. The distinguished Senator is recognized for 10 minutes.

Mr. SMITH. Mr. President, this is a most difficult issue we are engaged in. We are arguing about what I believe is a cornerstone principle of the rule of law, and that is the issue of habeas corpus.

I know this is an unusual war, and I don’t know its duration. No one fully does. But if it is to be allowed to be true to our Constitution and to the rule of law, we have to be true to that law.

I have traveled as a Senator all over this globe and have spoken with great pride about and the superiority of democracy to other means of government. While I support this bill in providing due process for these detainees, I rise because I am concerned about the provisions relating to habeas corpus.

I am reminded of the words of Thomas Jefferson who once said:

The habeas corpus secures every man here, alien or citizen, against everything which is not law, whatever shape it may assume.

On another occasion he said:

I would rather be exposed to the inconvenience of attending too much liberty than to those attending too small a degree of it.

What we are talking about is section 7 of this bill, which will further strip the Federal courts of jurisdiction to hear pending Gitmo cases as it applies to all pending and future cases. Had this proposal been law earlier this year, the Supreme Court may not have had jurisdiction to hear the Hamdan case, which is what brings us here today.

At the heart of the habeas issue is whether the President should have the sole authority to indefinitely detain unlawful enemy combatants without any judicial restraints. Congress will have no wiser President. But one of the most controversial decisions of his administration was the suspension of habeas corpus for all military-related cases, ignoring the ruling of a U.S. circuit court against this order. He, in fact, believe, if my memory of history serves me, imprisoned the entire Maryland Legislature because of their attempts to secede from the Union. He did it. It happened. It is not necessarily the proudest moment of his administration. But it is something that has been raging with controversy ever since.

Habeas petitions are not clogging the courts and are not frivolous. The administration claims that the approximately 200 pending habeas cases are clogging our courts and are for the most part frivolous. These petitions are not an undue administrative burden. Judges always have the discretion to dismiss frivolous claims, and indefinite detention of a foreigner without showing cause, Mr. President, is not frivolous.

I suppose what brings me to the floor today is my memory of my study of the law. While I was in law school, I was particularly taken with the study of the Nuremberg trials. The words of
Justice Robert H. Jackson inspired me then and inspire me still. He was our chief counsel for the allied powers. What he said on that occasion in his closing address to the international military tribunal is an inspiration. Said Mr. Justice Jackson:

‘That four great nations, flushed with victory and stung with injury stay the hand of vengeance and voluntarily submit their captive enemies to the judgment of the law is one of the most significant tributes that Power has ever paid to Reason.

On the fairness of the Nuremberg proceedings, he said in his closing statement:

‘Of one thing we may be sure. The future will never have to ask with misgiving, what could the Nazis have said in their favor. History will know that whatever could be said, they were allowed to say. They have been given the opportunity to put before the courts their pomp and power, never to give to any man. But fairness is not weakness. The extraordinary fairness of these hearings is an attribute to our strength. I simply feel this particular provision in this bill ought to be taken out. We ought not to suspend the writ of habeas corpus. We should go the extra mile, not as a sign of weakness, but as evidence of our strength.

I refer to section 1021 of the underlying bill and ultimately will leave the judgment of its constitutionality without habeas to the judgment of the judiciary, but I believe we are called upon to go the extra mile to show our strength and not our weakness, and ultimately our Nation will be stronger if we stand by the rule of law.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. LEVIN. Mr. President, I thank the distinguished Senator from Oregon for those very cogent remarks, especially in the context of additional Republican support, stated bluntly, and in light of more moderate Republican support.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, the Democratic leader has yielded 2 minutes of his leadership time to me. I ask unanimous consent that I be allowed to proceed on that basis.

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

Mr. LEVIN. Mr. President, I support the Stennis-Leahy amendment on the writ of habeas corpus. The habeas corpus language in this bill is as legally abusive of the rights guaranteed in the U.S. Constitution as the actions at Abu Ghraib, Guantanamo, and the CIA’s secret prisons were physically abusive of the detainees themselves.

The Supreme Court has long held that all persons inside the United States, including lawful permanent residents and other aliens, have a constitutional right to the writ of habeas corpus. Yet, this provision purports to apply even to aliens who are detained inside the United States, including lawful permanent residents.

Unlike the provision that was included in the Detainee Treatment Act last year, this court-stripping provision would apply on a world-wide basis, not just at Guantanamo. It would apply to detainees of all Federal agencies, including the Department of Defense. It would attempt to expressly strip the courts of jurisdiction over all pending cases.

This provision goes beyond stripping the courts of habeas jurisdiction. It also prohibits the U.S. courts from hearing or considering ‘any other action against the United States or its agents relating to any aspect of the detention, treatment, or trial’ of an alien detainee. As a result, this provision would leave many detainees without any alternative legal remedy at all, even after released, even if there is every reason to believe that the detention was in error, and even if the detainees were altercation or abused while in U.S. custody.

For example, the Canadian Government recently concluded, after a comprehensive review, that one of its citizens had been handed over by U.S. authorities and interrogated which subjected him to torture and cruel and inhuman treatment, without any evidence that he was an enemy combatant or that he supported any terrorist group. Under this habeas corpus court jurisdiction, that individual would have no legal remedy in the U.S. courts even after he was finally released from illegal detention, unless the United States acknowledges that it made a mistake when it determined that he was an enemy combatant.

The fundamental premise of last year’s Detainee Treatment Act, DTA, was that we could restrict future habeas corpus suits, because we were providing an alternative course of access to the courts.

The language in the bill before us would deprive many detainees of the right to file a writ of habeas corpus without providing any alternative form of relief. For example, the provision applies on a worldwide basis, not just at Guantanamo. DOD detainees outside Guantanamo do not have access to Combatant Status Review Tribunals—CSRTs—so they can’t get to court to review CSRTs. Because this bill would deprive them of the writ of habeas corpus or any other legal remedy, they would have no access to the courts at all.

The provision applies to detainees of all Federal agencies, not just DOD. Detainees of other Federal agencies do not get CSRTs, so they can’t get to court to review CSRTs. Because this bill would deprive them of the writ of habeas corpus or any other legal remedy, they would have no access to the courts at all.

The provision even applies to lawful resident aliens who are detained and held inside the United States. Because this bill would deprive them of the writ of habeas corpus or any other legal remedy, they would have no access to the courts at all.

Even in cases where DOD regulations provide detainees a right to Combatant Status Review Tribunals—CSRTs—such tribunals may not be an adequate substitute for judicial review under a writ of habeas corpus. CSRTs are permitted to consider only hearsay evidence, and evidence that is never disclosed to the accused. Detainees before those status review tribunals are denied access to witnesses and documents needed to rebut allegations by the government and reviewing CSRT determinations are not authorized to make an independent determination whether there is a lawful basis for the detention.

The court stripping provision in the bill does more than just eliminate habeas corpus rights for detainees. It also prohibits the U.S. courts from hearing or considering ‘any other action against the United States or its agents relating to any aspect of the detention, treatment, or trial’ of an alien detainee.

A separate provision in the bill adds that no person—whether properly held as an alien detainee or not—may invoke the Geneva Conventions as a source of right in any court of the United States. Other provisions establish new defenses for individuals who may be accused of violating standards for the treatment of detainees under U.S. and international laws.

Taken together, these provisions do not just deprive detainees of the ability to challenge the basis on which they have been detained—they are an effort to insulate the United States from any judicial review of our treatment of detainees, an effort to ensure that there will be no accountability for actions that violate the laws and the standards of the United States.

Last year, this Congress took an important stand for the rule of law by enacting the Detainee Treatment Act, which prohibits the cruel, inhuman or degrading treatment of detainees in the custody of any U.S. agency anywhere in the world. That landmark provision is at risk of being rendered meaningless, if we establish rules ensuring that it can never be enforced.

Earlier this month, we received a letter from three retired Judge Advocates General, who urged us not to strip the courts of habeas corpus jurisdiction. That letter, signed by Admiral Hutson, Admiral Guter, and General Brahms, stated:

‘We urge you to oppose any further erosion of the proper authority of our courts and to reject any provision that would strip the courts of habeas jurisdiction.

As Alexander Hamilton and James Madison emphasized in the Federalist Papers, the writ of habeas corpus embodies principles fundamental to our nation. It is the essence of the rule of law, ensuring that neither king nor executive may deprive anyone of liberty without some independent review to ensure that the detention has a reasonable basis in law and fact. That right must be preserved. For we know that under our security. They are what our country stands for.

We have received similar letters from nine distinguished retired Federal
Some persons detained at Guantánamo may be terrorists guilty of plotting against the people and the Government of these United States. Of course terrorists must be properly detained and prosecuted for their evil deeds. But Pentagon advisers continue to claim they may be persons simply swept up because they were in the wrong place at the wrong time. How can we know which truly deserve to be held and tried as enemy combatants if we abolish the legal right of the incarcerated to fairly challenge their detention in court?

The provision in the bill before us deprives Federal courts of jurisdiction over matters of law that are clearly entrusted to them by the Constitution of the United States. The Constitution is clear on this point: The only two instances in which habeas corpus may be suspended are in the case of a rebellion or an Invasion. We are not in the midst of a rebellion, and there is no invasion. It is unbelievable that those who drafted the Constitution deliberately used the word “suspended.” They did not say that habeas corpus could be forever denied, abolished, revoked, or eliminated. They said that, in only two instances, it could be temporarily suspended. Not forever. Not like in this bill.

How can we, the U.S. Senate, in this bill abolish habeas corpus by approving a provision that so clearly contravenes the text of the Constitution? Where is our respect for the checks and balances of a Federal court may review whether an accused enemy combatant is lawfully detained? How can we, the U.S. Senate, in this bill abolish habeas corpus by approving a provision that so clearly contravenes the text of the Constitution?

The legal procedure for issuing writs of habeas corpus was codified by the English Parliament in response to concerns by the British people that no monarch should be permitted to hold innocent persons against their will without due process. It is precisely because the Founders of the United States feared elimination of the writ that, when they enumerated the powers of the Congress in the very first article of the U.S. Constitution, they included specific reference to the writ of habeas corpus and sought to protect it. The language they included in article I, section 9, clause 2 of the Constitution, also known as the “Suspension Clause,” reads as follows. It states:

The privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it.

I wonder whether those who drafted the provision in this bill to eliminate habeas corpus have read this clause of the Constitution. Inconceivably, the U.S. Senate is being asked to abolish a fundamental right that has been central to democratic societies, including our own, for centuries. The outrageous provision we are debating today could imply to the world that habeas corpus is a throwback to a bygone era. However, the courts, not just suspects picked up overseas but even those taken into custody on U.S. soil, have a right to challenge their detention in court.
of our country when it comes to dealing with people who find themselves in our capture.

Why not habeas for noncitizen, enemy combatant terrorists housed at Gitmo? No. 1, the whole Congress has agreed any habeas is not available; the Detainee Treatment Act will be available. The only reason we are here is because of the Hamdan decision. The Hamdan decision did not apply to the Detainee Treatment Act retroactively, so we have about 200 and some other prisoners held here and we are going to attend to them now.

Why do we—I and others—want to take habeas off the table and replace it with something else? I don’t believe judges should be making military decisions in a time of war. There is a reason the Germans and the Japanese and every other prisoner held by America have never gone to Federal court and asked the judge to determine their status. That is not a role the judiciary should be playing. They are not trained to make those decisions.

Under the Geneva Conventions article 5, the combatant tribunal requirement is a military decision. So I believe very vehemently that the military is better qualified to determine who an enemy combatant is over a Federal judge. That is the way it has been, that is the way it should be, and with my vote, that is the way it is going to be.

What is the problem? Why am I worried about having Federal judges turning every enemy combatant decision into a trial? In 1950 the Supreme Court, denying habeas rights to German and Japanese prisoners, said: Such trials would hamper the war effort and bring aid and comfort to the enemy. I agree with that.

They would diminish the prestige of our commanders not only with enemies, but war-weary neutrals.

I agree with that.

It would be difficult to devise a more effective form of war commander than to allow the very enemies he has ordered to return to the battlefield.

I agree with that. That is why we shouldn’t be doing habeas cases in a time of war. Nor is it unlikely that the result of such enemy litigation would cause conflict between judicial and military opinion—highly comforting to the enemies of the United States.

These trials impede the war effort. It allows a judge to take what has historically been a military function.

What is more, proposing for this body and our country is to allow the military to do what they are best at doing: controlling the battlefield. Let them define who an enemy combatant is under the Geneva Conventions requirements. Indeed, the Combatant Status Review Tribunal which is Geneva Conventions compliant, in my opinion, and let the Federal courts come in after they made their decision to see if the military applied the correct law, the procedures were followed, and the evidence justifies the decision of the military.

To substitute a judge for the military in a time of war to determine something as fundamental as who our enemy is is not only not necessary under our Constitution, it impedes the war effort, it is irresponsible, it needs to stop, and it should never have happened. I am confident Congress has the ability, if we choose, to distinguish an enemy combatant, noncombatant—what rights they have in a time of war and what has happened.

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

Mr. GRAHAM. Mr. President, I will ask unanimous consent to have printed in the RECORD, if I may, examples of the habeas petitions filed on behalf of detainees against our troops. There before the military, the material was ordered to be printed in the RECORD, as follows:

EXAMPLES OF Habeas Petitions Filed of Behalf of Detainees

1. Canadian detainee who threw a grenade that killed an Afghan and who comes from family with longstanding al Qaeda ties moves for preliminary injunction forbidding interrogation of him or engaging in cruel and inhuman treatment in ‘cruel and unusual punishment’ treatment of him (n.b. this motion was denied by Judge Bates).

2. “Al Odah motion for dictionary internet security forms”—Kuwaiti detainees seek court orders that they be provided dictionaries in contravention of GTMO’s force protection policy and internet access policies and in keeping with detention in “cruel, inhuman, or ‘degrading’ treatment of him.

3. “Alladeen Motion for TRO re transfer”—Egyptian detainee who Combatant Status Review Tribunal adjudicated as no longer an enemy combatant, and who was therefore due to be released by the United States, files motion to block his repatriation to Egypt.

4. “Parachute Motion for H e Condi tions”—Motion by high level at Qaeda detainee complaining about base security procedures, speed of mail delivery, and medical treatment, seeking that he be transferred to the “least onerous conditions” at GTMO and asking the court to order GTMO allow him to keep any books and reading materials sent to him and to “report to the Court” on “his opportunities for exercise, communication, recreation, worship, etc.”

5. Motion for PI re Medical Records”—Motion by detainee accusing military’s health professionals of “gross and intentional medical malpractice” in alleged violation of the 4th, 5th, 6th, and 14th Amendments, 42 USC 1981, and unspecified international agreements.

6. “Abdah—Emergency Motion re DVDs”—“emergency” motion seeking court order requiring GTMO to set aside its normal security policy and show detainees DVDs that are purported to be family videos.

7. “Petitioners’ Sup. Opposition”—Filing by detainee requesting that, as a condition of his release from administrative appeals, the Court involve itself in his medical situation and set the stage for them to second-guess the provision of medical care and other conditions.

8. “Al Odah Supplement to PI Motion”—Motion by Kuwaiti detainees unsatisfied with the Koran they are provided as standard issue by GTMO, seeking court order that they be allowed to keep various other supplementary religious materials, such as a 10-volume or 4-volume Koran with commentary, in their cells.

Mr. SPECTER. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. There is 12 minutes remaining.

Mr. SPECTER. Mr. President, I think it would be appropriate, if I may have Senator WARNER’s concurrence, to tell our colleagues that this will be the end of the time allocated for this amendment and we could expect to vote at about 11:45 or 11:50.

Mr. WARNER. Mr. President, very definitely. As soon as all time on this amendment is allocated or yielded back, my intention is to move to a vote.

Mr. SPECTER. I thank my distinguished colleague.

Mr. President, I fully realize it is unpopular to speak for aliens, unpopular to speak on war, but that is not what this Senator is doing. What I am trying to establish is that the executive branch is proceeding to determine whether they are enemy combatants.

I submit that the materials produced on this floor and in the hearings of the Judiciary Committee show conclusively that the Combatant Status Review Tribunals do not have an adequate way of determining whether these individuals are enemy combatants. What we are doing is defending the jurisdiction of the Federal courts to maintain the rule of law. If the Federal courts are not open, if the Federal courts do not have jurisdiction to determine constitutionality, then how are we to determine what is constitutional?

My own background is one of a reverence for the law, a reverence for the independence of the judiciary, and a reverence for the rule of law as interpreted by our Constitution. If it hadn’t been for the Federal courts, the Supreme Court of the United States, we would not have seen the decision in Brown v. Board of Education in 1954. The legislative branches were too mired in politics, the executive was too mired in politics, and it was only the Supreme Court which could recognize the injustice of segregation and it led to that decision.

Similarly, it was the Federal courts which changed the criminal procedure in this country as a matter of basic fairness. Prior to the decision of the case of Brown v. Mississippi in 1963, the Federal courts did not establish standards for State criminal courts. It was determined as a matter of States’ rights that States could establish their own determinations. But in that case, the evidence was overwhelming about a basic injustice. For the first time, the Supreme Court of the United States stepped in and said: States may not take an individual,
take him across State lines, have a feigned hanging, extract a confession, and use that to convict him. That was done by the Federal courts.

I had the occasion when I was in the Philadelphia district attorney’s office to work on a daily basis with a revolution in constitutional criminal procedure. I was litigating the issues in the criminal courts when Mapp v. Ohio came down, imposing the rule of exclusion of evidence in State courts if obtained in violation of the fourth amendment, and when Escobedo came down, limiting admissions and confessions if not in conformity with rules. Then Miranda v. Ohio came down. I found those decisions as a prosecutor very limiting and impeding. But the course of time has demonstrated that those decisions have improved the quality of justice in America. Chief Justice Rehnquist, a recognized conservative, sought to eliminate or limit Miranda when he came to the Supreme Court of the United States. Later in his career, he said in Miranda that the protections of those warnings were appropriate and were helpful in our society.

There are four fundamental, undeniable principles and facts involved in the issues we are debating today. The first undeniable principle is that a statute cannot overrule a Supreme Court decision on constitutional grounds, and a statute cannot contradict an explicit constitutional provision.

Point No. 2, the Constitution is explicit in the statement that habeas corpus may be suspended only with rebellion or invasion.

Fact No. 3, uncontested. We do not have a rebellion or an invasion.

Fact and principle No. 4, the Supreme Court says that aliens are covered by habeas corpus.

We have already had considerable exposition of the opinion by Justice O’Connor that the constitutional right of habeas corpus applies to individuals, which means citizens and aliens. The case of Raul v. Bush, which explicitly involved an alien, says this in the opinion of Justice Stevens speaking for the Court:

Habeas corpus received explicit recognition in the Constitution, which forbids the suspension of—

Then Justice Stevens cites the constitutional provision.

The pivotal case on the writ of habeas corpus cannot be suspended unless in the cases of rebellion or invasion, and neither is present here. So you have the express holding of the Supreme Court in Raul v. Bush that habeas corpus applies to aliens.

Justice Stevens went on to say that:

Executive imprisonment has been considered oppressive and lawless since John, at Runnymede.

What this bill would do in striking habeas corpus and take it daily based society back some 900 years to King John at Runnymede which led to the adoption of the Magna Charta in 1215, which is the antecedent for habeas corpus and was the basis for including in the Constitution of the United States the principle that habeas corpus may not be suspended.

I believe it is unthinkable, out of the question, to enact Federal legislation today which denies that habeas corpus right which would take us back some 900 years and deny the fundamental principle of the Magna Charta imposed on King John at Runnymede.

Mr. President, how much time do I have?

The PRESIDING OFFICER. There is 3½ minutes remaining.

Mr. SPECTER. Mr. President, the argument has been made that there is an alternative procedure which passes constitutional muster. But the provisions of the statute which set up the Combatant Status Review Tribunal are conclusively insufficient on their face. The statute provides that the Combatant Status Review Tribunal may be reviewed by the Court of Appeals for the District of Columbia only to the extent that the ruling was consistent with the standards and procedures specified by the Secretary of Defense.

Now, to comply with the standards of procedures determined by the Secretary of Defense does not mean exclude on its face a factual determination as to what happens to the detainees.

When the Senator from South Carolina argues that judges should not make military decisions, I agree with him totally. But the converse of that is that judges should make judicial decisions, to decide what the law is. The converse, that judges should not make military decisions, is the principle that the Secretary of Defense ought not to decide what the constitutional standards are. The Secretary of Defense does not decide what the constitutional standards are.

That is up to the Supreme Court of the United States, and the Supreme Court of the United States has decided that aliens are entitled to the explicit constitutional protection of habeas corpus.

The argument is made that the Swain case allowed for alternative procedures. The Swain case involved a District of Columbia habeas corpus proceeding which was virtually identical with habeas corpus provided under Federal statute 2241, so of course it was satisfactory.

A number of straw men have been set up: One, that we could not apply these principles to the 18,000 detainees in Iraq—nobody seeks to do that; the straw man that we should not give search and seizure protections of the fourth amendment—no one seeks to do that; or the fifth amendment protections on behalf the privilege of self-incrimination.

In essence and in conclusion, what this entire controversy boils down to is whether Congress is going to legislate to deny a constitutional right which is explicit in the Constitution and which has been applied to aliens by the Supreme Court of the United States.

The distinguished chairman of the Armed Services Committee has said that he does not want to have this matter come back to Congress. But surely as we are standing here, if this bill is passed and habeas corpus is stricken, we will be on this floor again rewriting this law.

The PRESIDING OFFICER. The time of the Senator has expired. All time has expired.

Is there further debate on the amendment?

Mr. WARNER. Mr. President, may I inquire, the distinguished Senator from Michigan seeks a little additional time on leader time, is that correct?

Mr. LEVIN. I have already accomplished that. I thank my friend.

Mr. WARNER. At this time I would like to yield to the Senator from South Carolina 3 minutes off of the time under my control on the bill.

The PRESIDING OFFICER. The Senator is recognized for 3 minutes.

Mr. GRAHAM. What I am trying to do is trying to stress to the body that this is a war we are fighting, not crime, and habeas corpus rights have not been given to any other prisoners under U.S. control in the past, for very good reason. It improves the war effort.

Let me give you a flavor of what is coming out of Guantanamo Bay. This is what is happening to the troops defending America by the people who are incarcerated, determined by our military to be an enemy combatant. A Canadian detainee, who threw a grenade that killed an Army medic in a firefight and who comes from a family with longstanding al-Qaida ties, moved for a preliminary injunction forbidding interrogation of him or engaging in cruel, inhuman or degrading treatment. In other words, he was going to ask the judge to take over running the jail and his interrogation.

A Kuwaiti detainee sought a court order that would provide dictionaries in contravention of Gitmo force protection policy and that their counsel have high-speed Internet access.

Another one applied for a motion that would allow them to change the base security procedures to allow speedy mail delivery medical treatment. He sought an order transferring him to the least onerous condition at Gitmo. He asked the court to allow him to keep any books and reading materials sent to him and report to the court on his opportunities for exercise, communication, recreation and worship.

We are not going to turn this war over to a series of court cases, where our troops are having to account for a bunch of junk by people trying to kill Americans. They will have their day in court, but they are not going to turn this whole war into a mockery with my vote.

I yield back.

Mr. WARNER. Mr. President, I believe there is no time remaining.

The PRESIDING OFFICER. There is no time remaining.
The PRESIDING OFFICER. That is correct.

Five minutes of the time of the Senator from West Virginia has been previously allocated to the Senator from Massachusetts, Mr. KERRY.

Mr. KERRY. If I could correct that, my time is not supposed to come from the Senator from West Virginia. I believe I have time already allocated, so it would be separate.

Mr. ROCKEFELLER. If the situation is it is deducted from this Senator’s time, I would not object.

The PRESIDING OFFICER. It is the understanding of the Chair that the Senator from Massachusetts, the unanimous consent was obtained at 10 o’clock with 5 minutes coming from the time of the Senator from West Virginia.

Mr. LEVIN. Mr. President, that unanimous consent request was apparently agreed to and is in place right now?

The PRESIDING OFFICER. That is correct.

The Senator from West Virginia.

AMENDMENT NO. 5095

Mr. ROCKEFELLER. Mr. President, I send an amendment to the desk on behalf of myself, and Senators CLINTON, WYDEN, MIKULSKI and FEINGOLD.

The PRESIDING OFFICER. The clerk will report.

The Senator from West Virginia, Mr. ROCKEFELLER, for himself, Mr. CLINTON, Mr. WYDEN, Mr. MIKULSKI, and Mr. FEINGOLD, proposes an amendment numbered 5095.

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

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

The amendment is as follows:

(Purpose: To provide for congressional oversight of certain Central Intelligence Agency programs)

At the end, add the following:

SEC. 11. OVERSIGHT OF CENTRAL INTELLIGENCE AGENCY REPORTS ON DETENTION AND INTERROGATION PROGRAM.--

(1) QUARTERLY REPORTS REQUIRED.—Not later than three months after the enactment of this Act, and every three months thereafter, the Director of the Central Intelligence Agency shall submit to the congressional intelligence committees a report on the detention and interrogation program of the Central Intelligence Agency, each report under paragraph (1) shall include (but not be limited to), for the period covered by such report, the following:

(A) For each detainee who was transferred to the custody of the Department of Defense for prosecution before a military commission, the name of the detainee and a description of the activities that may be the subject of the prosecution.

(B) For each detainee who was transferred to the custody of the Department of Defense for any other purpose, the name of the detainee and the purpose of the transfer.

(2) ELEMENTS.—In addition to any other matter necessary to keep the congressional intelligence committees fully and currently informed about transfers out of the detention program of the Central Intelligence Agency, each report under paragraph (1) shall include (but not be limited to), for the period covered by such report, the following:

(i) The knowledge, participation, and approval of foreign governments in the rendition process, including the locations and custody from, through, and to which the detainee was rendered; and

(ii) The knowledge, participation, and approval of foreign governments in the rendition process.

(E) For each detainee who was rendered or otherwise transferred to the custody of another nation—

(i) the name of the detainee and a description of the suspected terrorist activities of the detainee;

(ii) the rendition process, including the locations and custody from, through, and to which the detainee was rendered; and

(iii) the knowledge, participation, and approval of foreign governments in the rendition process.

The amendment (No. 5087) was rejected.

Mr. WARNER. Mr. President, the managers of that bill have notified there are still three amendments remaining, one by Senator ROCKEFELLER, one by Senator KENNEDY, one from Senator BYRD. If I understand from my distinguished ranking member, we will proceed to the amendment of Senator ROCKEFELLER.

Mr. ROCKEFELLER. I have yielded 5 minutes to the Senator from Massachusetts, if that is okay, on a separate matter.

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

Mr. WARNER. Mr. President, the ranking member is about to advise the Senator with regard to which amendment might be forthcoming.

Mr. LEVIN. If Senator ROCKEFELLER is ready, I understand there is a time agreement of 1 hour equally divided.

The PRESIDING OFFICER. That is correct.
(iii) the information provided to United States intelligence agencies by foreign governments relating to the interrogation of the detainee;
(iv) the current status of the detainee;
(v) the status of any applicable treaty, judicial, or other investigation about the rendition or other transfer; and
(vi) the factual information about potential risks to United States interests resulting from the rendition or other transfer.
(c) CIA INSPECTOR GENERAL AND GENERAL COUNSEL REPORTS.—
(1) ANNUAL REPORTS REQUIRED.—Not later than one year after the date of the enactment of this Act, and annually thereafter, the Inspector General of the Central Intelligence Agency and the General Counsel of the Central Intelligence Agency shall each submit to the congressional intelligence committees a report on the detention, interrogation and rendition programs of the Central Intelligence Agency during the preceding year.
(2) ELEMENTS.—Each report under paragraph (1) shall include, for the period covered by such report, the following:
(A) An assessment of the adherence of the Central Intelligence Agency to any applicable law in the conduct of the detention, interrogation, and rendition programs of the Central Intelligence Agency.
(B) Any violations of law or other abuse on the part of personnel of the Central Intelligence Agency, other United States Government personnel or contractors, or anyone else associated with the detention, interrogation, and rendition programs of the Central Intelligence Agency in the conduct of such programs.
(C) An assessment of the effectiveness of the detention, interrogation, and rendition programs of the Central Intelligence Agency.
(D) Any recommendations to ensure that the detention, interrogation, and rendition programs of the Central Intelligence Agency are conducted in a lawful and effective manner.
(3) CONSTRUCTION OF REPORTING REQUIREMENT.—Nothing in this subsection shall be construed to modify the authority and reporting obligations of the Inspector General of the Central Intelligence Agency under section 102(b) of the Central Intelligence Act of 1949 (50 U.S.C. 403q) or any other law.
(d) CERTIFICATION OF COMPLIANCE.—Not later than three months after the date of enactment of this Act of 1949 (50 U.S.C. 403q) or any other law.
(e) FORM OF REPORTS.—Except as provided in subsection (d)(1), each report under this section shall be fully accessible by the congressional intelligence committees, whose duty it is to authorize and the House and Senate detailing the detention, interrogation, and rendition programs of the Central Intelligence Agency to any applicable treaty, statute, Executive order, or regulation.
(f) AVAILABILITY OF REPORTS.—Each report under this section shall be fully accessible by each member of the congressional intelligence committees.
(g) DEFINITIONS.—In this section:
(A) The term "congressional intelligence committees" means—
(1) the Select Committee on Intelligence of the Senate; and
(2) the Permanent Select Committee on Intelligence of the House of Representatives.
(2) LAW.—The term "law" includes the Constitution of the United States and any applicable treaty, statute, Executive order, or regulation.
Mr. ROCKEFELLER. Mr. President, for 4 years, the Central Intelligence Agency's program was kept from the full membership of the Senate and House Intelligence Committees. For 4 years the CIA imprisoned and interrogated suspected terrorists at secret sites. A policy that prevented Congress from not only knowing about the program but from acting on it and regulating it.
For 4 years, the White House refused to brief Intelligence Committee members about the program's legal business and operations, as is required by law. For 4 years, the members of the Senate and the House Intelligence Committees, whose duty it is to authorize the CIA detention program, were kept in the dark by an administration which ignored the legal requirement to keep the Congress fully and currently informed on all intelligence activities.
The amendment I have offered reverses the executive branch's 4-year policy of indifference toward Congress. My amendment corrects a serious omission in the pending bill: the need for Congress to reassert its fundamental right to understand the intelligence activities it authorizes and funds.
My amendment would subject the CIA's detention and interrogation program to meaningful congressional oversight for the first time. It requires a series of reviews and reports that will enable the Congress to evaluate the program's scope and legality, as well as its effectiveness.
The amendment establishes this absent congressional oversight in four ways. First, my amendment requires the Director of the CIA to provide a quarterly report to all members of the Intelligence Committees in both the House and the Senate detailing the detention facilities, how they are operated, and how they are used by the CIA.
It requires that the detainees held at these facilities be listed by name as well as the basis for their detention and the description of interrogation techniques used on them and the accompanying legal rationale.
This quarterly report also requires the recording of any violation or abuse under the CIA program as well as an assessment of the effectiveness of the detention and interrogation program.
This issue of the effectiveness of interrogation techniques is incredibly important and often overlooked as an aspect of the debate over the CIA program. Interrogations that coerce information can produce bad intelligence—not necessarily, but they can produce misleading intelligence—fabricated intelligence to get out of the treatment, information that can harm, not help, our efforts to locate and capture terrorists.
Second, my amendment would require the Director of the CIA to provide a quarterly report to all members of the Intelligence Committees on the disposition of each detainee transferred out of the CIA prisons, whether the detainee was transferred to the Department of Defense for prosecution before a military commissioner for further detention, or whether the detainee was transferred to the custody of the Attorney General to stand trial in a civilian court, or whether the detainee was rendered or otherwise transferred to the custody of another nation.
Third, my amendment requires a comprehensive and accurate accounting of detainees held by the CIA. Congress has a responsibility to know who is held by the CIA, why they are held and for how long they are held.
The CIA detention and interrogation program cannot function as a black hole into which people disappear for years on end.
We have been told by CIA leaders that the agency does not want to be subject to congressional oversight. Why do they not want to be the prison warden for the United States Government. The goal of the CIA program should be to obtain, through lawful means, intelligence information that can identify or prevent terrorist attacks. It needs to be subject to further terrorist attacks and then to bring to justice those who we believe to be criminals. This is the so-called endgame that everyone talks about.
If the CIA detention program is allowed to function as some sort of prisoner purgatory, we have then failed.
Also of concern to me is the lack of existing oversight in how the United States transports or renders detainees to other countries for imprisonment and interrogation.
The limited information the administration has shared with the Senate Intelligence Committee on the CIA's rendition program does not by any means assure, at least this Senator, that the intelligence community has a program in place, so to speak, to assert what happens to these individuals when they are transferred to foreign custody, such as how they are treated, how they are interrogated, whether they divulge intelligence information of value, and whether this information is then provided to the CIA.
The CIA's rendition program deserves far greater scrutiny and congressional oversight than it has been given to date.
The third way in which this amendment establishes a meaningful oversight of the CIA detention and interrogation program is to require the CIA Inspector General and the CIA general counsel each separately review the program on an annual basis to report their findings to the Intelligence Committees. These independent Agency reviews would assess the CIA's compliance with any applicable law or regulation and the conduct of detention, interrogation and other activities as well as to report to Congress any violations of law or other abuse on the part of personnel involved in the program.
The annual reviews of the Inspector General and the general counsel also would evaluate the effectiveness of the detention and interrogation program; effectiveness at obtaining valuable and reliable intelligence.

Finally, my amendment requires the Attorney General to submit to Congress an unclassified certification whether or not each interrogation technique approved for use by the CIA complies with the United States Constitution and all applicable treaties, statutes, and regulations. I believe this is a very important certification.

All Americans, not just the Congress, need an ironclad assurance from our Nation’s top enforcement officer that the CIA program and the interrogation techniques it employs are lawful in all respects. The CIA officers in the field, I might say, above all, need this assurance.

I do not believe there is anything particularly controversial about this amendment. I hope that Democrats and Republicans alike can embrace the need for restoring respect for the oversight role of the Intelligence Committees of the Congress over intelligence.

Only through reports that will be provided through this amendment will the Congress have the information it lawfully deserves to understand the CIA’s detention and interrogation program and determine whether the program is producing the unique intelligence gathering that justifies its continued operation.

Only when the President works with the Congress are we able to craft intelligence programs that are legally sound and operationally effective. Only when the President works with the Congress can America stand strong in its fight against terrorism.

Intelligence gathering through interrogation is one of the most important tools we have in the war on terrorism. My amendment would provide the congressional oversight necessary to assure that our intelligence officers in the field have clear guidelines for effective and legal interrogation.

Before yielding the floor, I will address two other matters very briefly. Those who have taken the time to read through the bill we are debating will find the word “coercion” repeatedly in the text of the legislation. Coercion is a fitting word when considering the Senate’s recent decision to rush into voting on a bill with far-reaching legal and national security implications.

The final text of the underlying bill was negotiated by a handful of Republican Senators, many of whom I respect, and the White House. Democrats were not consulted. I was not consulted. This Senator was not consulted. Senator Levin was not consulted. We were kept out of these closed-door sessions.

I say that because the Senate Intelligence Committee is the only Senate committee responsible for authorizing CIA activities and the only committee briefed on classified details of the CIA’s detention and interrogation program. We were denied an opportunity to consider this bill, in fact, on sequential referral, which is our due.

In the mad dash to pass this bill before the Senate recesses, Senators are being given only five opportunities, I believe, to amend the bill, effectively preventing the Senate from trying to produce the best bill possible on the most important subject possible with respect to the gathering of intelligence. It does not have to be this way.

Finally, I am troubled by what I view as misleading statements about the current state of the CIA detention and interrogation program made by President Bush and senior administration officials. I say this for the record, and strongly.

The President and others have stated in recent weeks that the CIA program was halted as a result of the Supreme Court’s Hamdan decision on June 29, 2006. This assertion is false.

Significant aspects of this program were halted following the passage of the Detainee Treatment Act in 2005, prohibiting cruel, inhuman, or degrading interrogation techniques, well before the Supreme Court decision.

The President has also been very forceful in his public statements asserting that the post-Hamdan application of Geneva Conventions Common Article 3 has created legal uncertainties about the CIA interrogation procedures that the Congress must resolve through legislation—only us—in order for the CIA program to continue. This assertion is misleading, and it is false as well.

Concerns over the legal exposure of CIA officers have existed since the program’s inception and did not begin with the Supreme Court’s Hamdan decision. These mischaracterizations illustrate to me why it is important for Congress to understand all facts about the CIA program.

Congress cannot and should not sit on the sidelines blithely ignorant about the details of a critical intelligence program that has been operating without meaningful congressional scrutiny for years.

I thank the Presiding Officer and yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. LEVIN. Mr. President, will the Senator from Massachusetts yield for a unanimous consent request?

Mr. KERRY. Yes.

Mr. LEVIN. Mr. President. I ask unanimous consent that I be added as a cosponsor to the Rockefeller amendment.

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

The Senator from Massachusetts is recognized.

Mr. KERRY. Mr. President, the last week before we leave for a long recess has always been extraordinarily busy—particularly when an election is only 42 days away. But, sadly, this has become too much the way the Senate does business and often its most important business.

Today, the leadership of the Senate has decided that legislation that will impact America’s authority in the world merits only a few hours of debate. What is at stake is the authority that is essential to winning and to waging a legitimate and effective war on terror, and also one that is critical to the safety of American troops who may be killed in the process.

If, in a few hours, we squander that moral authority, blur lines that for decades have been absolute, then no speech, no rhetoric, and no promise can restore it.

Four years ago, we were in a similar situation. An Iraq war resolution was rushed through the Senate because of election-year politics—a political calendar, not a statesman’s calendar. And 4 years later, the price we are paying is testimony that election-year politics do not further compromise our moral authority and the safety of our troops.

Every Senator must ask himself or herself: Does the bill before us treat America’s authority as a precious national asset that does not limit our power but magnifies our influence in the world? Does it make clear that the U.S. Government recognizes beyond any doubt that the protections of the Geneva Conventions have to be applied to prisoners in order to comply with the law, restore our moral authority, and best protect American troops? Does it make clear that the United States of America does not engage in torture, period?

Despite protests to the contrary, I believe the answer is clearly no. I wish it were not so. I wish this compromise actually protected the integrity and letter and spirit of the Geneva Conventions. But it does not. In fact, I regret to say, despite the words and the protests to the contrary, this bill permits torture. This bill gives the President the discretion to interpret the meaning and application of the Geneva Conventions. It gives confusing definitions of “torture” and “cruel and inhuman treatment” that are inconsistent with the Detainee Treatment Act, which we passed 1 year ago, and inconsistent with the Army Field Manual. It provides exceptions for pain and suffering incidental to lawful sanctions, but it does not tell us what the lawful sanctions are.

So what are we voting for with this bill? We are voting to give the President the power to interpret the Geneva Conventions. We are voting to allow pain and suffering incidental to some undefined lawful sanctions.

This bill gives an administration that lobbied for torture exactly what it wanted. And the administration has...
been telling people it gives them what they wanted. The only guarantee we have that these provisions will prohibit torture is the word of the President. Well, I wish I could say the word of the President were enough on an issue as fundamental as torture. But we have been here before.

The administration said there were weapons of mass destruction in Iraq, that Saddam Hussein had ties to al-Qaida, that they would exhaust diplomacy before they went to war, that the insurgency was in its last throes. None of these statements were true.

The President said he agreed with Senator McCaIN’s antitorture provisions in the Detainee Treatment Act. Yet he issued a signing statement reserving the right to ignore them. Are we supposed to trust that word?

He says flatly that “The United States does not torture,” but then he tries to push the Congress into allowing him to do exactly that. And even here we must be skeptical. The administration interpreted the Geneva Convention to the Federal Register. Yet his Press Secretary announced that the administration may not need to comply with that requirement. And we are supposed to trust that?

Obviously, another significant problem with this bill is the unconstitutional limitation of the writ of habeas corpus. It is extraordinary to me that in 2 hours, and a few minutes of a vote, the Senate will go away with something as specific as habeas corpus, of which the Constitution says: “The privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it.”

Well, we are not in a rebellion, nor are we being invaded. Thus, we do not have the constitutional power to suspend the writ. And I believe the Court will ultimately find it unconstitutional.

The United States needs to retain its moral authority to win the war on terror. We all want to win it. We all want to stop terrorist attacks. But we need to do it keeping faith with our values and the Constitution of the United States.

Mr. President, a veteran of the Iraq War whom I know, Paul Rieckhoff, wrote something the other day that every Senator ought to think about as they wrestle with this bill. He wrote:

America’s moral integrity was the single most important weapon we possessed on the streets of Iraq. It saved innumerable lives, encouraged cooperation with our allies and deterred Iraqis from joining the growing insurgency. The days are over. America’s moral standing has eroded, thanks to its flawed rationale for war and scandals like Abu Ghraib, Guantánamo and Haditha. The last thing we need to happen is that the United States of America’s moral authority or eroding it. Are we supposed to trust that?

Paul Rieckhoffs in uniform today, or the thousands of Paul Rieckhoffs in uniform today, or are we making their mission harder and even worse, putting them in greater danger if they are captured?

Paul writes eloquently:

If America continues to erode the meaning of the Geneva Convention, it will erode the ground upon which to prosecute dictators and warlords. We will also become unable to protect our troops if they are perceived as being no more bound by the rule of law than dictators and warlords themselves. The question facing America is not whether to continue fighting our enemies in Iraq and beyond but how to do it best. My soldiers and I learned the hard way that policy at the point of a gun cannot, by itself, create democracy. The success of America’s fight against terrorism depends on the strength of its moral integrity than on troop numbers in Iraq or the flexibility of interrogation options.

I wish I could say this compromise serves America’s moral mission and promotes the war. But it doesn’t. No eloquence we can bring to this debate can change what this bill fails to do.

We have been told in press reports that it is a great compromise between the White House and my good friends, Senator McCaIN and Senator McCaIN, and good Senator GRAHAM. We have been told that it protects the “integrity and letter and spirit of the Geneva Conventions.”

I wish that what we are being told is true. It is not. Nothing in the language of the bill supports these claims. Let me be clear about something—something that it seems few people are willing to say. This bill permits torture. This bill gives the President the discretion to interpret the Geneva Conventions. This bill gives an administration that already approved, should not apply for presidential discretion is not the only problem. The definition of what constitutes “grave breaches” is so vague and inconclusive. A concerned interpretation of permissible acts under the Geneva Conventions. The interpretation, like the language in this bill, is vague and inconclusive. A concerned interpretation, like the language in this bill, is vague and inconclusive. A concerned Senator or Congresswoman calls for oversight. Unless he or she is in the majority at the time, there won’t be a hearing. Let’s assume they are in the majority and get a hearing. Do we really think a bill will get through both houses of Congress? A bill that directly contradicts a Presidential interpretation of a matter of national security? My gut feeling is that it won’t happen, but maybe it will. Assume it does. The bill has no effect until the President actually signs it. So, unless the President chooses to reverse himself, all the power remains in the President’s hands. And all the while, America’s moral authority is in tatters, American troops are in greater jeopardy, and the war on terror is set back.

The President’s power grab be controlled by the courts? After all, it was the Supreme Court’s decision in Hamdan that invalidated the President’s last attempt to consolidate power and establish his own military tribunal system. The problem now is that the bill strips the courts of the power to hear such a case when it says “no person may invoke the Geneva Conventions . . . in any habeas or civil action.”

What are we left with? Unfettered Presidential power to interpret what—other than the statutorily proscribed “grave violations”—violates the Geneva Conventions. No wonder the President was so confident that his CIA program could continue as is. He gets to have his cake and eat it too. And the administration have spent years now trying to blur.

Presidential discretion is not the only problem. The definition of what constitutes “grave breaches” of Article 3 of the Geneva Convention is murky. Even worse, the administration’s definition is inconsistent with either the Detainee Treatment Act or the recently revised Army Field Manual. These documents prohibit “cruel, inhumane, or degrading treatment” as defined as the cruel, inhuman, or degrading treatment prohibited by the Fifth, Eighth, and Fourteenth Amendments.” The definition is supported by an extensive body of case law evaluating what treatment is required by our constitutional standards of “dignity, civilization, humanity, decency, and fundamental fairness.” And, I think quite tellingly, it is substantially similar to the definition that my good friend, Senator McCaIN, chose to include in his bill. And there is simply no reason why the standard adopted by the Army Field Manual and the Detainee Treatment Act, which this Congress has already approved, should not apply for all interrogations in all circumstances.

In the bill before us, however, there is no reference to any constitutional standards. The prohibition of degrading conduct has been dropped. And, there are caveats allowing pain and suffering “incidental to lawful sanctions.” Nor does it tell us what “lawful sanctions” are. So, what are we voting for with this bill? We are voting to give the President the power to interpret the Geneva Conventions. We are voting to allow pain and suffering incident to some undefined, lawful sanctions. The only guarantee we have that these provisions really will prohibit torture is the word of the President.

The word of the President. I wish I could say the words of the President were enough on this issue as fundamental as torture. Fifty years ago, President Kennedy sent his Secretary of State abroad on a crisis mission—to
prove to our allies that Soviet missiles were being held in Cuba. The Secretary of State brought photos of the missiles. As he prepared to take them from his briefcase, our ally, a foreign head of state said, simply, “put them away. The President says the United States is good enough for me.”

We each wish we lived in times like those— perilous times, but times when America’s moral authority, our credibility, were unquestioned, unchallenged. But the word of the President today is questioned. This administration said there were weapons of mass destruction in Iraq, that Saddam Hussein had ties to Al Qaeda, that they would exhaust diplomacy before we went to war, that the insurgency was in its last throes. None of these statements were true, and now we find our troops in the crossfire of civil war in Iraq with no end in sight. They keep saying the war in Iraq is making us safer, but our own intelligence agencies say it is actually fanning the flames of jihad, creating a whole new generation of terrorists and putting our country at greater risk of terrorist attack. It is no wonder then that we are hesitant to blindly accept the word of the President on this question today.

The President said he agreed with Senator MCCAIN’s antitorture provisions in the Detainee Treatment Act. Yet, he issued a signing statement re- serving the right to ignore them. He says flatly that “The United States does not torture”—and then tries to bully Congress into allowing him to do exactly that. And even here, he has promised to submit his interpretations of the Geneva Convention to the Federal Register—yet his Press Secretary announced that the administration may not need to comply with that requirement.

We have seen the consequences of simply accepting the word of the administration. No, the Senate cannot just accept the word of this administration that they will not engage in torture given the way in which everything they have already done and said on this most basic question has already put our troops at greater risk and under- dermined the very moral authority needed to win the war on terror. When the President says the United States doesn’t torture, there has to be no doubt about it. And when his words are unclear, Congress must step in to hold him accountable.

The administration will use fear to try and bludgeon anyone who disagrees with them.

Just as they pretended Iraq is the central front in the war on terror even as their intelligence agencies told them their policy made terrorism worse, they will pretend America needs to squander its moral authority to win the war on terror.

That’s wrong, profoundly wrong. The President’s experts have told him that not only does torture put our troops at risk and undermine our moral authority, but torture does not work. As LTG John Kimmons, the Army’s deputy chief of staff for intel- ligence, put it: “No good intelligence is going to come from abusive practices. I think history tells us that, thinking the empirical evidence of the last five years, hard years, tells us that. Any piece of intelligence which is obtained under duress, through the use of abusive tech- niques, would be unreliable. And additionally, it would do more harm than good when it inevitably became known that abusive practices were used. We can’t afford to give up that.”

Neither justice nor good intelligence comes at the hands of torture. In fact, both depend on the rule of law. It would be wrong—tragically wrong—to authorize the President to require our sons and daughters to use torture for something that won’t even work.

Another significant problem with this bill is the unconstitutional elimi- nation of the writ of habeas corpus. No less a conservative than Ken Starr got it right:

“Congress should act cautiously to strike a balance between the need to detain enemy combatants during the present conflict and the need to honor the historic privilege of the writ of habeas corpus.”

Ken Starr says, “Congress should act cautiously.” How cautiously are we acting when we eliminate any right to challenge an enemy combatant’s indefinite detention? When we eliminate habeas corpus rights for civilians detained inside or outside the United States so long as the Government believes they are enemy combatants? When we not only do this for future cases but apply it to hundreds of cases currently making their way through our court system?

The Constitution is very specific when it comes to habeas corpus. It says, “[t]he Privilege of the Writ of Ha- beas Corpus shall not be suspended, un- less when in Cases of Rebellion or Inva- si on the Public Safety may require it.” We are not in a case of rebellion, nor are we being invaded. Thus, we really don’t have the constitutional power to suspend the Great Writ. And, even if we did, the Constitution allows only for the writ to be suspended. It does not allow the writ to be permanently taken away. Yet, this is exactly what the bill does. It takes the writ away—forever— from anyone the administration deter- mines is an “enemy combatant,” even if they are lawyers on U.S. soil, and otherwise entitled to full constitu- tional protections, and even if they have absolutely no other recourse.

Think of what this means. This bill is giving the administration the power to pick up any non-U.S. citizen inside or outside of the United States, determine in their sole and unreviewable discre- tion that he is an unlawful combatant, and hold him in jail—be it Guantanamo Bay or a secret CIA prison—indefin- itely. The Senate’s own Joint Sta- te Review Tribunal determined that person is an enemy combatant, that is the end of the story—even if the determination is based on evidence that even a mili- tary commission would not be allowed to consider because it is so unreliable. That person would never get the chance to challenge his detention; to prove that he is not, in fact, an enemy combatant.

We are not talking about whether detainees can file a habeas suit because they don’t have access to the Internet or cable television. We are talking about something much more funda- mental: whether people can be locked up forever without the chance to prove that the Government was wrong in detaining them. Allow this to become the policy of the United States and just imagine the difficulty our law enforcement and our Govern- ment will have arranging the release of an American citizen the next time our citizens are detained in other countries.

Mr. President, we all want to stop terrorist attacks. We all want to effec- tively fight as much intelligence as humanly possible. We all want to bring those who do attack us to justice. But, we weaken—not strengthen— our ability to do that when we undermine our own Constitution; when we throw away the system of checks; when we hold detainees indefinitely without trial by destroying the writ of habeas corpus; and when we permit torture. We endanger our moral authority at our great peril. I oppose this legislation because it will make us less safe and less secure. I urge my colleagues to do the same.

The PRESIDING OFFICER. The Sen- ator’s time has expired.

Mr. WARNER. Mr. President, I yield 5 minutes to our colleague from Mis- souri.

The PRESIDING OFFICER. The Sen- ator from Missouri is recognized for 5 minutes.

Mr. BOND. Mr. President, I thank the manager of the bill for yielding me 5 minutes.

There is no question that this bill, the military commissions bill, is abso- lutely essential if we are going to con- tinue to have good intelligence and move forward with the program of interro- gating and containing detainees in an appropriate manner that will maintain our standing, our honor, and puts tighter control on the United States than other countries do on their unlawful combatants.

I respectfully suggest that the Rockefeller amendment is not only un- necessary, but the fact is, the unintended effect is it would com- plicate the passage of this important military commissions bill. It would ei- ther delay or perhaps even derail this bill, which is absolutely essential if we are to protect our CIA agents and keep our CIA professionals in the field doing appropriately limited interro- gation techniques to find out what attacks are planned against the United States.

The President has pointed out, the interrogation is the thing that has un- covered plots that could have been very serious. We need to have our CIA pro- fessionals under carefully controlled
circumstances doing the interrogation that gets the information.

As to the question about whether this is about oversight, well, our committee should be all about oversight. We need to be looking at these things. We need to be looking every day at what the agencies are doing, what the intelligence community is doing. But as I have said here on the floor before, unfortunately, for the last 4 years, we have been looking in the rearview mirror. It has been our fault, not the fault of the agencies, that we have not done enough oversight because when we spent 2 years in the Phase I investigation, we found out the intelligence was flawed because our intelligence assets were cut 20 percent in the 1990s. We had no human intel on the ground.

But, most of all, there was no pressure, no coercion by administration officials of the intelligence agencies, and there was no misrepresentation of the findings of the intelligence community—same intelligence that we in the Congress relied upon in supporting the decision to go to war against the hotbed of terrorism, Iraq.

Now, I do not take issue with that first phase. The Phase II has cost us another 2 years, and we have not learned anything more than we learned in the first phase and with the WMD and the 9/11 Commission.

If we would get back to looking out the front windshield, instead of looking in the rearview mirror, we should be doing precisely this kind of interrogation in the oversight committee. And I take no issue with many of the questions the Senator from West Virginia raises. As a matter of fact, I probably would have some of my own. But I do not ask whether the need for a very lengthy, detailed report every 3 months. If you read all of the requirements, this is a paperwork nightmare. They are going to have to compile and tell us how they are going to comply, and we are going to oversee them.

I believe putting out this lengthy report gets us nowhere. Frankly, if our past experience is any guide, we will probably see those reports leaked to the press because reports have a way, regrettably, of being leaked and being disclosed.

I think there is one big problem with the Rockefeller amendment. In the amendment, it requires that within 3 months the Attorney General—any time there are any new interrogation techniques, the Attorney General shall submit an unclassified certification whether or not each approved interrogation technique complies with the Constitution of the United States, applicable treaty statutes, Executive orders, relations, and an explanation of why it complies.

Mr. President, what we would just order in this amendment is to spend out for the world—and especially for al-Qaida and its related organizations—precisely what interrogation techniques are going to be used. Let me tell you something. I visited with intelligence agents around the world, some of whom have been in on the most sensitive interrogations we have had. I have asked them about that, and they have explained to me how they interrogate people. These interrogations I have never seen, although they were before the passage of this law—with the detainee treatment law. They do comply, and I think they are appropriate. The important thing, they say, is that what the terrorists tell us is of the utmost importance. They do not know how they are going to be questioned or what is going to happen to them. The uncertainty is the thing that gets them to talk. If we lay out, in an unclassified version, a description of the techniques by the Attorney General, that description will be in al-Qaeda and Hezbollah and all of the other terrorist organizations’ playbook. They will train their assets that: This is what you must be expected to do, and Allah wants you to resist these techniques.

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

Mr. BOND. Yes, I am happy to.

Mr. ROCKEFELLER. Is the Senator aware when he talks about delaying implementation of this program, that there are no CIA detainees? What are we holding up?

Mr. BOND. Mr. President, we are passing this bill so that we can detain people. If we ever come one like Khalid Shaikh Mohammed, we have no way to hold him, no way to ask him the questions and get the information we need, because the uncertainty has brought the program to a close. It is vitally important to our security, and unfortunately the Rockefeller amendment would imperil it.

General Hayden promised to come before the committee, and I look forward, in our oversight responsibilities, to hearing how they are implementing this act.

I thank the Chair.

Mr. ROCKEFELLER. That is simply not true.

The PRESIDING OFFICER. Who yields time?

Mr. WARNER. Mr. President, at this juncture, I ask unanimous consent that we step off of this amendment and allow the distinguished Senator from New Mexico to speak for up to 10 minutes.

The PRESIDING OFFICER. The Senator from New Mexico is recognized for 10 minutes.

Mr. DOMENICI. Mr. President, I will speak on this vital subject. I rise to speak in support of the Military Commission Act of 2006.

First off, we must ask ourselves a very simple question: Do we believe the United States must have a terrorist attack prevention program?

I submit that the answer is a clear and resounding yes. I believe the American people expect us to have a strong terrorist attack prevention program and that they believe if we don’t, we are derelict in our duty. They know that we are at risk, that this is a war, and that there are many people out there who are waiting to do damage and harm to our people. To have anything less than a terrorist prevention program, which is the best we can put together, is shortsighted, and I cannot support any legislation that would prevent the CIA from protecting America and its citizens.

The legislation before us allows the Federal Government to continue using the most effective tools we have in our war on terror—the CIA terrorist interrogation program.

The global war on terror is a new type of war against a new type of enemy, and we must use every tool at our disposal to fight that war—not just some tools, but all of them. These tools include interrogation programs that help us prevent new terrorist attacks.

The CIA interrogation program is such a program. It is helping us deny al-Qaeda and Hezbollah the opportunity to attack America. It has allowed us to foil at least eight terrorist plots, including plans to attack west coast targets with airplanes, blow up tall buildings across our Nation, use commercial airliners to crash into the Statue of Liberty, and bomb our U.S. Marine base in Africa.

Mr. President, clearly, this program is valuable. Clearly, this program is necessary in the global war on terror. We must take legislative action that will allow the CIA to keep this program going.

Mr. ROCKEFELLER. Is the Senator from New Mexico to speak for up to 10 minutes?

Mr. BOND. Yes, I am happy to.

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

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I thank the Chair.
about base security procedures, speed of mail delivery, and medical treatment; as well as a detainee asking that normal security policies be set aside so that he could be shown DVDs that are alleged to be family videos. Such petitions are unnecessary.

The underlying bill allows appeals of judgments rendered by military commissions to the District of Columbia Circuit Court of Appeals—a very significant court. These are appeals of judgments rendered by the military commissions. That is a totally appropriate way to do it. When I finally understood that, I could not believe that some would come to the floor and argue as they did. My colleagues have said we are abandoning habeas corpus; we have never done anything like this before. They act as if we have decided to be totally unjust and unfair when, as a matter of fact, this is about as fair a treatment as you could give terrorist suspects and still have an orderly process. The test we have done the thing. Giving terrorist suspects access to the court known as the second highest court in America provides an adequate opportunity for review of detainee’s cases.

I am the occupant of the chair for explaining this matter early on to many of us who did not understand the issue, and it has become clear to many of us that we have done the right thing in terms of the habeas corpus rule that we have adopted. It will be upheld, in my opinion, after I have read some other cases, by the courts.

Mr. President, my primary standard in determining whether to support this legislation is whether the legislation will allow the CIA interrogation program to continue. The answer to that question must be yes. If the answer to that question is no, then we are foolhardy, at a minimum, and totally unjust and unfair. If the answer is yes, then we are doing the right thing.

The administration has informed me that this bill, in its current form, will allow the CIA terrorist interrogation program to continue. I sought that in order to pass the bill and get this bill done and to the President.

Let’s be clear. If we adopt what I believe is an unnecessary amendment, contrary to the House, this bill will end up in conference with the House. If that happens, I fear the bill will languish throughout the fall while Members are out campaigning. Meanwhile, the enemy will continue to interrogate captured unlawful alien combatants.

Mr. President, I oppose the amendment and urge my colleagues to do the same.

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

The PRESIDING OFFICER. Who yields time?

Mr. WARNER. Mr. President, I yield to the chairman of the Intelligence Committee, the Senator from Kansas, such time as he needs.

Mr. ROCKEFELLER. It is a matter of fact, this is about as fair a matter of the CIA’s interrogation program and I urge my colleagues to do the same.

Mr. WARNER. The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mr. ROBERTS. Mr. President, I thank the chairman of the Armed Services Committee, who is an ex officio member of our committee, and does extremely valuable work as we try to work in a commensurate fashion on national security.

I rise in opposition to the amendment being offered by my good friend Senator Rockefeller, who is vice chairman of our committee. The amendment calls for yet another unnecessary and repetitious requirement of reporting.

Now, I do not take issue with some of the numerous questions the Senator from West Virginia seeks. Some of these questions should be answered in the context of our regular committee oversight.

The issue is not if reasonable questions are answered, but how and how often. I really question the need for a formal quarterly report—four times a year—unreasonable in scope and length that will be a very unnecessary burden on the hard-working men and women at the CIA.

The simple fact is that the vice chairman and other members of the committee have been fully briefed in the past, present, and prospective future about CIA’s detention and interrogation operations and will continue to be briefed. The vice chairman and other members of the Intelligence Committee can get answers to their questions and more through the course of the committee’s normal oversight activities. They only need ask.

I just mentioned that, in my prospective future of the CIA’s interrogation program. That is because without this legislation, there will be no CIA program.
with some modesty, a long experience of working with the Intelligence Committee, and, as the chairman knows, the chairman and ranking member of the Armed Services Committee have always had a role of participation in his committee. I guess if I can add up all the time I have spent as chairman and ranking it is about 12 or 15, I think, of my 28 years on the Armed Services Committee. I have watched this committee and have been a participant for many years.

As I read through the amendment offered by our distinguished colleague from West Virginia—he has the title of vice chairman. That came about because the chairman and the vice chairman traditionally on this committee work to achieve the highest degree—I guess the word is the committee working together as an entity. I say to the chairman, it is my judgment that this amendment is really in the nature of a substitute for the oversight responsibilities of the committee.

As we both know, the world environment changes overnight. This business of trying to operate on the basis of reports is simply, in my judgment, not an effective way for the committee to function because from Kanak's chairman, in consultation with the vice chairman, has to call hearings and meetings and briefings in a matter of hours in order to keep the committee currently informed about world situations.

I say with all due respect to my colleagues here and to our vice chairman of the Intelligence Committee, this amendment is a substitute for the committee's responsibilities, the basic responsibilities to be performed by this committee. It is for that reason I oppose the amendment. But I would like to have the chairman's views.

Mr. ROBERTS. Mr. President, if the chairman will yield.

Mr. WARNER. I thank the Chair.

Mr. ROBERTS. Let me repeat what I said in my statement—and I share the distinguished Senator's views, especially from his experience on both committees, the Intelligence Committee and the Armed Services Committee. We both face the same kind of responsibilities, our oversight responsibilities. We take them very seriously. We may have differences of opinion on the Intelligence Committee or on the Armed Services Committee, but we do our oversight.

The simple fact is that the vice chairman, myself, and other members of the committee—and let me stress now full membership of the committee; we worked very hard to get that access—have been fully briefed in the past and the present and also prospectively of the CIA's detention and interrogation operations.

The vice chairman and other members of the Intelligence Committee, if people have questions, if people have concerns, if people have questions, if people need to get more briefs, if people want to basically get into some—I say "some" because I think some of the questions are not reasonable—say they have questions about this, all they have to do is ask. I can guarantee as chairman that those in charge of this particular program at the CIA will be there and have been there.

The inspector general of the CIA has briefed the committee—I am not going to get into the details of that briefing—both the vice chair and myself in regards to any question on what has happened, the situation, the allegations, whether it is right or wrong, allegedly or otherwise with the interrogation and detention program, and we get an update as to where those cases. If there was egregious behavior, what is happening to those people? Are they being persecuted? And the answer to that is yes.

All we have to do is ask. As I look at this, I must say in scope, it is unprecedented. They ask questions that I think, quite frankly, it is going interrogator working within the confines of the Central Intelligence Agency, would have a very chilling effect on me to know that four times a year I would be held responsible for all of these questions which is in charge at the Agency can certainly respond to any committee request in terms of a briefing. I would be a little nervous.

And that is not the case because, as I said in my remarks, the CIA will not be detecting and interdicting unlawful alien combatants; it will be writing one report after another, four times a year. If we look at the length, breadth, and depth, it is not whether we get this information, it is how we get the information. All we have to do is ask.

This is a tremendous burden. I must tell my colleagues that I don't know where we are going to get enough staff on the committee to respond to these going mandates of the vice chairman, the Inspector General, or anybody else we request to appear before the committee that they may be in a situation where there would be sensitive intelligence information that at that particular time would not be provided, but there certainly would be the promise that it will be provided if at all possible.

So I am not saying that it is a carte blanche kind of situation. That is to be expected. But the unprecedented nature of requests we make of the General and of the Inspector General have been very prompt and very full, and, again, all we have to do is ask.

On that matter, I see the distinguished vice chairman and my colleague. How much time remains under the control of the Senator from Virginia?

The PRESIDING OFFICER. There is 8½ minutes remaining under the control of the Senator from Virginia.

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

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. ROCKEFELLER. Mr. President, if I might speak for 2 or 3 minutes.

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

Mr. ROCKEFELLER. Mr. President, I have a one-page summary. Some of the arguments I have heard are absolutely incredible. The fact of the matter is there is not any reporting done. For 4 years this has gone on. People say: Just call them in; call in the head of the CIA, whoever it is, before the committee. That doesn't yield information. We have so many requests for information from the CIA that have not been responded to. They are not responsive to the committee because they don't want to be responsive to the committee, because they are directed not
to be responsive to the committee, I am assuming, by the Director of the National Intelligence Office.

We don't have oversight on these programs we are talking about. Anybody who suggests otherwise is wrong. I heard this morning from the chairman that it is going to slow down the passage of the bill. Now, that is brilliant. We could have started this in a timely fashion, and all the House has to do is accept the Senate amendment, if one were to come out of this chamber. It is done. So what is that argument?

The Senator from Missouri has stated—and this is very important for my colleagues to hear—that the amendment would require public disclosure of the CIA's interrogation techniques. That is categorically false—wrong. It is a dangerous thing to say. It is an irresponsible thing to say on the floor of the Senate. The reports on the CIA program would be classified and they would be sent to the congressional Intelligence Committees and them alone. So we need to get that straight right now.

The information that is provided in these reports is made to sound like we are rewriting the Constitution 17 times in a hot summer's several months. This is information which has not been provided to us for 4 years, what these reports would be asked to do, and then they could taper off if we found a responsive intelligence community. But we have not been provided these in 4 years. Am I meant to be worried about that? Is it the job of the Senate Intelligence Committee and the House to do oversight? Yes, it is, and we can't because they won't give us the information. The chairman can say that he and I are briefed, but that is seldom and on very discrete matters that don't cover this bill.

So the Senator from Virginia, whom I obviously greatly respect, suggests this amendment is a substitute for oversight. This amendment, to the contrary, is going to allow us to do oversight, and that is my point. It is our responsibility under the law to do it. We cannot do it. We are not allowed to do it. We are systematically prevented from getting information from the people who are required by law to give it to us. That is not not being transparent, and that is called us not knowing what is going on and thus not being able to help with the war on terror. I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. ROCKEFELLER. Mr. President, I yield 4 minutes to the Senator from Michigan.

The PRESIDING OFFICER. The Senator from Michigan is recognized for 4 minutes.

Mr. LEVIN. I thank the Chair, and I thank my friend from West Virginia.

Mr. President, this amendment just simply requires regular reports on interrogation and interrogation programs. It will give us access to legal opinions. It is essential that this amendment be adopted.

I just want to ask my good friend from West Virginia if he believed the information that the chairman of the Intelligence Committee say that all we have to do is ask for reports and we will get them. Did I hear that right?

Mr. ROCKEFELLER. The Senator from Michigan heard that correctly.

Mr. LEVIN. Well, Mr. President, just one example here. I have been trying to get a memo called the second Bybee memo for now for 2¼ years. I haven't asked for it, I haven't asked twice. I have probably asked a dozen times for the Bybee memo, and my good friend, the chairman of the Armed Services Committee, has asked for the Bybee memo, without any luck. So the idea that all we have to do is ask is just simply wrong.

Chairman WARNER asked on May 13, 2004—2004—that all legal reviews and related documentation concerning approval of interrogation techniques be provided to the committee. It has never been provided.

On April 12, 2005, I submitted questions to John Negroponte, who was the nominee for the Director of National Intelligence, requesting to see if the intelligence community has copies of the so-called Bybee memo.

In April of 2005, I asked General Hayden, on his nomination to be Deputy National Intelligence Director, to see if he could determine if the intelligence community has a copy of the second Bybee memo and to provide it to the committee.

Then on the intelligence budget hearing, April 28, 2005, I asked Secretary Cambone: Can you get us a copy of the second Bybee memo? This has to do with what interrogation techniques are legal. This is written by the Office of Legal Counsel, this memo. He says he will get a reply to me. That was April 2005.

In May of 2005, I wrote the Director of Central Intelligence, Porter Goss, requesting the second Bybee memo. Then I get a letter from the Director of Congressional Affairs, Joe Whipple, saying the memorandum can only be released by the Department of Justice. So in July, I write the Department of Justice, the Attorney General: Can we get a copy of the second Bybee memo? Letter after letter after letter.

Then there is a hearing by the Senate Intelligence Committee, July 2005. This is a hearing in which the nomination to be general counsel in the Office of the Director of National Intelligence. I asked Mr. Powell: Can you provide us for the record a copy of that second Bybee memo? That decision, we are told a week later, is not a decision he can make; that is within the Department of Justice's purview, and on it goes.

Another year of stonewalling, of denial, of coverup by the Department of Justice. Mr. Powell hasn't asked for a memo which is critically important, according to press reports and according now also to the acknowledgment by the Department of Justice. It sets a legal framework for the interrogation of detainees, and the Senate can't get a copy.

Apparently, two Members of the Senate, the chairman and vice chairman of the Intelligence Committee, have seen this memo. That is it. Members of the Intelligence Committee can't get it. Members of the Armed Services Committee can't get it. All we have to do is ask? How many times do we have to ask before we get documents?

There are 70 documents we still can't get from the Department of Defense related to the torture of the Perils shop. All we have to do is ask? There are documents we have asked of the Intelligence Committee for years beyond the Bybee amendment without any response.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, in consultation with my distinguished Ranking Member, I would like to inquire if there is further debate desired on this amendment. If not, my understanding is the leadership will select a time—joint leadership—for votes on this amendment and others at some point this afternoon and with the full expectation that this matter will be voted on final passage.

So at this time, could I inquire as to the time for the Senator from Virginia and the Senator from Michigan?

The PRESIDING OFFICER. The time is 18 minutes for the Senator from Virginia and 5 minutes 10 seconds for the Senator from West Virginia.

Mr. LEVIN. Mr. President, may I inquire of the Senator from West Virginia as to whether, if he has completed debate on this amendment, he would be willing to yield the balance of his time to the Senator from Michigan for use on the bill?

Mr. ROCKEFELLER. I would, with the exception of 1 minute to summarize just before we vote on it, so you can have the balance of the time.

Mr. LEVIN. Mr. President, I ask unanimous consent that the balance of the time of the Senator from West Virginia be co-allocated to me for use on the bill.

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

Mr. WARNER. Mr. President, I would make a similar request that the balance of my time be allocated to me for use on the bill.

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

Mr. WARNER. Therefore, I believe all time has been yielded back on both sides, and we can prepare the floor now for the receiving of an amendment
Mr. KENNEDY. Mr. President, I have here before me the Department of Army regulations and rules for interrogating prisoners. In the document I have here, which is the official military document to define permissible interrogation techniques, it outlines some specific interrogations which are prohibited and it lists these: forcing the person to be naked, perform sexual acts, or pose in a sexual manner; applying beatings, electric shock, burns, or other forms of physical pain; waterboarding; using dogs; inducing hypothermia or heat injury; conducting mock executions; depriving the person of necessary food, water, and medical care.

These techniques are prohibited by the Department of Defense. Those techniques are prohibited from being used against adversaries in any kind of a conflict, blatant violations the requirement to do that; those we captured; and what I would consider to be torture. Certainly the Army and Department of Defense have effectively found that out that these techniques do not work. They have banned them and there has not been any use of it.

What does our amendment say? Well, it says we in the United States are not going to tolerate those techniques if any of our military personnel are captured. But not all of the people who are representing the United States in the war on terror are wearing a uniform. For example, we have SEALs, we have some special operations, special forces, we have CIA agents. We have contractors and aid workers. We have more people around the world looking out after our security interests than any other country in the world.

What does this amendment say? Well, if our military personnel are not going to be able to visit countries around the world: You cannot do this against any American personnel you are going to capture in this war on terror, or in any other conflict. This amendment is about protecting those who are involved in the war on terror. It is saying to foreign countries: If you use any of these techniques, the United States will say this is a war crime and you will be held accountable. How can anybody be against that? This administration has sown confusion about our commitments to the Geneva Conventions, so that protection does not exist now. That protection does not exist now, Restoring that protection is basically what this amendment is all about.

I am not going to take much time, but I just want to remind our colleagues about how we viewed some of these techniques in our conflicts in previous wars.

On the issue of waterboarding, the United States charged Yukio Asano, a Japanese officer on May 1 to 28, 1947, with war crimes. The offenses were recounted by John Henry Burton, a civilian victim:

After taking me down into the hallway they laid me out on a stretcher and strapped me on. The stretcher was then stood on end with my head almost touching the floor and my feet in the air. They then began pouring water over my face and at times it was impossible for me to breathe without sucking water into my mouth, then forcing me to breathe without water. The torturer continued and continued. Yukio Asano was sentenced to fifteen years of hard labor. We punished people with fifteen years of hard labor when waterboarding was used against Americans in World War II.

What about the case of Matsukichi Muta, another Japanese officer, tried on April 15 to 25, 1947, for, among other charges, causing a prisoner to receive shocks of electricity and beating prisoners. Shocks of electricity. He was sentenced to death by hanging. Death by hanging. We could go on.

In another case prosecuted from March 3 to April 30, 1948—the Japanese officer was sentenced for exposing prisoners to extreme cold temperatures, forcing them to spend long periods of time in the nude, making the prisoner stand in the cold for long periods of time, hour after hour, without water on him and inducing hypothermia. This officer received 15 years of hard labor. Fifteen years.

We didn’t tolerate those abuses, and we should not tolerate those abuses imposed on any Americans who are going to be taken in the war on terror. That is what this amendment is all about. It will tell the Secretary of State to notify every signatory from 194 nations, that if any of your governments are going to use any of these techniques on Americans that are taken in this war on terror, that we will consider this a violation of the Geneva Conventions and that they will be accountable.

This is to protect our servicemen and servicewomen, those who are in the intelligence agencies, those performing dangerous duties, those who are not wearing the uniform in their battle against terror. We are putting everyone on notice.

We did not make up this list. All these techniques are taken right out of the Defense Department’s code of conduct for interrogations.

I would take more time and review for my colleagues, where we tried individuals in World War II and sentenced individuals who performed these kinds of abuses on Americans to long periods of incarceration and even to death.

I reserve the remainder of my time. The PRESIDING OFFICER. Who yields time?

Mr. WARNER. Mr. President, at this moment I suggest the absence of a quorum, with the time not chargeable to either side.

Mr. KENNEDY addressed the Chair.

Mr. WARNER. I beg your pardon. I thought my colleague yielded the floor.

Mr. KENNEDY. I did. If you want to yield your time, I wouldn’t object to it, but I object if you are calling for equal time, caused of hard.

Mr. WARNER. No, I said charged to neither side.

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

The legislative clerk proceeded to call the roll.

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

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

Mr. KENNEDY. Mr. President, do I have additional time? How much time have I used?

The PRESIDING OFFICER. There are 18 minutes 20 seconds remaining on the time of the Senator.

Mr. KENNEDY. I would like to yield myself 5 more minutes.

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

Mr. KENNEDY. Mr. President, it will be quite surprising to me if the Senate is not prepared to accept this amendment. I look back at the time that we actually passed the War Crimes Act of 1996. At that time it was offered by Walter B. Jones, a Republican Congressman. It was offered in response to our Vietnam experience, where American servicemen—including one of our own colleagues and dear friends, Senator Gramm—had been subjected to torture during that period of time.

When this matter came up, both in the House of Representatives and the Senate of the United States, it passed in the Senate of the United States without a single objection. It passed the House by voice vote. This is what it says, under War Crimes, chapter 118:

Whoever, whether inside or outside the United States, commits a war crime . . .

And it talks about the circumstances—

... as a member of the armed forces of the United States or a national United States. It is in Title 18 so those out of uniform are subject to the code.

So that is the CIA. Those are the SEALS. Those are the people involved now in our war on terror. Then it continues along to define a war crime as a violation of Common Article 3 of the Geneva Conventions. That provision protects against cruel treatment and torture. It prevents the taking of hostages. It prohibits outrages upon personal dignity. Those are effectively the kinds of protections that act affords.

We heard a great deal from the administration, from the President, that he wanted specificity in the War Crimes Act and the Geneva Conventions in terms of what is permitted and what is not permitted. He felt those terms are too vague. Well, on that he is right. There is confusion in the world. There is confusion in the world about our commitment to the Geneva Conventions and what we think it means. There is a good deal of confusion in the world in the wake of what happened at Abu Ghraib. There we found out that these harsh interrogation techniques had been used. Sure, we have had 10 different television programs that happened over there. What we always find out is it is the lower lights, the corporals and the sergeants who are the ones being tried and convicted. Those in the higher ranks are not. No one has stood up and said clearly, those are violations of the Geneva Conventions. So we have Abu Ghraib, which all of us remember. And it has caused confusion.

We have had experiences in Guantanamo—the conduct of General Miller, who brought these harsh interrogation techniques to Guantanamo at Secretary Rumsfeld’s direction. When the Armed Services Committee questioned his whole standard of conduct, he testified that there is no accountability. You have to avoid coming up and facing the music. This caused confusion about our commitments to the Geneva Conventions.

Then you had the Bybee memorandum, which was effectively the rule of law for some 2 years, which permitted torture, any kind of torture, and it said that any individual who is going to be involved in torturing would be absolved from any kind of criminality if the purpose of their abusing anybody involved torture or intimidation and there was no specific intent to have bodily harm for that individual. This caused confusion about our commitments to the Geneva Conventions.

That was the Bybee amendment. Finally, Attorney General Gonzales had to repudiate that or he never would have been approved as the Attorney General of the United States. That is the record in the Judiciary Committee. I sat through those hearings. I heard the Attorney General say they were repudiating the Bybee memorandum on that.

This is against a considerable background of where we have seen some extraordinary abuses.

Then we have tried to clarify our commitment. We have the action in the Senate of the United States, by a vote of 90 to 9, accepting Senator McCain’s Amendment to prohibit cruel, inhumane, and degrading treatment—by definition, torture—under the law of the land; to say we are not interested in torture. Senator McCain understands. He believes that waterboarding is torture. He believes using dogs is torture. This is not complicated. We don’t have to cause confusion. We have it written down on this list of prohibited techniques. It is not my list of prohibited techniques, but it is written down by the Department of Defense. This amendment says if a foreign country is going to practice these kinds of behavior against an American or any individual who is out there in the war on terror and is being picked up, we are going to consider this to be a war crime. This is about protecting Americans.

I don’t understand the hesitancy on the other side, not being willing to accept this amendment. Let’s go on the record about what we say is absolutely prohibited and what we know has been favored techniques that have been used by our adversaries at other times. Let’s go on the record for clarity.

Looking back in history, at the end of World War II and otherwise, we are all familiar with the different examples where these techniques—frighteningly familiar to the series of techniques used in Iraq and Guantanamo—and are often frequently used against Americans.

I am reminded—I gave illustrations: electric shocks, waterboarding, hypothermia, heat injury. We all remember the 52 American hostages who were held in the U.S. Embassy in Iran. They were subjected to the mock executions.

The PRESIDING OFFICER. The Senator has used 5 minutes.

Mr. KENNEDY. Mr. President, I hope we could accept this amendment. I yield myself 1 more minute.

It basically incorporates what the Senate did several years ago with war crimes. It is trying to respond to what the President says. He wants specificity about what is going to be prohibited and what will not be.

The Department of Defense has found these areas to be off limits for the military. All we are saying is if other countries are going to do that to Americans, they are going to be held accountable.

This is about protecting Americans. That is the least we ought to be able to do for those who are risking their lives in very difficult circumstances.

I yield the floor.

Mr. LEVIN. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time not be charged to either side.

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

The legislative clerk proceeded to call the roll.

Mrs. CLINTON. 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. CLINTON. Mr. President, the Senate is currently debating a bill on how we treat detainees in our custody, and more broadly, on how we treat the principles on which our Nation was founded.

The implications are far reaching for our national security interests abroad; the rights of Americans at home, our reputation in the world; and the safety of our troops.

The threat posed by the evil and nihilistic movement that has spawned terrorist networks is real and gravely serious. We must do all we can to defeat the enemy with all the tools in our arsenal and every resource at our disposal. All of us are dedicated to defeating this enemy.

The challenge before us on this bill, in the final days of session before the November election, is to rise above partisanship and find a solution that serves our national security interests. I fear that there are those who place a strategy for winning elections ahead of strategy for winning the war on terrorism.

Democrats and Republicans alike believe that terrorists must be caught,
captured, and sentenced. I believe that there can be no mercy for those who perpetrated 9/11 and other crimes against humanity. But in the process of accomplishing that I believe we must hold on to our values and set an example we can point to with pride, not shame. Those captured are living nowhere—they are in jail now—so we should follow the duty given us by the Supreme Court and carefully craft the right piece of legislation to try them. The President acted without authority and I am our duty now to be careful about handing this President just the right amount of authority to get the job done and no more.

During the Revolutionary War, between the signing of the Declaration of Independence, which set our founding ideals to paper, and the writing of our Constitution, which fortified those ideals under the rule of law, our values—our beliefs as Americans—were already being tested.

We were at war and victory was hardly assured, in fact the situation was closer to the opposite. New York City and Long Island had been captured. General George Washington and the Continental Army retreated across New Jersey to Pennsylvania, suffered tremendous casualties and a body blow to the cause of American independence.

It was at this time, among these soldiers at this moment of defeat and despair, that Thomas Paine would write, “These are the times that try men’s souls.” Soon afterward, Washington lead his soldiers across the Delaware River and onto victory in the Battle of Trenton. There he captured nearly 1,000 foreign mercenaries and he faced a crucial choice.

How would General Washington treat these men? The British had already committed atrocities against Americans, including torture. As David Hackett Fischer describes in his Pulitzer Prize winning book, “Washington’s Crossing,” tens of thousands of American prisoners of war were “treated with extreme cruelty by British captors.” There are accounts of injured soldiers who surrendered being murdered instead of quartered, countless Americans dying in prison hulks in New York harbor, starvation and other acts of inhumanity perpetrated against Americans confined to churches in New York City.

Can you imagine.

The light of our ideals shone dimly in those early dark days, years from an end to the conflict, years before our improbable triumph and the birth of our democracy.

General Washington wasn’t that far from where the Continental Congress had met and signed the Declaration of Independence. But it is easy to imagine how far that must have seemed. General Washington announced a decision unique in human history, sending the following order for handling prisoners: “Treat them with humanity, and let them have no reason to complain of our Copying the brutal example of the British Army in their treatment of our unfortunate brethren.”

Therefore, George Washington, our commander-in-chief before he was our President, laid down the indelible marker of our Nation’s values even as we were fighting a Nation—and his courageous act reminds us that America was born out of faith in certain basic principles. In fact, it is these principles that made and still make our country exceptional and allow us to serve as an example. We are not bound together as a nation by bloodlines. We are not bound by ancient history; our Nation is a new nation. Above all, we are bound by our values.

George Washington understood that how you treat enemy combatants can reverberate around the world. We must convict and punish the guilty in a way that reinforces their guilt before the world and does not undermine our constitutional values.

There is another element to this. I can’t go back in history and read General Washington’s mind, of course, but one purpose of the rule of law is to organize a society’s response to violence. Allowing coercion, coercive treatment, and torturous actions toward prisoners not only violates the fundamental rule of law and the institutionalization of justice, but it helps to radicalize those who are tortured.

Zawahiri is Bin Laden’s second in command, the architect of many of the attacks on our country, throughout Europe and the world, has said repeatedly that it is his experience that torture of innocents is central to radicalization. Zawahiri has said over and over again that being tortured is at the root of jihad; the experience of being tortured has a long history of serving radicalized populations; abusing prisoners is a prime cause of radicalization.

For the safety of our soldiers and the reputation of our Nation, it is far more important to take the time to do this job right than to do it quickly and badly. There is no reason we need to rush to judgment. This broken process will neither provide the security we need nor cost our men and women in uniform. The Supreme Court laid out what it will cost our men and women in uniform. The Supreme Court laid out what it expected from us.

We asked unanimous consent to have printed in the RECORD letters and statements from former military leaders, from 911 families, from the religious community, retired judges, legal scholars, and law professors. All of them have registered their concerns with this bill and the possible impact they will cost our Nation dearly. I fear also that it will cost our men and women in uniform. The Supreme Court laid out what it expected from us.

I ask unanimous consent to have printed in the RECORD letters and statements from former military leaders, from 911 families, from the religious community, retired judges, legal scholars, and law professors. All of them have registered their concerns with this bill and the possible impact on our effort to win the war against terrorism.

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

S10380  CONGRESSIONAL RECORD — SENATE  September 28, 2006

HON. JOHN WARNER, Chairman, Hon. Carl Levin, Ranking Member, Senate Armed Services Committee, U.S. Senate, Washington, DC.

Dear Chairman Warner and Senator Levin:

As retired military leaders of the U.S. Armed Forces and former officials of the Department of Defense, we write to express our profound concern about a key provision of S. 3861, the Military Commissions Act of 2006, which was introduced last week at the behest of the President. We believe that the language that would redefine Common Article 3 of the Geneva Conventions as equivalent to the standards contained in the Military Commissions Act violates the core principles of the Geneva Conventions and poses a grave threat to American service-members, now and in future wars.

We supported your efforts last year to clarify that all detainees in U.S. custody must be treated humanely and in accordance with the Geneva Conventions and the U.S. Constitution. These standards were specifically designed to ensure that those above the other, more extensive, protections of the Geneva Conventions are treated in accordance with the values of civilized nations. The framers of the Geneva Conventions, American representatives, in particular wanted to ensure that Common Article 3 would apply in situations where a state party to the Treaty, like the United States, fights an adversary that is not a party, including irregular forces like al Qaeda. The United States military has abided by the basic requirements of Common Article 3 in every conflict since the Conventions were adopted. In each case, we applied the Geneva Conventions—including, at a minimum, Common Article 3—even to enemies that systematically violated the Conventions themselves.

We have abided by this standard in our own conduct for a simple reason: the same standard serves to protect American service-men and women when they engage in conflicts covered by Common Article 3. Preventing the integrity of these principles has become increasingly important in recent years when our adversaries often are not nation-states. Congress acted in 1997 to further this goal by criminalizing violations of Common Article 3 in the War Crimes Act, enabling us to hold accountable those who abuse our captured personnel, no matter the nature of the armed conflict.

If any agency of the U.S. government is excused from compliance with these standards, or if we seek to redefine what Common Article 3 requires, we should be clear that our enemies will take notice of the technical distinctions when they hold U.S. prisoners captive. If degradation, humiliation, physical and mental brutality are decriminalized or considered permissible under a restrictive interpretation of Common Article 3, we will forfeit all credible objections should such abuses be inflicted upon American prisoners.

This is not just a theoretical concern. We have people deployed right now in theaters where Common Article 3 is the only source of legal protection they should be captured. If we allow that standard to be eroded, we put their safety at grave risk.

Last week, the Department of Defense issued a Directive reaffirming that the military will uphold the requirements of Common Article 3 in all cases where detainees are in its custody. We welcome this new policy. Our servicemen and women have operated for too
long with unclear and unlawful guidance on detainees treatment, and some have been left to take the blame when things went wrong. The guidance is now clear. But that clarity will be short-lived if the approach taken by Administration’s bill prevails. In contrast to the Pentagon’s new rules governing detention, the bill would limit our definition of Common Article 3’s terms by introducing a flexible, sliding scale that might allow certain coercive interrogation techniques in some circumstances, while forbidding them under others. This would replace an absolute standard—Common Article 3—with a relative one. To do so would create further confusion.

Moreover, were we to take this step, we would be viewed by the rest of the world as having formally renounced the clear strictures of the Geneva Conventions. Our enemies would be encouraged to interpret the Conventions in their own way as well, placing our troops in jeopardy in future conflicts. And American moral authority in the war would be further damaged.

All of this is unnecessary. As the senior serving Judge Advocates General recently testified, our armed forces have trained to Common Article 3 and can live within its requirements while waging the war on terror effectively.

As the United States has greater exposure militarily than any other nation, we have long recognized the reciprocal nature of the Geneva Conventions. That is why we believe—and the United States has always asserted—that a broad interpretation of Common Article 3 is vital to the safety of U.S. personnel. But the Administration’s bill would put us on the opposite side of that argument. We urge you to consider the impact that redefining Common Article 3 would have on Americans who put their lives at risk in defense of our Nation. We believe their interests, and their safety and protection should be your highest priority as you address this issue.

With respect,

General John Shalikashvili, USA (Ret.);

General Joseph Hoar, USMC (Ret.);

Admiral Gregory G. Johnson, USA (Ret.);

Admiral Jay L. Johnson, USA (Ret.);

General E. Paul Jost, USA (Ret.);

General Merrill A. McPeak, USAF (Ret.);

Admiral Stansfield Turner, USA (Ret.);

General William G.T. Tuttle, Jr., USA (Ret.);

General Daniel B. Christman, USA (Ret.);

Lieutenant General Paul E. Funk, USA (Ret.);

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

Lt. General John C. Nielsen, USA (Ret.);

Rear Admiral Lee F. Gunn, USA (Ret.);

Lieutenant General Arlen D. Jameson, USA (Ret.);

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

Lieutenant General Donald L. Kerrick, USA (Ret.);

Vice Admiral Albert H. Kopp Jr., USA (Ret.);

Lieutenant General Charles R. Otto, USA (Ret.);

Vice Admiral Jack Shanahan, USA (Ret.);

Lieutenant General Harry E. Snow, USA (Ret.);

Lieutenant General Paul K. Van Riper, USMC (Ret.);

Major General John Batiste, USA (Ret.);

Major General Eugene Fox, USA (Ret.);

General John P. Jumper, USA (Ret.);

Rear Admiral Don Gutier, USN (Ret.);

Major General Fred E. Haynes, USMC (Ret.);

Rear Admiral John M. Johnson, USA (Ret.);

Major General Melvyn Montano, ANG (Ret.);

Major General Gerald T. Sajer, USA (Ret.);

Major General Michael J. Sweeney, USA (Ret.);

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

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

Brigadier General John H. Johns, USA (Ret.);

Brigadier General Richard O’Meara, USA (Ret.);

Brigadier General Murray G. Sagsven, USA (Ret.);

Brigadier General John K. Schmitt, USA (Ret.);

Brigadier General Anthony Verrengia, USAF (Ret.);

Brigadier General Stephen X. Xenakis, USA (Ret.);

Ambassador Pete Peterson, USA (Ret.);

Ambassador Lawrence S. Wilkerson, USA (Ret.);

Honorable Richard Danzig; Honorable William H. Taft IV; Frank Kendall III. Esq.

THE AMERICAN JEWISH COMMITTEE,


DEAR SENATOR: We write on behalf of the American Jewish Committee, a national human relations organization with over 150,000 members and supporters represented by 32 regional chapters, to urge you to oppose the compromise Military Commissions Act of 2006, S. 3930, and to vote against attaching the bill to H.R. 6601, absent correcting amendments.

To be sure, we compromise that produced the current bill resulted in the welcome addition of provisions making clear that the humane treatment standards of Common Article 3 of the Geneva Conventions provide a floor for the treatment of detainees as well as specifying that serious violations are war crimes. Nevertheless, S. 3930 is unacceptable in its present form for the following reasons:

The bill arguably opens the door to the use of interrogation techniques prohibited by the Geneva Conventions. It permits the prosecution to introduce evidence that has not been provided to the defendant in a form sufficient to allow him or her to participate in the preparation of his or her defense.

It unduly restricts defendants’ access to exculpatory evidence available to the government.

It unduly restricts access to the courts by habeas corpus and appeal.

It interprets the definition of Common Article 3 violations to exclude sexual assaults such as those that occurred at Abu Ghraib.

There is no doubt that the authorities entrusted with the detention and interrogation in Afghanistan, are afforded the resources and tools necessary to protect us from the serious threat that terrorists continue to pose to all Americans, and, indeed, the civilized world. But the homeland can be secured in a fashion consistent with the values of due process and fair treatment for which Americans have fought and for which they continue to fight. We urge you to revisit and revise this legislation so that it accords with our highest principles.

Respectfully,

E. ROBERT GOODKIND,

RICHARD T. POLTIN,

E. ROBERT GOODKIND,

RICHARD T. POLTIN,

Legislative Director

Counsel

THE ASSOCIATION OF THE BAR OF THE CITY OF NEW YORK,


Hon. Bill Frist,

U.S. Senate Majority Leader,

Washington, DC.

DEAR MAJORITY LEADER FRIST: I am writing on behalf of the National Bar Association to urge you to oppose the Administration’s proposed Military Commissions Act of 2006 (the “Act”). The Association is an independent non-governmental organization of more than 22,000 lawyers, judges, law professors, and government officials. Founded in 1870, the Association has a long history of dedication to human rights and the rule of law, and particularly deep historical engagement with the law of armed conflict and military justice.

The Association has now reviewed the行政部门版 version of the Act. The compromise agreement between Senators Warner, McCain and Graham, on one hand, and the Administration, on the other. The compromise addresses two distinct aspects of the Administration’s proposal: first, the operation of the military commissions which have been envisioned, and second, aspects of United States enforcement of its treaty obligations under the Geneva Conventions. The Association will address our concerns in this order, keeping in mind particularly the position of our members who may be called upon to serve as defense counsel, prosecutors and judges in the commissions. The changes proposed here in that regard are therefore welcome.

However, the bill gives the military judge discretion to admit coerced testimony if, as will presumably be the case, the coercion occurred before the enactment of the Detainee Treatment Act on December 31, 2005. Hearings wherein the accused carries a burden (traditionally accorded to the party offering the evidence, i.e., the prosecution) to show that the harassment was not probably tainting the proceedings themselves, particularly if the accused cannot give an uncontrived, unaided explanation un- derlying the evidence. Admission of evidence in this circumstance would discredit the proceedings, undermine the appearance of fairness, and might, if it was critical to a conviction, constitute a grave breach of Common Article 3. These provisions do not serve the interests of the United States in demon- strating the heinous nature of terrorist acts, if such can be established in the military commissions.

The enforcement provisions raise far more troubling issues. In particular, we are concerned by the definition of “cruel treatment” which does not correspond to the existing law interpreting and enforcing Common Article 3’s notion of “cruel treatment.” The definition incorporates a category of “torture” defined as extreme physical pain or suffering that is so severe that it is equivalent to the treatment prohibited by Common Article 3. The Common Article 3 off-ense of “cruel treatment” will remain prohibited, even if not specifically criminalized by any provision. This basis to doubt that Common Article 3 prohibits tech-
standing, and hypothermia or cold cell if in- deed they are not precluded as outright tor- ture. However, the language of the current draft would create a crime defined in terms different from that of ‘torture’ as defined by Geneva Conventions, thereby introducing ambiguity where none previously existed.

This ambiguity fosters risks for United States personnel. It suggests to those who employ techniques such as waterboarding, long-time standing and hypothermia on Americans cannot be charged for war crimes. Moreover, Common Article 3 contains important protections for United States personnel who do not qualify for pris- oner of war treatment under the Geneva Con- vention. This may include reconnaiss- ance personnel, special forces operatives, private military contractors and intelligence service professionals. The drafting committee of Common Article 3 standards thus directly imperils the safety of United States per- sonnel in future conflicts. We strongly share the perspective of five former chairs of the Joint Chiefs of Staff in their appeal to Con- gress to avoid any erosion of these protec- tions.

The draft also seeks to strike the ability of hundreds of detainees held as ‘enemy combat- ants’ to seek review of their cases through petitions of habeas corpus. The Great Tradition has viewed as one of the most fundamental rights under our legal system. It is an essential guarantor of jus- tice in difficult cases, particularly in a con- flict where information raised as evidence, if indefinite duration, possibly for generations. Holding individuals without according them the right of habeas review are any right to seek review of their status or conditions of detention raises fundamental questions of justice. This concern is com- pounded by the draft’s provision that the Gen- eva Convention is unenforceable, thus leav- ing defendants without recourse should they receive cruel and inhuman treatment.

On July 19, 2006, Michael Mernin, the chair of our Committee on Military Affairs and Justice, testified before the Senate Armed Services Committee concerning this legisla- tive initiative. He appealed at that time for caution and proper deliberation in the legisla- tive process and urged that a commission of military law experts be convened to advise Congress on the weighty issues presented. The commission’s report con- tains a section to show severe flaws which are likely to prove embarrassing to the United States if it is en- acted. We therefore strongly urge that the matter be dealt with with care and deliberation before it is acted upon and that the advice of prominent military justice and international humanitarian law experts be secured and fol- lowed in the bill’s finalization.

Very truly yours,

BARRY KAMINS,
President.

SEPTEMBER 14, 2006.

DEAR SENATOR: As members of families who lost loved ones in the 9/11 attacks, we are writing to express our deep concern over the administration’s missteps has not be- en resolved with principles of re- demption. Not only does this violate our strongest, bipartisan majority of the Senate and our international commitments make our values are at stake. We are debating far-reaching legislation that will define our nation’s conduct in the world and the rights of Americans here at home. And we are debating it too hastily in a de- bate too steeped in electoral politics.

The Senate, under the authority of the Republican majority and with the blessing and encouragement of the Bush-Cheney administration, is doing a great disservice to our history, our principles, our citizens, and our soldier.

The deliberative process is being broken under the pressure of partisanship and the policy that results is a travesty.

Fellow Senators, the process for drafting this legislation to correct the administration’s missteps has not be- en fitted with the ‘world’s greatest deliberative body.’ Legitimate, serious con- cerns raised by our senior military and intelligence community have been marginalized, difficult issues glossed over, and policies that should have had their day in court had been shut off in order to pass a misconception bill before Senators re- turn home to campaign for relection.

As applied to issues of cruel, inhuman and degrading treatment, the practical applica- tion of this moral outlook is clear: even if it is expedient to inflict cruelty and degrada- tion, the practical advantages that experts seem very much divided on this ques- tion, the moral teachings of Christ, the Torah and the Prophets do not permit it for the strong support of the U.S. because they believe that no practical expedi- ency, however compelling, should determine the practical applica- tion of this moral outlook. As Christians from the evangelical tradi- tion, we support Senator McCain and his col- leagues in their effort to defend the peren- nial moral values of this nation which are embodied in international law and our dom-estic statutes. The United States Congress must send an unequivocal message that cruel, inhuman and degrading treatment has no place in our society and violates our most cherished moral convictions.

Sincerely,

Rev. Dr. David Gushee, Union University,
Jackson, TN.
Gary Haugen, president, International Justice Mission.
Rev. Dr. Roberta Hestenes, teaching pas- tor, Community Presbyterian Church,
Danville, CA.
Frederica Mathews-Green, author and commentator.
Dr. Brian D. McLaren, founder, Cedar Ridge Community Church, Spencerville, MD.
Rev. Dr. Richard Mow, president, Fuller Theological Seminary.
Dr. Glen Stassen, professor of Christian Ethics, Fuller Theological Seminary.
Dr. Nicholas Wolterstorff, professor of Philosophical Theology, Yale University.

MRS. CLINTON. Now these values—George Washington’s values, the values of our founding—are at stake. We are debating far-reaching legislation that will define our nation’s conduct in the world and the rights of Americans here at home. And we are debating it too hastily in a de- bate too steeped in electoral politics.

The Senate, under the authority of the Republican majority and with the blessing and encouragement of the Bush-Cheney administration, is doing a great disservice to our history, our principles, our citizens, and our soldier.

The deliberative process is being broken under the pressure of partisanship and the policy that results is a travesty.

Fellow Senators, the process for drafting this legislation to correct the administration’s missteps has not be- en fitted with the ‘world’s greatest deliberative body.’ Legitimate, serious con- cerns raised by our senior military and intelligence community have been marginalized, difficult issues glossed over, and policies that should have had their day in court had been shut off in order to pass a misconception bill before Senators re- turn home to campaign for relection.
For the safety of our soldiers and the reputation of our Nation, it is far more important to take the time to do the job right than to do it quickly and badly. There is no reason other than partisanship for not continuing deliberation to find a solution that works to achieve a true consensus based on American values.

In the last several days, the bill has undergone countless changes—all for the worse—and differs significantly from what was brokered between the Bush administration and a few Senate Republicans last week.

We cannot have a serious debate over a bill that has been hastily written with little opportunity for serious review. To vote on a proposal that evolved by the hour, on an issue that is so important, is an insult to the American people, to the Senate, to our troops, and to our Nation.

To large continua, we know we are holding this hugely important debate in the backdrop of November’s elections. There are some in this body more focused on holding on to their jobs than doing their jobs right. Some in this chamber plan to use our honest and serious concerns for protecting our country and our troops as a political wedge issue to divide us for electoral gain.

How can we in the Senate find a proper answer and reach a consensus when any matter that does not serve the majority’s partisan advantage is mocked as weakness, and any true concern for our troops and values dismissed demagogically as coddling the enemy?

This broken process and its blatant politics will cost our Nation dearly. It allows a discredited policy ruled by the Supreme Court to be unconstitutional to largely continue and to be made worse. This spectacle ill-serves our national security interests.

The rule of law cannot be compromised. We must stand for the rule of law before the world, especially when our soldiers are in danger, that is when our decisions in this Chamber will be felt. Will that enemy surrender? Or will he continue to fight, with fear for how he might be treated and with hope directed not at us, but at the patriot wearing our uniform whose life is on the line?

When our Nation seeks to lead the world in service to our interests and our values, will we still be able to lead by example?

Our values, our history, our interests, and our military and intelligence experts all point to one answer. Vladimir Bukovsky, who spent nearly 12 years in Soviet prisons, labor camps, and psychiatric hospitals for non-violent human rights activities had this to say, ‘If Vice President Cheney is right, that some ‘cruel, inhumane, or degrading’ treatment of captives is a necessary tool for winning the war on terrorism, then the war is lost already.’

We must show that we uphold our most cherished values, our history, our interests, and our military and intelligence experts all point to one answer.

Let’s pass a bill that unites us, not divides us. Let’s pass a bill that strengthens our military commission system and create a better system that withstands judicial examination—or attempt to confound that decision, a strategy destined to fail again.

The bill before us is whether this Congress will follow the decision of the Supreme Court and create a better system that withstands judicial examination—or attempt to confound that decision, a strategy destined to fail again.

The bill has several other flaws as well. This bill would not only deny detainees habeas corpus rights—a process that would allow them to challenge the very validity of their confinement—it would deny these rights to lawful immigrants living in the United States. If enacted, this law would give license to this Administration to pick people up off the streets of the United States and hold them indefinitely without charges and without legal recourse. Americans believe that our legal rights—no matter what they are, should be able to hear the evidence against them. The bill we are considering does away with this right, instead providing the accused with only the right to respond to the evidence admitted against him. How can someone respond to evidence they have not seen?

At the very least, this is worth a debate on the merits, not on the politics. This bill puts our values, our history, our interests and our military and intelligence experts all point to one answer.

Our values, our history, our interests, and our military and intelligence experts all point to one answer. Vladimir Bukovsky, who spent nearly 12 years in Soviet prisons, labor camps, and psychiatric hospitals for non-violent human rights activities had this to say. ‘If Vice President Cheney is right, that some “cruel, inhumane, or degrading” treatment of captives is a necessary tool for winning the war on terrorism, then the war is lost already.’

Let’s pass a bill that’s been honestly and openly debated, not hastily cobbled together.

Let’s pass a bill that unites us, not divides us.

Let’s pass a bill that strengthens our moral standing in the world, that declares clearly that we will not retreat from our values before the terrorists.
We will not give up who we are. We will not be shaken by fear and intimidation. We will not give one inch to the evil and nihilistic extremists who have set their sights on our way of life. I say with confidence and without fear that we are the United States of America, and that we stand now and forever for our enduring values to people around the world, to our friends, to our enemies, to anyone and everyone.

Before George Washington crossed the Delaware, before he could achieve that long-needed victory, before the tide would turn, before he ordered that prisoners be treated humanely, he ordered that his soldiers read Thomas Paine’s writing. He ordered that they read about the ideals for which they would fight, the principles at stake, the importance of this American project.

Now we find ourselves at a moment when we feel threatened, when the world seems to have grown more dangerous, when our Nation needs to ready itself for a long and difficult struggle against a new and dangerous enemy that means us great harm.

Just as Washington faced a hard choice up to us to decide how we wage this struggle and not up to the fear fostered by terrorists. We decide.

This is a moment where we need to remind ourselves of the confidence, fearlessness, and bravery of George Washington—then we will know that we cannot, we must not, subvert our ideals—we can and must use them to win.

Finally, we have a choice before us. I hope we make the right choice. I fear that we will not; that we will be once again back in the Supreme Court, and we will be once again held up to the world as failing our own high standards.

When our soldiers face an enemy, when our soldiers are in danger, will that enemy surrender if he thinks he will be tortured? Will he continue to fight? How will our men and women be treated?

I hope we both pass the right kind of legislation and understand that it may very well determine whether we win this war against terror and protect or troops who are valiantly fighting for us.

Thank you, Mr. President.

The PRESIDING OFFICER. Who yields time?

Mr. WARNER. Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that it not be charged to either side.

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

The legislative clerk proceeded to call the roll.

Mr. KENNEDY. 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.

Mr. LEVIN. Mr. President, the Kennedy amendment would require the Secretary of State to notify other countries around the world that seven specific categories of actions, each of which is specifically prohibited by the Army Field Manual, are punishable offenses under common Article 3 of the Geneva Conventions that would be prosecuted as war crimes if applied to any United States person. Those seven categories of actions are: (1) Forcing the detainee to be naked, perform sexual acts, or pose in a sexual manner; (2) applying beatings or other forms of physical pain; (3) “waterboarding”; (4) using military working dogs; (5) inducing hypothermia or heat injury; (6) conducting mock executions; and (7) depriving the detainee of necessary food, water, or medical care.

I listened very carefully to what my colleague from Virginia, the Chairman of the Armed Services Committee, had to say about this amendment. He stated:

Now Senator Kennedy’s amendment, depending on how we frame it, and I’m on the opinion that this chamber will reject it, I don’t want that rejection to be misconstrued by the world in any way as asserting that the practices in the amendment are consistent with the Geneva Convention or that they could legitimately be employed against our troops or anyone else. We must not leave that impression as a consequence of the decisions soon to be made by way of vote on the Kennedy amendment. The types of conduct described in this amendment, in my opinion, are in the category of grave breaches of Common Article Three of the Geneva Convention. These are clearly prohibited by the bill.

I am in complete agreement with Senator WARNER that each of these practices is a grave breach of Common Article 3. I agree that these practices are unlawful today and that they will continue to be unlawful if this bill is enacted into law.

However, I am concerned that the administration may have muddied the record on these issues through its unwillingness to clearly state what practices are permitted, and what practices are prohibited, under Common Article 3. While I reach the same conclusion as Senator WARNER as to the lawfulness of the practices listed in the Kennedy amendment, I am afraid that others around the world may not.

We agree that these practices are prohibited by Common Article 3. We need to send a clear message to the world that this is the case, so that the rest of the world will abide by the same standard. That is why I strongly support the Kennedy amendment.

Mr. KENNEDY. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. Ten minutes remain under the Senator’s control.

Mr. KENNEDY. Mr. President, I yield myself 4 minutes.

Mr. President, I want to point out why this is so necessary and so essential.

In reviewing the underlying legislation, if you look under the provisions dealing with definitions on page 70 and 71, and then read on, you will find that it is difficult to read that without having a sense of the kind of vagueness which I think surrounds prohibited interrogation techniques. It talks about substantial risks and permanent physical pain. But the statute does not have specifics to define the areas which are prohibited. The techniques in my amendment are the same ones the Department of the Army and, to my best knowledge, our colleague and friend from Arizona has identified. Voting for my amendment would provide those specifics.

The President has asked for specificity, but he has refused to say whether Common Article 3 would prohibit these kinds of acts. That has left the world doubting our commitment to Common Article 3 and has endangered our people around the globe—who are working for the United States in the war on terror.

We interpret the legislation so that any country in the world that has signed on to the Geneva Conventions, any of those countries that are going to practice activities prohibited by the field manual, that I consider to be tortured, are going to be held by the United States interrogating committing a war crime. This is important. It is essential. It is necessary.

The general concept was improved without objection a number of years ago in the wake of the Vietnam situation, regarding the definition of war crimes. We ought to restate and recommit ourselves to protecting Americans involved in the war on terror and ensure that they will not be subject to these activities.

At the present time, without this amendment, it will be left open. If we accept this amendment, it would make it clear it is prohibited. That is what we should do.

I withdraw the remainder of my time.

The PRESIDING OFFICER (Mr. ALEXANDER). The Senator from Virginia.

Mr. WARNER. I suggest the absence of a quorum and that it not be chargeable to either side.

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, I ask unanimous consent the pending amendment be laid aside so that I may offer an amendment.

Mr. WARNER. Mr. President, reserving the right to object, and I will not object, I would simply like to make it clear in laying aside the amendment...
the times remaining under the control of the President of the Senate from Virginia and the Congress from Michigan remain in place. We will now, to accommodate our distinguished senatorial colleague, go of the Kennedy amendment and proceed to the Byrd amendment.

The PRESIDENT pro tempore of the Senate, Mr. President, I shall offer an amendment today that provides a 5-year sunset to any Presidential authorization of any military commission enacted under the legislation currently being debated. Establishing this limit on the Senate’s ability to operate and this is how it separates in the best interests of the people.

As I stand here now, Members are standing themselves to beat a path home to their States—I understand that—and they may in their final politicking. Unfortunately, although, in the feverish climate of a looming election, the most important business of the Senate may infuse. I have seen that happen over the years. This is no surprise. We have seen before the fever of politics can undermine the serious business of the Congress once November the 3rd and the winds of November draw nigh. We have seen the mistakes that can come when Congress rushes to legislate without the benefit of thorough vetting by committees, without adequate debate, without the opportunity to offer amendments.

Likewise, when legislation is pushed as a means of political showboating— we all know what that is—instead of by a diligent commitment to our constitutional duties, the results can be disastrous.

In fact, there have been various proposals to bring congressional oversight to the military tribunals which were first authorized in November, 2001. Senators Specter, Leahy, and Durbin were instrumental in attempting to push back against unilateral executive action by the President to establish these commissions. These attempts were to assert the power of the Congress—yes, the constitutional duty embodied in Article I of this Constitution that is vested in the Congress and in the Constitution as a means of political showboating—instead of by a diligent commitment to our constitutional duties, the results can be disastrous.

The bill reported by the Senate Committee on Armed Services, which I supported, was the product of a thorough process, a deliberative process. Unfortunately, this bill’s progress was halted by the administration’s objections, and the product suffered mightily. Then, in closed-door negotiations with the White House, many of the successes announced less than a week ago in the previous version were trashed.

When the administration met stiff opposition by former JAG—judge advocate general—officers and previous members of its own Cabinet, it realized it must come back to the table. Last Friday’s version of the bill was superseded by Monday’s version, and changes are still forthcoming. In such a frenzied, frenetic, and uncertain state, who really knows the nature of the beast? This bill could very well be the most important piece of legislation—certainly one of the most important pieces of legislation this Congress enacts, and the adoption of my amendment, which I shall offer, ensures—ensures—a reasonable review of the law authorizing military tribunals.

There is nothing more important to scrutinize than the process of bringing suspected terrorists to justice for their crimes in a fair proceeding, without the taint—without the taint—of a kangaroo court. Those are the values of our country. We dare not handle the matter sloppily. The Supreme Court has once struck down the President’s approach to military commissions, has it not? Do we want the product of this debate subjected to the same fate? Do we want it stricken also?

The original authorization of the PATRIOT Act is a case study of the risks we run in legislating from the hip—too much haste—and how, in our haste, we can get the wrong decisions. We hold most dear. Apparently, the Senate has not recognized the error of its ways. This legislation is complex. This legislation defines the procedures and the process for bringing enemy combatants to trial for offenses against our country, and it involves our obligations under the Geneva Conventions. This bill defines rules of evidence, it determines defendants’ access to secret evidence, and it seeks to clarify what exactly is the remedy of reason. We cannot afford to get this wrong.

As with the PATRIOT Act, my amendment offers us an opportunity to provide a remedy for the unanticipated consequences that may arise as a result of a hasty oversight. Along with the sweeping changes made by the PATRIOT Act, the great hope included in it was the review that was required by the sunset provision. Everyone knows the saying that hindsight is 20–20, but this type of this type of congressional review gives us the opportunity both to strengthen the parts of the law that may be found to be weak, and to right the wrongs of past transgressions.

So if we will not today legislators in a climate of steady deliberation, then let us at least prescribe for ourselves an antidote for any self-inflicted wounds. Let us prescribe for ourselves the remedy of reason—the remedy of reason. Let this be the age of reason once more. Sunset provisions have historically been used to repair the unforeseen consequences of acts in haste. You have heard that haste makes waste. If ever there was a case of legislation that cries out to be reviewed with the benefit of hindsight, it is the current bill.

My amendment, which I hold in my hand, provides that the validity of this bill is continued through a 5-year sunset provision. Now, what is wrong with that? There is nothing wrong with that—a 5-year sunset provision. And I thank Senator OBAMA and I thank Senator CLINTON for their cosponsorship of my amendment. I urge my colleagues to support it.

Mr. President, I send my amendment to the desk.

The assistant legislative clerk will report.

The assistant legislative clerk read as follows:

The Senator from West Virginia (Mr. BYRD), for himself and Mr. OBAMA, and Mrs. CLINTON, proposes an amendment numbered S1085:

On page 5, line 19, add at the end the following: “The authority of the President to establish new military commissions under this section shall expire on December 31, 2011. However, the expiration of that authority shall not be construed to prohibit the consent to the finality of the proceedings of a military commission established under this section before that date.”.
The PRESIDING OFFICER. Who yields time?

Mr. WARNER. Mr. President, we are about to receive a copy of the amendment. But I listened very carefully to my colleague’s remarks. As he well knows, in my relatively short 28 years in the Senate, I have listened to him and I have the highest respect for his judgment, and particularly as it relates to how the legislative branch has discharged its constitutional responsibilities and how, also, it should not try to discharge its constitutional responsibilities. And I guess my opposition falls, most respectfully, in the latter category because I find this Congress has a very high degree of vigilance in overseeing the exercise of the executive powers as it relates to the war against those whom I view as jihadists, those who have no respect for, indeed, the religion which they have ostensibly committed their lives to, and have no respect for human life, including their human life.

It is a most unusual period in the history of our great Republic. The good Senator, having been a part of this Chamber for nearly a half century, has seen a history unfold. The Senator and I have often discussed the World War II period. That is when my grasp of history began to come into focus. And, indeed, the Senator himself was engaged in his activities in the war effort, as we all were in this Nation.

The ensuing conflicts, while they have been not exactly like World War II, have been basically engaging those individuals acting in what we refer to as their adhering to a state, an existing government that has promulgated rules and regulations, such as they may be, for the orders issued to their troops, most of whom wore uniforms, certainly to a large degree in the war that followed right after World War II, the vast majority of those individuals in that conflict had some vestige of a uniform, conducting their warfare under state-sponsored regulations. I had a minor part in that conflict and remember it quite well.

Vietnam came along, and there we saw the beginning of the blurring of state sponsored. Nevertheless, it was present. The uniforms certainly lacked the clarity that had been in previous conflicts. And on the history goes.

But this one is so different. I say to my good friend, the Senator from West Virginia. And I think our President, given his duty as Commander in Chief under the Constitution, has to be given the maximum flexibility as to how he deals with these situations. We see that in a variety of issues around here.

But, nevertheless, it is the exercise of executive authority, and that exercise of executive authority must also be subject to the oversight of the Congress of the United States.

But when the broad powers conferred on the executive branch to carry out its duty to defend the Nation in the ongoing threat against what we generally refer to as terrorism—but more specifically the militant jihadists—we have to fight with every single tool we have at our disposal, consistent with the law of this Nation and international law. And, therefore, we are here in this particular time addressing methods for meting out justice, a measure of justice, to certain individuals who have been apprehended in the course of the war against this militant jihadist terrorist group. 

I find it remarkable, as I have worked it through with my other colleagues, that they are alien, they are unlawful by all international standards in the manner they conduct the war. Yet this great Nation, from the passage of this bill, is going to mete out a measure of justice as we understand it.

Now, the Senator’s concern is—and it always should be; it goes back to the time of George Washington and the Congress at that time—the fear of the overreach of the executive branch, the overexercise of the authorities within the executive branch. But I think to put a clause and restriction, such as the Senator recommends in his amendment, into this bill would, in a sense, inhibit the ability of the President to rapidly exercise all the tools at his disposal.

I say to the Senator, your bill says:

The authority of the President to establish new military commissions under this section shall expire. . . . However, the expiration of such restriction as you wish to impose overhanging this important bill any time. I believe the Senator said—he certainly implied strongly—that this legislation would not be in the best interests of my country. I believe the Senator said—he certainly implied strongly—that this legislation would not be in the best interests of our country. If I am wrong, I know the Senator will correct me. Let me read, though, the amendment:

On page 5, line 19, add at the end the following: “the authority of the President to establish new military commissions under this section shall expire on December 31, 2025. However, the authority shall not be construed to prohibit the conduct to finality of any proceedings of a military commission established under this section before that date.”

That was landmark legislation. From that legislation has come now what we call the Army Field Manual, in which we published to the world what America will do in connection with those persons—the unlawful aliens who come into our custody by virtue of our military operations, and how they will be dealt with in the course of interrogation. That was an extraordinary assertion by the Congress, within the parameters of its powers, of what they should do, the executive branch.

But a sunset date for the authority to hold military commissions, in my judgment, is not in the best interests, at this time in this war, of our country. But if there are other speakers. How much time do I have remaining?

The PRESIDING OFFICER. Nineteen minutes 20 seconds.

Mr. WARNER. I thank the Chair, and I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. BYRD. Mr. President, the Senator knows my great respect for him. It is an abiding respect. When I look at him, I see a man—a Member of this Senate—who has had vast experience and worn many coats of honor. I see a man who stands by his word, who keeps his word, and is always very meticulous in criticizing the President or criticizing legislation. He is most circumspect, most respectful to his colleagues, and most respectful to the Constitution. But I am abhorrent—I cannot write very well anymore. I would like to be able to write down what other Senators have said. But I cannot write. So I may have misinterpreted, or I may misstate the words. But I cannot understand why this legislation would not be in the best interests of my country.

I believe the Senator said—he certainly implied strongly—that this legislation would not be in the best interests of our country. If I am wrong, I know the Senator will correct me. Let me read, though, the amendment:

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Mr. President, what is wrong with that language? How would that language not be in the interest of our country? I think we are all subject to
error. Adam and Eve were driven from the Garden of Eden because of error. So from the very beginning of history, the very history of mankind, this race of human beings, there has been evidence of errors, mistakes. People did not foresee the future, and this language is a product of that.

What is wrong with providing an expiration date for the authority given to the President in this bill, after a period of 5 years? Can we not be mistaken? Might we not see the day when we wish that that authority was not automatic, that we have the opportunity to review this? Five years is a long time. Five years is ample time.

So I must say that I am somewhat surprised that my friend, the great Senator from Virginia, would seek to oppose this amendment. Let me read it once again. This is nothing new, having sunset provisions in bills. I think they are good. We can always review them, and if mistakes have not been made, we can renew them. There is that opportunity. We must guarantee that there will come a time when this legislation will be reviewed. Only the word of Almighty God is so perfect that there is no sunset provision in the Holy Writ. No. But the sunset provision there is with us, and the time will come when all of us will take a voyage into the sunset.

Mr. WARNER. May I reply at the appropriate time?

Mr. BYRD. Absolutely. I will yield right away.

Mr. WARNER. Many times, the two of us have stood right here and had our debates together. It is one of those rich moments in the history of this institution when two colleagues, without all of the prepared text and so forth, can draw upon their experience and knowledge and their own love for the Constitution of the United States and engage. I say to my good friend, 3 weeks ago, there were headlines that three Senators were in rebellion against their President, three Senators were disidents, and on and on it went. Well, the fact is, the three of us—and there were others who shared our views, but somehow the three of us were singled out—believed as a matter of conscience we were concerned about an issue.

The concern was that the bill proposed by the administration, in our judgment, could be construed as in some way—maybe we were wrong—in indicating that America was not going to follow the treaties of 1949—most particularly, Common Article 3. Common Article 3 means that article in each of these three treaties. As my good friend knows—and we draw on our own individual recollections about the horrors of World War II. I was involved in the foreign battlefield. We certainly knew about it back here at home and studied it. I was a youngster, a skinny youngster in my last year in the Navy. So much was I conscious of what was going on, and the frightful treatment of human beings as a consequence of that war.

The world then came together—and I say the world—after that and enacted these three treaties. The United States was in the lead of putting those treaties in. Those treaties were for the purpose of ensuring that future mankind, generations, hopefully, would not experience what literally millions of people experienced by death and maiming—not only soldiers but civilians.

Mr. President, we believed that the administration’s approach to this could be interpreted by the world as somehow we were not behind those treaties. If we were to put a sunset in here after all of the deliberation and all of the work on the current bill that is before this body, it could once again raise the specter that, well, in fact that the United States was trying to not live up to the treaties that brought on this debate in the Senate, then at the end of 5 years we go back to where we were. That could happen. We do not want to send that message. We say that this Nation has reconciled, hopefully, this body, as we vote this afternoon, and will send a strong bipartisan message that we are reconciled behind this legislation to ensure that in the end, we are going to live fully within the confines of the treaties of 1949.

Mr. BYRD. We are not dealing with the treaties of 1949.

Mr. WARNER. I respectfully say that our bill does, in my judgment. Clearly, it constitutes an affirmation of the treaties. I would not want to send a message at this time that there could come a point, namely, December 31, 2011, that as we assure as we have given about those treaties might expire. That is what concerns me.

Mr. BYRD. Mr. President, I am almost speechless. I listened to the words that have just been uttered by my friend. My amendment does not affect, in any way, the portions of this bill that relate to the Geneva Conventions. It sunsets only the authority of the President to convene military commissions and, of course, the Senate can renew that authority. That is done in many instances here. I think it is insurance for our country and the welfare of our country and the welfare of the people who serve in the military.

We say 5 years. Do we want to make that 6 years? Do we want to make it 7 years? Fine. It will expire at that time. It simply means that the Senate and the House take a look at it again and renew it. What is wrong with that?

Mr. WARNER. I say to my friend, Mr. President, from a technical standpoint, he is correct. He is going in there and incising out regarding commissions. But the whole debate has been focused around the Sunset provision. What we will conduct ourselves in accordance with the common understanding of Article 3, particularly.

So while the Senator, in his very fine and precise way of dealing with the legislation, takes out just that, it might not be fully understood beyond our shores. The headline could go out that there is going to be an expiration. I say to my good friend, it is just not wise to go in and try and put any imprint on this that expiration could occur. It could raise, again, the debate, and I do not think that is in the interest of the country. I think this debate, this legislation has been settled, and I do not think it was ever the President’s intention in the course of the preparation of his legislation, but some fear it could.

Mr. BYRD. Mr. President, it could be a Democratic President, as far as I am concerned. This is the part of the Senate in conducting its constitutional oversight, to say that we will do it this far and then we will take another look at it in the light of the new day, in the light of the new times, the new circumstances; we will take another look at it. We are not passing any judgment on that legislation 5 years out.

I am flabbergasted—flabbergasted—that my friend would take umbrage at this legislation.

I only have a few minutes left.

Mr. LEVIN. Will the Senator from West Virginia yield for 3 minutes?

Mr. BYRD. Yes, I yield 3 minutes.

Mr. LEVIN. Mr. President, I think this is the Senator from West Virginia is, more than any other person in the history of this body, the custodian in his person of the Constitution of the United States. The bill that is before us obviously raises a number of very significant issues involving our Constitution.

What the amendment of Senator BYRD does very wisely is say that after 5 years, let us double back and doublecheck—double back and doublecheck—so that we can be confident that what we have done comports with the Constitution of the United States. This amendment does it very carefully. It does not disturb any pending proceeding under the commission. The Senator from West Virginia has written this amendment so carefully that he says even though it will sunset, forcing us to go back and doublecheck, to look at our work, that it will not in any way disturb any existing or pending proceeding.

I believe this is such an important statement of our determination that we act in a way that is constitutional, not in the heat of a moment which is obviously critical to us, but that we comport in every way with this Constitution. We ought to heed the words of Senator BYRD, who understands the importance of this Constitution and that this body be the guardian of the Constitution. We are the body that must protect this Constitution.

Mr. BYRD. Yes.

Mr. LEVIN. And this, as he puts it, is an insurance policy that we will do just that.

Mr. BYRD. Yes.

Mr. LEVIN. I ask unanimous consent that I be added as a cosponsor to the BYRD amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.
Mr. BYRD. Mr. President, I have 4 minutes remaining; do I?

The PRESIDING OFFICER. The Senator has 5 minutes 14 seconds remaining.

Mr. BYRD. I yield 5 minutes to my friend, the distinguished Senator from Illinois, Mr. OBAMA.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

Mr. OBAMA. Mr. President, I thank my dear friend and colleague from West Virginia.

I am proud to be sponsoring this amendment with the senior Senator from West Virginia. He is absolutely right that Congress has abrogated its oversight responsibilities, and one way to reverse that troubling trend is to adopt a sunset provision in this bill. We did it in the PATRIOT Act, and that allowed us to make important revisions to the bill that reflected our experience about what worked and what didn’t. The 5 year sunset provision was a fundamental human rights provision that we needed to see how it actually worked in real life over the first 5 years. We should do that again with this important piece of legislation.

It is important to note that this is not a conventional war we are fighting, as has been noted oftentimes by our President and on the other side of the aisle. We don’t know when this war against terrorism might end. There is no emperor to sign a surrender document. As a consequence, unless we build into our own processes some mechanism to oversee what we are doing, we are going to have an open-ended situation, not just for this particular President but for every President for the foreseeable future. And we will not have any formal mechanism to require us to take a look and to make sure it is being done right.

This amendment would make a significant improvement to the existing legislation, and it is one of those amendments that would, in normal circumstances, I believe, garner strong bipartisan support. Unfortunately, we are not in normal circumstances.

Let me take a few minutes to speak more broadly about the bill before us. I may have only been in this body for a short while, but I am not naïve to the political considerations that go along with many of the decisions we make here. I realize that soon—perhaps today, perhaps tomorrow—we will adjourn for the fall. The campaigning will begin in earnest. There are going to be attack ads and negative mail pieces criticizing people who don’t vote for this legislation as caring more about the rights of terrorists than the protection of Americans. And I know that this vote was specifically designed and timed to add more fuel to the fire. Yet, while I know all of this, I am still disappointed because what we are doing here today, a debate over the fundamental human rights of the accused, should be bigger than politics. This is serious and this is somber, as the President noted today and was insisting that this is supposed to be our primary concern. He is absolutely right it should be our primary concern—which is why we should be approaching this with a somberness and seriousness that this administration has not displayed with this legislation.

I have the utmost respect for my colleague from Virginia. It saddens me to stand and not be foursquare with him. I don’t know a more patriotic individual or anybody I admire more. When the Armed Services bill that was originally conceived came out, I thought to myself: This is a proud moment in the Senate. I thought: Here is a bipartisan piece of legislation structured and well thought through that we can all join together and support to make sure we are taking care of business. The fact is, although the debate we have been having on this floor has obviated some ideological differences, the truth is we could have settled most of these issues on habeas corpus, on this sunset provision, on a whole host of issues. The Armed Services Committee showed us how to do it.

All of us, Democrats and Republicans, want to do whatever it takes to track down terrorists and bring them to justice as swiftly as possible. All of us want to give our President everything he needs. All of us were willing to do that in this bill. Anyone who says otherwise is lying to the American people.

In the 5 years the President’s system of military detention has existed, the fact is not one terrorist has been tried, not one has been convicted, and in the end, the Supreme Court of the United States found the whole thing unconstitutional because we were rushing it through a process and not overseeing it with sufficient care. Which is why we are here today.

We could have fixed all this several years ago in a way that allows us to detain and interrogate and try suspected terrorists while still protecting the accidentally accused from spending their lives locked away in Guantanamo Bay. Easily. This was not an either-or question. We could do that still.

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

Mr. OBAMA. Mr. President, I ask unanimous consent for 2 more minutes.

The PRESIDING OFFICER. Is there objection?

Mr. WARNER. Mr. President, charged against the allocation under the provision of the amendment.

The PRESIDING OFFICER. The provision has no time remaining.

Mr. WARNER. We are under fairly rigid time control, but I will give the Senator from Illinois a minute.

Mr. OBAMA. I will conclude, then. I appreciate the Senator from Virginia. I appreciate the Senator from Illinois—both this President—or any President—to decide what does and does not constitute torture, we could have left the definition up to our own laws and to the Geneva Conventions, as we would have if we passed the bill that the Armed Services Committee originally drafted, and all of us were willing to do that in this bill. Anybody who says otherwise is lying to the American people.

Instead of detainees arriving at Guantanamo and facing a Combatant Status Review Tribunal that allows them no real chance to prove their innocence with evidence or a lawyer, we could have developed a real military system of justice that would sort out the suspected terrorists from the accidentally accused.

And instead of not just suspending, but eliminating, the right of habeas corpus—the seven-century-old right of individuals to challenge the terms of their own detention, we could have given the accused one chance—one single chance—to ask the Government what they are being held and what they are being charged with.

But politics won today. Politics won. The administration got its vote, and now it will have its victory lap, and now they will be able to go out on the campaign trail and tell the American people that they were the ones who were tough on the terrorists.

And yet, we have a bill that gives the terrorist mastermind of 9/11 his day in court, but not the innocent people we may have accidentally rounded up and mistaken for terrorists—people who may stay in prison for the rest of their lives.

And yet, we have a report authored by sixteen of our own Government’s intelligence agencies, a previous draft of which described, and I quote, “. . . actions by the United States government that were determined to have stoked the jihad movement, like the indefinite detention of prisoners at Guantanamo Bay”.

And yet, we have al-Qaida and the Taliban regrouping in Afghanistan while we look the other way. We have a war in Iraq that our own Government’s intelligence says is serving as al-Qaida’s best recruitment tool. And we have recommendations from the bipartisan 9/11 commission that we still refuse to implement 5 years after the fact.

The problem with this bill is not that it is too tough on terrorists. The problem with this bill is that it is sloppy. And the reason it is sloppy is because we rushed it to serve political purposes instead of taking the time to do the job right.

What we heard, for example, the argument that it should be military courts, and not Federal judges, who should make decisions on these detainees. I actually agree with that.

The problem is that the structure of the military proceedings has been poorly thought through. Indeed, the regulations that are supposed to be governing administrative hearings for these detainees, which should have been issued months ago, still haven’t been issued. Indeed, we have rushed this bill—or any President—to decide what does and does not constitute torture, we could have left the definition up to our own laws and to the Geneva Conventions, as we would have if we passed the bill that the Armed Services Committee originally drafted.

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State, I hope God has mercy on their soul, because I certainly do not.

For those who our Government suspects of terror, I support whatever tools are necessary to try them and uncover their plot.

We also know that some have been detained who have no connection to terror whatsoever. We have already had reports from the CIA and various generals over the last few years saying that many of the detainees at Guantanamo has been there—as one U.S. commander of Guantanamo told the Wall Street Journal, “Sometimes, we just didn’t get the right folks.” And we all know about the recent case of the Canadian man who was suspected of terrorist connections, detained in New York, sent to Syria, and tortured, only to find out later that it was all a case of mistaken identity and poor information. In the future, people like this may never have a chance to prove their innocence. They may remain forever in this world.

The sad part about all of this is that this betrayal of American values is unnecessary.

We could have drafted a bipartisan, well-structured bill that provided adequate due process to the detainees in the military courts, had an effective review process that would’ve prevented frivolous lawsuits being filed and kept lawyers from clogging our courts, but upheld the basic ideals that have made this country great.

Instead, what we have is a flawed document that in fact betrays the best instincts of some of my colleagues on both sides of the aisle—those who worked in a bipartisan fashion in the Armed Services Committee to craft a bill that we could have been proud of. And they essentially got steamrolled by this administration and by the imperatives of November 7.

That is not how we should be doing business in this Senate, and that is not how we should be prosecuting this war on terrorism. When we are sloppy and cut corners, we are undermining those very virtues of America that will lead us to success in winning this war. At bare minimum, I hope we can at least pass this provision so that cooler heads can prevail after the silly season of politics is over.

I conclude by saying this: Senator BYRD has spent more time in this Chamber than many of us combined. He has seen the ebb and flow of politics in this Nation. He understands that sometimes we get caught up in the heat of the moment. The design of the Senate has been to cool those passions and try step back and take a somber look and a careful look at what we are doing.

Passions never flare up more than during times where we feel threatened. I strongly urge, despite my great admiration for one of the sponsors of the underlying bill, that we accept this extraordinary modest amendment that would allow us to go back in 5 years’ time and make sure that we are doing serves American ideals, American values, and ultimately will make us more successful in prosecuting the war on terror about which all of us are concerned.

Thank you, Mr. President. Mr. BYRD, Mr. President, I ask the distinguished Senator from Virginia, may I have 10 seconds?

Mr. WARNER. I am going to give the Senator more than 10 seconds. I have to do a unanimous consent request on behalf of the leadership.

ORDER VITIATED—S. 295

I ask unanimous consent that the order with respect to S. 295 be vitiated. The PRESIDING OFFICER. Is there objection?

Mr. LEVIN. Reserving the right to object.

No objection.

Mr. WARNER. I understand there is no objection. Will the Chair kindly rule?

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

The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, I yield such time as Mr. BYRD wishes to take. The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, I thank my friend from Virginia. I merely wanted to thank the distinguished Senator from Illinois, Mr. OBAMA, for his statement. I think it was well said, I think it was wise, and I thank him for his strong support of this amendment. I also close by asking that the clerk once again read this amendment. I will then yield the floor. I thank the Senator from Virginia.

Mr. WARNER. Mr. President, I say to my good friend, I fully understand what you endeavor to do here, and I respectfully strongly disagree with it. I think many of us share this. This is going to be a very long war against those people whom we generally call terrorists. A course of that war, this President and his successor must have the authority to continue to conduct these courts-martial—these trials under these commissions—and not send out a signal to terrorists: If you get caught, this thing may end.

Mr. WARNER. If you are not caught within this period of time, when this went into effect, then you are no longer going to be held accountable. I, along with Senator COHEN from Michigan, regret that this Nation or other nations or a consortium of nations have not captured Osama bin Laden. There is a debate going on about that, and I am not going to get into that debate, but the fact is he is still at large. There could be other Osama bin Ladens, and it may take years to apprehend them, no matter how diligently we pursue them. We cannot send out a signal that at this definitive time, it is the responsibility of the President, of the executive branch, to hold those accountable for crimes against humanity. They would not be held accountable if this provision went into power. Need I remind this institution of the most elementary fact that every Senator understands, that what we do one day can be changed the next. If there comes a time when we feel this President or a subsequent President does not exercise authority consistent with this act, Congress can step in, and with a more powerful action than a sunset, a very definitive action.

Mr. President, it is my understanding I have a few minutes left under this amendment.

The PRESIDING OFFICER (Mr. COLEMAN). The time of the Senator from Virginia is 9½ minutes.

Mr. WARNER. I would like to have that time transferred under my time on the bill as a whole. I hope Senator CORNYN, who has expressed an interest in this, gets the opportunity to use that time to address this amendment.

Now, Mr. President, as I look at the number of Senators who are desiring to speak on my side—and I think perhaps it would be helpful if you could, I say to my colleague, the ranking member, check on the other side—we still have some debate, and we are prepared to get into debate on the Kennedy amendment now. Therefore, I will undertake to do that just as soon as I finish.

But then we are in that time period where all time has expired or utilized or otherwise allocated on the several amendments. We will soon receive an indication from the leadership as to the time that just as soon as I finish.

So I am going to manage that as fairly and as equitably as I can. That is what we propose to do. I will go into the subject of the Kennedy amendment right now.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. LEVIN. Mr. President, I am afraid that the way this now is set up, the Senator from Virginia has about six speakers who will have time, and the time that just as soon as I finish.

The PRESIDING OFFICER. The Senator from Michigan has 7 minutes remaining on the bill. The Senator from Vermont has 12 minutes remaining on the bill.

Mr. LEVIN. And the Senator from Massachusetts has how many minutes on his amendment?

The PRESIDING OFFICER. The Senator from Massachusetts has 7 minutes 20 seconds.
Mr. LEVIN. How much time all together on the majority side?

The PRESIDING OFFICER. On the bill, 50 minutes; on the Kennedy amendment, 30 minutes.

Mr. LEVIN. I think everybody ought to read Senator Warner's amendment. I am in. I hope we will withhold our comments until those on the other side who have been indicated as having time allotted to them speak so that we will have some time to respond to them.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

AMENDMENT NO. 5088

Mr. WARNER. Mr. President, I would now like to address the amendment offered by the senior Senator from Massachusetts.

I have read this very carefully and I have studied it. I say to my good friend. There are certain aspects of this amendment that are well-intentioned. But I strongly oppose it, and I do encourage colleagues to oppose it, because of the sensitive nature of powers involved here, and that is the subject on which this Chamber has resonated many times. But here I find the amendment invades the authority of the executive branch in the area of the conduct of foreign affairs by requiring the Secretary of State to notify other state parties to the Geneva Conventions of certain U.S. interpretations of the Geneva Conventions, in particular Common Article 3 and the law of war.

It is up to the executive branch in its discretion to take such actions in terms of its relations with other states.

This bill speaks for itself by defining grave breaches of Common Article 3 that amount to war crimes under U.S. law. Any congressional listing of specific techniques should be avoided simply because Congress cannot foresee all of the techniques considered to be war crimes.

Mr. KENNEDY. Mr. President, I would like to inquire of the Senator from Virginia, and I yield myself 3 minutes. As I understand, of the reasons this amendment is being rejected is because it is going to place on our State Department to notify the 194 countries that we expect, if these techniques are used against Americans, they would be considered a war crime. That is a possible difficulty for us. That is a burden for us. That is a burden on the Senator from Virginia.

Mr. WARNER. Well, I can't list those because it is going to be a bother to our State Department, notifying these countries. My, goodness.

There has to be a better reason that we are not going to protect our service men and women from these kinds of techniques. We are saying to those countries: If you use these techniques, you are a war criminal. What are those techniques? They are in the Department of Defense listing. That is what this amendment is about. How can we avoid it? I gave the illustrations of how they were used repeatedly, whether it has been by Iran or whether it has been by Japan, or any of our adversaries in any other war.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, I would like to inquire of the Senator from Virginia, and I yield myself 3 minutes. As I understand, of the reasons this amendment is being rejected is because it is going to place on the State Department to notify the 194 countries that we expect, if these techniques are used against Americans, they would be considered a war crime.

Mr. WARNER. That is a possibility. We are saying to those countries: If you use these techniques, you are a war criminal.

Mr. KENNEDY. That is what this amendment is about. I reserve the remainder of my time.

I ask unanimous consent the letter be printed in the RECORD.

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

SEPTEMBER 12, 2006.

Hon. JOHN McCAIN, U.S. Senate, Washington, DC.

DEAR SENATOR MCCAIN: Sometimes, the news is a little garbled by the time it reaches the forests of North-central Minnesota. But I call your recent reports that the Congress is considering legislation which might relax the United States support for adherence to Common Article 3 of the Geneva Convention. If that is true, it would seem to weaken the effect of the McCain Amendment on torture of last year. If such legislation is being considered, I fear that it may weaken America in two respects.

First, it would undermine the moral basis which has generally guided our conduct in war throughout our history. Second, it could weaken the legal argument for the mistreatment of Americans being held prisoner in time of war.

In 1950, 3 years after the creation of the Department of Defense, the then Secretary of Defense, General George C. Marshall, issued a small book, titled The Armed Forces Officier. That book summarized the laws and traditions that governed our Armed Forces through the years. As the Senate deals with the issue it might consider a short quote from the last chapter of that book which General Marshall sent to every American Officer.

The last chapter is titled “Americans in Combat” and it lists 29 general propositions which govern the treatment of Americans in war. Number XXV, which I long ago underlined in my copy, reads as follows:}
Mr. WARNER. Mr. President, my distinguished colleague used two phrases just now. He said: Burden. He used the word burden. He then said the word bother. Senator, you walk straight into the constitutional separation of powers in your language and you say: The Secretary of State shall—that is a direct order—notify other parties to the Geneva Conventions. You are putting a direct order to the executive branch. I say that is a transgression of the long constitutional history of this country and the doctrine of separation of powers.

Mr. KENNEDY. Would the Senator support it if we changed it to “shall,” that you, the chairman of our committee, will make that request and the President will go ahead and notify and follow those instructions?

Mr. WARNER. Senator, I am not in the business of trying to amend your amendment. Mr. KENNEDY. I am just trying to accommodate you. You are saying that this is a constitutional issue. I just offered to try to accommodate the Chairman so we can ensure we are protecting American servicemen from torture—form torture. And the population is: Well, it is going to violate the Constitution. I am interested in getting results.

But I hear the Senator say that it is unconstitutional that my amendment says Department of State shall notify other countries that if they are going to torture, they are going to be held accountable, and we are being defeated on the floor of the U.S. Senate because the opponents are saying that is unconstitutional and we cannot find a way to do it. I find this unwillingness to compromise is outrageous.

Mr. WARNER. Mr. President, at this point I wish to have such time as remains under the control of the Senator from Virginia accorded to me under the control of the time on the bill.

The PRESIDING OFFICER. The time will be so allocated.

Mr. WARNER. Mr. President, I wish to inform the Chamber that we are at that juncture where we will consider the statements of others, very important statements to be made. I listed them in a recitation of those who have indicated their desire to speak. But I also bring to the attention of the body that I have just been told by the leadership they are anxious to proceed to the votes. At this time I would ask—if I can get my colleague’s attention—that there be yea and nay on all of the pending amendments remaining.

The PRESIDING OFFICER. Without objection, the yeas and nays may be requested on all pending amendments.

Mr. LEVIN. Will the Senator withhold that request for 2 minutes? Will the Senator withhold?

Mr. WARNER. Surely.

Mr. President, we will now put in a quorum call to accommodate the ranking member, such that the time is not charged to either side.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. WARNER. Mr. President, the managers on this bill, and the managers from their respective leaders, are endeavoring to do the following. There are three amendments to be voted on and then final passage. We hope to have as much time used on the bill as we can, to be consumed prior to the initiation of the votes. But then subsequent to the three votes, there will be a block of time. A Senator on this side has reserved 12 minutes. I intend to reserve, on my side, time to Senator MCCAIN. I am trying to work in that category of time following the votes. But until we are able to reconcile this, I ask that we now proceed.

Let me allow the Senator from Georgia to proceed. He has indicated a desire to speak for 5 or so minutes at this time. But I hope Senators are following what the two managers are saying. Those desiring to speak on the bill, with the exception of Senator MCCAIN, would they kindly come down and utilize this time before the amendments start?

I yield the floor.

The PRESIDING OFFICER. The Senator from Georgia.
Mr. WARNER. Mr. President, I thank our distinguished colleague from Georgia, a very valued member of the Armed Services Committee who has from time to time participated in the extensive deliberations and consultations to show how the original bill which we worked on should be shaped and finally amended. I thank him.

Again, I call to the attention of colleagues that I shall put in a quorum for the purpose of trying to accommodate Members on my side who desire to speak.

I now see the distinguished Senator from South Carolina. We are prepared to allocate to him such time as he may desire. How much time does he need?

Mr. GRAHAM. Would 15 minutes be OK?

Mr. WARNER. Yes.

Mr. GRAHAM. Mr. President, in 15 minutes I will try to explain the processes as I know it to be in terms of how we are doing this.

No. 1, I am glad we are here. I think the country is better off having the bill voted on in the current fashion.

I have gotten to know Senator Warner very well over the last 30 days. I had a high opinion of the Senator before this process started, but I, quite frankly, am in awe of his ability to stand up for the institution as a U.S. Senator, which was a former Secretary of the Navy who has a balanced approach about what we are trying to do.

It is no secret that Senator McCain is one of my closest friends in this body, and I have had many conversations with him. But unlike myself and most of us, Senator McCain paid a heavy price while serving this country. He and his colleagues in Vietnam were treated very poorly as prisoners of war. When he speaks about the Geneva Conventions, he does so as someone who has been in an environment where the Conventions would not apply. But Senator McCain believes very strongly in the Geneva Conventions. When it comes to the Vietnam war, he has told me more than once that it was a violation of the United States and the international community that constantly pushed back against the North Vietnamese. He thought the torture would have continued and all of them would eventually be killed. But the North Vietnamese became concerned about international criticism after a point in time.

While the Geneva Conventions were not applied evenly by any means, it did have an effect on the North Vietnamese.

I have been a military lawyer for over 20 years. I have had the honor of wearing the Air Force uniform while serving my country and being around great men and women in uniform. It has been one of the highlights of my life. I have never been shot at. The only people who wanted to kill me were probably some of my clients. But I do appreciate why the Geneva Conventions exist and that the law of armed conflict is a body of law unique to itself and has a rich tradition in our country and throughout the world and it will work to make us safe and live within our values if we properly apply it.

The reason we are here is because the Supreme Court ruled in the Hamdan case that the military commissions authorized by the President were in violation of Common Article 3 of the Geneva Conventions. They were not regularly constituted courts.

It surprised me greatly that the Supreme Court would find that the Geneva Conventions applied to the war on terror. It was President Bush’s assumption and mine, quite frankly, that humane treatment would be the standard. But this enemy doesn’t wear a uniform; it operates outside the Conventions, doesn’t represent a nation, and, therefore, would not be covered. But the Supreme Court came to a different conclusion. Thus, we are here.

I say to my fellow Americans, it is not a weakness, it is strength that we have these three branches of government. It is not healthy for one branch of government to dominate the other two at a time of stress.

I have pushed back against the administration when I believed they were pushing the executive power of the inherent authority of the President too far. I think though we are in a time of war, there is plenty of room for the Congress and the courts.

What I tried to do in helping draft this bill, working with the President and working with our friends on the other side, is come up with a product that would create the balance that I think would serve us well.

My basic proposition that I have applied to the problem is we are at war, that 9/11 was an act of war, and since that moment in time our Nation has been at war with enemy combatants who do not wear a uniform, who do not represent a nation but are warriors for their cause, just as dedicated as Hitler was to his cause, and they are just as vicious and barbaric as any enemy we have ever fought. We do not need to be like them to win. As a matter of fact, we need to show the world that we are different than them.

When the Geneva Conventions were applied to the war on terror, we had a problem. We had to renew the Military Commission Tribunal in line with Common Article 3. Common Article 3 is a mini-human-rights tree that is common to all four Convention articles. You have one about unlawful combatants and unlawful combatants, civilians and wounded people. Common Article 3 is throughout all of the treaties regarding the Geneva Conventions. It says you would have to have a regularly constituted court to pass judgment or render sentences against those who are in your charge during time of war; that is, unlawful combatants.

The problem with the military commission order authorized by the President was that it deviated from the formal Code of Military Justice, the court-martial model, without showing a practical reason. If we use the formal Code of Military Justice, it says military commissions are authorized, but they need to be like the court-martial system to the extent practicable.

What I am proud of is we have created a new military commission based on UCMJ and deviations are there because of the practical need. A court martial is not the right forum to try enemy combatants—non-citizen terrorists—the military commission is the right forum, but we are basing what we are doing on UCMJ. The practical differences, I think, will be sustained by the Court.

The confrontation rights that were originally posed by the administration gave me great concern. I do not believe that to win this war we need to create a procedure where you can receive evidence classified in nature, convict the accused, and the accused never knows what the jury had to render a
verdict upon, could not answer that accusation, rebut or examine the evidence.

That was the proposal which I thought went too far and that would come back to haunt us. As a result of this compromise, it has been taken out.

We have a national security privilege available to the Government to protect that prosecutor’s file from being given over to the defense or to the accused so our soldiers can be protected. But we will now allow the prosecutor to give that to the jury and let them bring it out on the side of the accused and the accused never knowing what he was convicted upon. That could come back to haunt us if one of our soldiers falls into enemy hands.

We would not want a future conviction based on evidence that our soldiers and CIA operative never saw. I think we have a military commission model that affords due process under the law. And our Constitution and our Nation can be proud of, that will work in a way to render justice, and if a condition is absent, it will be something we can be proud of as a nation. I am hopeful that the world would see the condition based on the Geneva Conventions requirements-compliant to afford the defendant the option to decline to haunt us.

My goal is to render justice to the terrorists, even though they will not render justice to us. That is a big distinction.

People ask me, Why do you care about the Geneva Conventions? These people will cut our heads off and they will kill us all. You are absolutely right. Why do I care?

Because I am an American. And we have led the way for over 50-something years when it comes to the Geneva Conventions applications.

I am also a military lawyer, and I can tell every Member of this body—some of them have served in combat unlike myself; some know better than I. But I know that we created pilots in Somalia. A helicopter pilot was captured by militia in Somalia. We dropped leaflets all over the city of Mogadishu. We told the militia leaders, “If you harm a helicopter pilot, you will be a war criminal.” We blamed that throughout town on loudspeakers with helicopters. After a period of time, they got the message, and he was released.

We had two pilots shot down over Libya when Reagan bombed Qadhafi. I was a P-3 active duty in the Air Force. We told Qadhafi directly and indirectly, if they harm these two pilots, they will be in violation of the Geneva Conventions, and we will hunt you down to the ends of the Earth.

I want to be able to say in future wars that there is no reason to abandon our Geneva Conventions obligations to render justice to these terrorists.

So not only do we have a military commission model that is Geneva Conventions compliant; we have a model that I think we should be proud of as a nation.

The idea that the changes between the committee bill and the compromise represents some grave departure, quite frankly, I vehemently disagree with. I didn’t get into this discussion and political fight to take all the heat that we have taken to turn around and do something that undercuts the purpose of being involved in it to begin with.

The provision that will be used in a military commission trial of an enemy combatant was adopted from the International Criminal Court.

I will place into the RECORD statements from every Judge Advocate General in the services that have certified from their point of view that the evidentiary standard that the judge will apply to any statements coming into evidence against an enemy combatant are legally sufficient, will not harm our standing in the world, and, in fact, are the model of the International Criminal Court which try the war criminals on a routine basis.

The provision I added, along with Senator McCain, dealing with the provisions of the Detainee Treatment Act, 5th, 8th, and 14th amendment concepts within the Detainee Treatment Act, will also be a standard in the future designed to reinforce the relevance of the Geneva Conventions, in our national policy, in our legal system, not to undermine anything but to enforce the concept the Detainee Treatment Act and the judicial standard that our military judges will apply to terrorists accused of a war crime under the Geneva Conventions that is applied in International Criminal Court.

I have been a member of the JAG court for over 20 years. I have had the honor of serving with many men and women who will be in that court-martial scene. The chief prosecutor, Moe Davis, I met as a captain. There is no finer officer in the military than Colonel Davis. He is committed to render justice. I am very proud of the fact that the men and women who will be doing these military commissions believe in America just as much as anybody I have ever met, and they want to render justice.

What else do we try to accomplish?

We reauthorize the military commissions in a way to be Geneva Conventions-compliant to afford the defendants accused due process in the way that will not come back to haunt us.

What else did we have to deal with? A CIA program that is classified in nature. There is a debate in this country: Should we have a CIA interrogation program classified in nature that would allow techniques not in the Army Field Manual to get good intelligence from high value targets? The answer, from my point of view, is yes, we should, but not because we want to torture anybody, because we want to be humane as a nation.

The reason we need a CIA program classified in nature to get good information is because in this war information is saving lives just as much as any other thing. Mutual assured destruction was the concept of the Cold War, where if the Soviet Union attacked us, they knew with certainty they would be wiped out. That concept doesn’t work when your enemy doesn’t mind killing themselves when they kill you. The only way we will protect ourselves effectively is to know what they are up to before they act. The provision that is out is to have good intelligence. But you have to do it with your value system.

Abu Ghraib was an aberration, but it hurt this country. The world believes America has adopted techniques and tactics that are not of who we are, we lose our standing. So what we did regarding the CIA, we redefined the War Crimes Act to meet our Geneva Conventions obligations. The test for the Congress was, how can you have a clandestine CIA program and then not run afoul of the Geneva Conventions? What are the Geneva Conventions requirements of every country? Those six offenses were taken out of the treaty and put in our domestic law, title 18, the War Crimes Act, and anybody in our Government who violates that War Crimes Act is subject to being punished as a felon.

We added three other crimes we came up with ourselves.

Torture has always been a crime, so anyone who comes to the Senate and says the United States engages in torture, condones torture, that this agreement somehow legitimizes torture, you don’t know what you are talking about. Torture is a crime in America. If someone is engaged in it, they are subject to being a felon, subject to the penalty of death. Not only is torture a war crime, it’s a felony, it’s a war crime under title 18 of the war crimes statute.

Every CIA agent, every military member now has the guidance they need to understand the law. Before we got involved, our title 18 War Crimes Act was hopelessly confusing. I couldn’t understand it. We brought clarity. We have reined in the program. We have created around what we can do. We can aggressively interrogate, but we will not run afoul of the Geneva Conventions. We are not going to let our people commit felonies in the name of getting good information, but now they know what they can and cannot do.

Who complies with that treaty? Who is it within our Government who would implement our obligations under the treaty? The Congress has decided what the war crime would be to prohibit grave breaches of the treaty. The President, this President, like every other President, implements treaties. So what we
said in this legislation, when it comes to nongrave breaches, all the other obligations of the Geneva Conventions, the President will have the responsibility constitutionally to comply with those obligations, not to rewrite title 18, nor to sanction torture, nor to violate the Detainee Treatment Act, but to fulfill the treaty the way every other President has in our constitutional history. That is all we have done. To say otherwise is just political rhetoric. Not only have we allowed the CIA to operate in a way that is illegal and that is not consistent with the treaty, we have delegated to the President what was already our constitutional responsibility to enforce the treaty— not to rewrite it but to enforce it and fulfill it.

My concern was that in the process of complying with Hamdan, we would be seen by the world as redefining the treaty for our own purposes. We have not redefined the Geneva Conventions. We have not first time in our domestic law, clearly defined what a crime would be against the Geneva Conventions, and we have told the President, as a Congress: It is your job to fulfill the other obligations outside of criminal law. That is the way it should be, and something of which I am extremely proud.

We have been at war for over 5 years. Here we are 5 years later trying to figure out the basic legal infrastructure. It has been confusing. It has been contentious. We have had two Supreme Court cases where the Government's work product was struck down.

My hope is that our homework will be graded by the Supreme Court, that this bill eventually will go to our Federal courts, as it should, and the courts will say the following: the military commissions are Geneva Conventions compliant and meet constitutional standards set out by our country when it comes to trying people.

I am confident the court will rule that way. I am confident the Supreme Court will understand that the power we gave the President to fulfill the treaty is consistent with his role as President and the war crimes we have written to protect the treaty from a grave breach from our own people is written in a way to sustain legal scrutiny.

I am also confident that Congress has finally cleared up what has been a huge problem. What role should a judge have in a time of war? Who should make the decision regarding enemy combatant status?

In every war we have been in up until now, the military has decided the battlefield issues. Under the Geneva Conventions, it is a military decision to consider who an enemy combatant is. The habeas cases that have existed in our courts from the last 3 or 4 years have led to tremendous chaos at Guantanamo Bay. We have been sued by the people we are fighting. They are bringing every kind of action you can think of into Federal courts.

Over 200 cases have been filed. It isimpeding the war effort.

A judge should not make a military decision during a time of war. The military is far more capable of determining who an enemy combatant is than a Federal judge. They are not trained to do that.

We have replaced a system where the judges of this country can take over military decisions and allow judges to review military decisions, once made, for legal sufficiency. That is the way it was in every other country in the world does it. Habeas has no place in this war for enemy prisoners. The Germans and the Japanese—no prisoner in the history of the United States has ever been able to go to a Federal court and sue the people they are fighting who are protecting us against the enemy.

We are allowing the Federal courts to review every military decision made about an enemy combatant as to whether they made the right decision based on the guidelines whether the procedures they use are constitutional. We have rejected the idea as a Congress of allowing the courts to run the war when it comes to defining who an enemy combatant is. That is a decision which needed to be made. It is not destroying the writ of habeas corpus. It is having a rational, balanced approach to where the judges can play a meaningful role in time of war and not play a role they are not equipped to play. This will mean nothing if it does not withstand court scrutiny.

I hope soon we will have an overwhelming vote for the final product after the amendments are disposed of. My goal for 2 years has been to try to find national unity, to have the Congress, the executive branch, and eventually the courts on the same sheet of music where we can tell the world at large that we have detention policies, and that we are enforce confinement policies that not only are humane and just but will allow us to protect ourselves from a vicious enemy and live up to our obligations as a nation. We are very close to that day coming.

I thank every Member of this Senate who has worked to make this product better. When you cast a vote, please remember, we are at war, we are not fighting crime.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, we now have an additional speaker, the Senator from Texas.

As the Senator from South Carolina has just completed his remarks, I have to say it has been an unusual experience for all of us these past weeks. Working together with Senator MCCAIN and the Senator from South Carolina has enabled this Senate to proceed in a way that is consistent with Senate practice. It is important that we go through a bill, have a markup, and then proceed to work on a product. It brought together the consensus.

I say to my friend from South Carolina, although I have had some modest experience as Secretary of the Navy dealing with court-martials, and, indeed, when I was a young officer in the Marines, I was involved in court-martials, the Senate brought together in the deliberations the very special expertise of the years he has had.

Now he is a full colonel in the U.S. Air Force and a Judge Advocate General. I thank the Senator for his valuable input into putting the series of bills we have had—putting into those bills matters which he believed were in the best interests of the men and women of the Armed Forces and, indeed, his consultation throughout this process with the Judge Advocate Generals and other past and present Judge Advocates and some of the younger officers who will be future Judge Advocate Generals. I thank the Senator from South Carolina for his strong contributions to this deliberative process in the Senate.

Now I yield the floor to our last speaker before we proceed to the votes. As I understand, we will be voting at the conclusion of this statement?

Mr. LEVIN. I don't know if the unanimous consent agreement has been finished yet. That is our hope.

Mr. WARNER. We are finishing a unanimous consent request, but I alert the Senate that it is my strong hope and prediction we will soon be voting in sequence on three amendments. I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mr. CORNYN. Mr. President, I first compliment the distinguished chairman of the Senate Committee on Armed Services, the Senator from Virginia, for being the calm and steady hand on the rudder during the course of the discussions and debates involving the important piece of legislation. His work and demeanor have always been constructive and civil, and any disagreements we have had are belying of the great traditions of this institution. I thank him for that.

Mr. WARNER. If I may, I thank the Senator from Texas. Several times we came to the Senate's office in the course of the deliberations on this bill because the Senator, too, brings to the debate a vast experience, having risen through the ranks of the legal profession to become a judge in his State. The Senator is very well equipped and did provide a very valuable input into this debate.

Mr. CORNYN. My thanks to the Senator from Virginia—nothing—could be further from the truth. In fact, what this bill does is make sure that the provisions of the Detainee Treatment Act,
which were passed in December of 2005. In this same Senate, that ban torture, cruel, inhuman, and degrading treatment of detainees, that we comply with those laws which reflect upon our international treaty obligations as well as our domestic laws and which reflect our American values.

We are a nation at war. But there is no equivalency with the way this war is fought and prosecuted by the United States and our allies, no equivalency with the way in which the war is prosecuted by our enemies. We have learned that our enemies have been at war against us for much longer than just September 11, 2001, and date back many years before we even realized America was under attack.

We know that this enemy, represented by Islamic extremism, justifies the use of murder against innocent civilians in order to accomplish its goals. America complies with all of its international treaty obligations and domestic laws. What this bill is about is to try to provide our intelligence authorities the clear direction they need so they know how to comply with those laws and, at the same time, preserve an absolute means of collecting intelligence through the interrogation of high-value detainees at Guantanamo Bay.

But no civilian employee of the U.S. Government, working at the CIA or elsewhere is going to risk their career, their reputation, and their assets using some sort of cloudy law or gray law that does not make clear what is permitted and what is not permitted. This bill we are prepared to pass in a few short weeks ago, or the attacks in New York and Washington, DC?

The fact is, we have prevented an._ other terrorist attack on our own soil by using this interrogation program to allow us to detect and deter and disrupt terrorist activity, and the fact we have also taken the fight on the offensive where the terrorists plot, plan, train, and try to export their terrorist attacks to the United States and elsewhere.

If we would do what some would apparently want us to do and simply pull the covers over our head and wish the bad news away while at the same time be secure in the knowledge that what they are doing fully complies with our law, including our international treaty obligations.

We know the aggressive interrogation techniques that are legal under the provisions of the McCain amendment in the Detainee Treatment Act under the provisions of the Detainee Treatment Act and the Mercon amendment banning torture, cruel and inhuman treatment, is absolutely untrue and irresponsible. The American people have a right to be believe we will use every legal tool available to us to help keep them safe against this new and different type of enemy.

Let me just say a word about who that enemy is. We have heard we are engaged in a global war on terror, and that is absolutely true. But it does not necessarily tell us who that enemy is. Unfortunately, it is an enemy that has hijacked one of the world’s great religions, Islam, in pursuit of their extremist goals that justifies the murder of innocent civilians in order to accomplish those goals.

Some on the Senate floor have said this debate is all about Iraq. It is not just about Iraq. If it were just about Iraq, how would those critics explain the attempted terrorist plot that was broken up at Heathrow Airport just a few short weeks ago or the attacks in Madrid or Belgran in Russia or Bali or elsewhere or, for that matter, New York and Washington, DC?

The fact is, we have prevented another terrorist attack on our own soil by using this interrogation program to allow us to detect and deter and disrupt terrorist activity, and the fact we have also taken the fight on the offensive where the terrorists plot, plan, train, and try to export their terrorist attacks to the United States and elsewhere.

If we would do what some would apparently want us to do and simply pull the covers over our head and wish the bad news away while at the same time be secure in the knowledge that what they are doing fully complies with our law, including our international treaty obligations. In doing so, we are keeping faith with the American people that the Federal Government will use every legal means available to us to keep the American people safe.

Now, we may disagree—and we do disagree on the Senate floor—with the level of rights that an accused terrorist should have. I happen to believe these individuals, who are high-value detainees at Guantanamo Bay, do not deserve the same protections that are reserved for American citizens in our legal system. But I would hope that we would all agree that the CIA interrogation program must continue. We must not allow the brave patriots who conduct these interrogations to be at risk necessarily by providing a gray zone as opposed to absolute clarity insofar as it is within our power to give it so that we may interrogate these captured terrorists to the fullest extent of the law.

To me, we are somehow torturing individuals or violating our own laws that we passed just last year in the Detainee Treatment Act under the McCain amendment banning torture, cruel and inhuman treatment, is absolutely untrue and irresponsible. The American people have a right to believe we will use every legal tool available to us to help keep them safe against this new and different type of enemy.

So, Mr. President, I hope our colleagues will vote against these ill-advised amendments to this bill and will send a clean bill to be reconciled with the House version and sent to the President right away so that before too long we can see that some of the war on terror—for example, the Central Intelligence Agency—then they will have committed a war crime. I reviewed earlier in the debate where we have prosecuted Japanese and other war crimes, giving them 10 or 15 years, and even execution when they went ahead with this. That is why this is so important.

Now, my good friend, the chairman of the committee, says we cannot do it

So, Mr. President, I hope our colleagues will vote against these ill-advised amendments to this bill and will send a clean bill to be reconciled with the House version and sent to the President right away so that before too long we can see that some of the war on terror—for example, the Central Intelligence Agency—then they will have committed a war crime. I reviewed earlier in the debate where we have prosecuted Japanese and other war crimes, giving them 10 or 15 years, and even execution when they went ahead with this. That is why this is so important.

Now, my good friend, the chairman of the committee, says we cannot do it
because it violates the Constitution because it is instructing—instructing—the President of the United States through the State Department to notify the 194 countries.

We, the people who are not unconstitutionally on the Port Security Act, when we said:

When the Secretary . . . , after conducting an assessment . . . , decides that an airport does not maintain and carry out effective security, the Secretary shall notify the appropriate authorities of the government of the foreign country. . . .

Here is port security.

Here is on the pollution issues: The State shall notify without delay foreign states concerned.

That is the second one.

And I have the third illustration in terms of foreign carriers.

In 15 minutes we got these cases. And here we are going to say we are going to refuse to protect Americans who are on the cutting edge of the war on terror because we will not let our State Department go on an e-mail and notify the 192 countries because that is unconstitutional.

I yield the balance of my time.

Mr. WARNER. Mr. President, I ask unanimous consent that any remaining objection, it is so ordered.

Mr. WARNER. Mr. President, I ask unanimous consent that any remaining time be yielded back, other than as noted below, allowing that the Senate proceed to votes in relation to the amendments in the following order:

The Rockefeller amendment No. 5095, the Byrd amendment No. 5104, and the Kennedy amendment No. 5088.

I further ask unanimous consent that there be 4 minutes for debate, equally divided, prior to each of the above votes.

I further ask unanimous consent that prior to passage of the bill, Senator LEAHY be recognized for his remaining 12 minutes of time in the initial unanimous consent request, which was provided for under the original consent order, Senator LEVIN be in control of 4 minutes, Senator WARNER in control of 16 minutes, to be followed by closing remarks by the two leaders and, following that time, the Senate proceed to passage of the bill; further, that there then be 5 minutes equally divided prior to the vote on invoking cloture on the border fence legislation; provided further that with respect to the border fence bill, it be in order to file second degrees at the desk no later than 5 p.m. today under the provisions of rule XXII.

The PRESIDING OFFICER. The yeas and nays were ordered.

The Senator from West Virginia is recognized.

Mr. LEAHY. Mr. President, even though I believe we have made a terrible and tragic mistake in the Senate, including major changes in our constitutional rights willy-nilly to get out to campaign, I realize they have locked this in and there is not much one can do about it. I think it is a farce in the Senate.

Mr. WARNER. Mr. President, I renew the unanimous consent request.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

AMENDMENT NO. 5095

There will now be 4 minutes of debate, equally divided, on the Rockefeller amendment.

The Senator from West Virginia is recognized.

Mr. ROCKEFELLER. Mr. President, my amendment would require, as I explained this morning, the CIA to provide the Congressional Intelligence Committees, which are required by law to be informed of what is going on in the intelligence world, fully the most basic and fundamental information it needs to oversee the CIA detention and interrogation program.

Frankly, for the past 4 years we have not had that information. The administration has withheld this information from us. I am not saying that in partisan fashion. It is a fact.

It has been very frustrating as a member of the Intelligence Committee, much less as a Member of the Senate. We have made repeated requests and the Intelligence Committee has been kept from carefully reviewing the program. The program has operated, as a result, without any meaningful congressional oversight whatsoever, and that is our responsibility under the law.

All of my colleagues should be troubled by this fact. We cannot assure ourselves, we cannot assure the American people, and we cannot assure our agents overseas that the CIA program is both legal and effective without the basic information required under my amendment.

My amendment is simply about oversight and accountability, nothing more, nothing less. Nothing in the amendment would require the public disclosure of any classified document or aspect of the CIA program.

Mr. President, I ask unanimous consent that Senator FEINSTEIN be added as a cosponsor of my amendment.

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

The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, I spoke in strong opposition to this amendment. Again, I think it tries to displace the oversight that is performed by the Intelligence Committee. I would like to add the following bit of information.

On September 29, 2006, GEN Michael V. Hayden, who is the current Director of the CIA, wrote a letter to Chairman PAT ROBERTS of the Intelligence Committee in the Senate. In it he said:

On September 6, 2006, I briefed the full SSCI membership on key aspects of the detainee program, providing a level of detail
September 28, 2006

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previously not made available to SSCI members. I made clear to the committee that upon passage of the new detainee legislation, I would brief the SSCI on how CIA would execute the future program, and I agreed to promptly notify the committee when any modifications to the program were proposed, or when the status of any individual detainee changed.

I think that is dispositive of a very clear indication by the executive branch to allow the Senate to perform its oversight through the properly designated committee, the Senate Committee on Intelligence.

Mr. ROCKEFELLER. Mr. President, how much time do I have remaining?

Mr. WARNER. Mr. President, I ask unanimous consent that this letter be printed in the RECORD.

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

CENTRAL INTELLIGENCE AGENCY

Hon. PAT ROBERTS,
Chairman, Select Committee on Intelligence,
United States Senate, Washington, DC.

DEAR MR. CHAIRMAN: I write today regarding the Rockefeller amendment to the military commissions legislation now pending on the Senate floor. The CIA strongly opposes adoption of the Rockefeller amendment.

Since the inception of its detention program, the CIA has a strong and consistent record of keeping its oversight committees fully and currently informed of critical aspects of the program. Further, the bipartisan leadership of the Senate has been briefed regularly by the CIA on this program since its inception, and I personally briefed the Majority and Minority Leaders of the Senate only weeks ago. The CIA remains committed to a frank and open dialogue with the Congress on detailed aspects of the detainee program, while ensuring the secrecy of this particularly sensitive activity. Senate adoption of the Rockefeller amendment would go far beyond traditional CIA reports to Congress by mandating detailed information about assets, locations and individuals involved in sensitive operations. In addition, detailing in public law the amount of sensitive information that CIA must provide to Congress, as well as shorting our counterterrorism partners whose cooperation is fully conditioned on the absolute secrecy of their support. Since becoming Director of the CIA, I have made every effort to keep your committee apprised of the status of the detainee program. In July, I updated you and SSCI Vice Chairman Rockefeller on the program, sharing sensitive aspects, including information about specific detainees, examples of actionable intelligence gained from the program and about ways in which the program could continue to be successful in the future. Following this briefing and despite its highly sensitive nature, at your request—that of Sen. Rockefeller—I fully supported briefing the entire SSCI membership.

On September 6, 2006, I briefed the full SSCI on key aspects of the detainee program, providing a level of detail previously not made available to SSCI members. I made clear to the committee that upon passage of new detainee legislation, I would brief the SSCI on how CIA would execute the future program and I agreed to promptly notify the committee when any modifications to the program were proposed, or when the status of any individual detainee changed.

Upon Senate passage of the military commissions legislation, I stand ready to again brief your committee and the bipartisan Senate leadership on the future of the detainee program.

Sincerely,

MICHAEL V. HAYDEN
General, USAF Director.

Mr. WARNER. Mr. President, are we prepared to move to a vote?

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from West Virginia.

The yeas and nays have been ordered. The assistant legislative clerk will call the roll.

The result was announced—yeas 46, nays 53, as follows:

YEAS—46

Akaka
Baucus
Bayh
Bingaman
Brownback
Bond
Allen
Alexander
Dorgan
Dodd
Dayton
Harkin
Feinstein
Feingold
Frist
Landrieu
Shaheen
Lugar
Martinez
McAin
McConnell
Murkowski
Roberts
Santorum
Sessions
Shelby
Smith
Specter
Stevens
Saxton
Talent
Thomas
Thune
Vitter
Voinovich
Warner

NAYS—53

Alexander
Allard
Allen
Bennett
Baucus
Bayh
Bingaman
Boozman
Craig
Crapo
Collins
Chambliss
Cheney
Clinton
Conrad
Conyers
Collins
Corzine
Craig
Crapo
DeMint
DeWine
Dole
Domenici
Enzi
Espy
Franken
Grassley
Gregg
Hatch
Hagel
Hatch
Hutchison
Inhofe
Johnson
Kennedy
Kennedy
Kohl
Krause
Leahy
Lieberman
Livingston
Durbin
Menendez
NOT VOTING—1

Snowe

The amendment (No. 5095) was rejected.

Mr. MCCONNELL. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table. The motion to lay on the table was agreed to.

AMENDMENT NO. 5095

The PRESIDING OFFICER. There will now be 4 minutes equally divided on the Byrd amendment.

Who yields time?

The Senator from West Virginia is recognized.

Mr. BYRD. Mr. President, do I have any time remaining?

The PRESIDING OFFICER. The Senator from Virginia has 53 seconds.

Mr. BYRD. This amendment will not set any terrorists free. Let Senators who are here 5 years from now take a new look on the basis of experience and make a decision in the light of the then circumstances. That is all I am asking. This is nothing new.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the Byrd amendment No. 5094.

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 Maine (Ms. SNOWE).

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

It is a very reasonable amendment. I urge my colleagues to support it.

The PRESIDING OFFICER. The Senator from Virginia has recognized.

Mr. WARNER. Mr. President, I say to our most distinguished senior colleague that this amendment was well debated on the floor, but I would bring to the attention of all Senators that we do not have any estimates of how long the war on terrorism against the jihadists is going to take place. We may be having those who commit crimes today not apprehended until after this sunset provision. Then they go free. They are not subject, unless the Senate at that time somehow restores the importance of the next Senator to continue—to continue, Mr. President—bringing to justice and trial under our rules these individuals who are committing war crimes. So I urge all Senators to oppose this amendment.

Mr. BYRD. Mr. President, do I have any time remaining?

The PRESIDING OFFICER. The Senator from West Virginia has 36 seconds.

Mr. BYRD. This amendment will not set any terrorists free. Let Senators who are here 5 years from now take a new look on the basis of experience and make a decision in the light of the then circumstances. That is all I am asking. This is nothing new.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the Byrd amendment No. 5094.

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 Maine (Ms. SNOWE).

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

The result was announced—yeas 47, nays 52, as follows:

(Rollcall Vote No. 257 Leg.)

YEAS—47

Akaka
Baucus
Bayh
Bingaman
Boxer
Baucus
Bayh
Bingaman
Boxer

NOT VOTING—1

Snowe
Here it is on voting rights. The Attorney General is authorized and directed to institute suits that are going to be involved in poll taxes.

The Secretary of State shall notify without delay foreign states that are involved in pollution. The list goes on. If we can do it for pollution, we can do it for violation of basic and fundamental rights of Americans overseas.

This is effectively about what we adopted when we adopted the War Crimes Act, which was virtually unanimous, with not a single vote in opposition.

This is basically a restatement. I hope it will be accepted overwhelmingly.

Mr. WARNER. Mr. President, this is an amendment that requires close attention by all colleagues.

In the preparation of this bill, we defined in broad terms the conduct that is regarded as a grave breach of Common Article 3. These are war crimes. We the Congress should not try to provide a specific list of techniques. We don't know what the future holds. That is not the responsibility of the Congress. We are not going to direct. We try to make a list of techniques, that the United States describe every technique that violates Common Article 3. We cannot foresee into the future every technique that might violate Common Article 3. We should not step on that situation. It is not ours to do.

Under the separation of powers, it is reserved to the executive branch to work this out. But if at any time it is the judgment of any Member of this body, or collectively, that we are not abiding by this law, I am confident that this institution's oversight will correct and quickly remedy the situation.

I yield the floor.

The PRESIDING OFFICER. The question is on agreeing to the amendment. The yeas and nays have not 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 Maine (Ms. SNOWE).

The PRESIDENT OF THE SENATE (Mr. CHAFEE). Are there any other Senators in the Chamber desiring to vote? The result was announced—yeas 46, nays 53, as follows:

[Rollcall Vote No. 258 Leg.]

YEAS—46

Alexander
Allen
Bailey
Baucus
Biden
Boxer
Bork
Bunning
Byrd
Burr
Chaffee
Cantor
Cochran
Collins
Conrad
Cox
Craig
Crandon
DeMint
Dodd
Dorgan
Durbin
Enoch
Feinstein
Fiorina
Grassley
Graham
Graham
Harkin
Hatch
Himes
Hirono
Inouye
Johnson
Kennedy
Kerry
Kirk
Kohl
Landrieu
Levin
Lieberman
Lieberman
Lynch
Mikulski
Murray
Nelson
Obama
Perry
Pryor
Quayle
Risch
Risch
Roberts
Rockefeller
Sarbanes
Saxton
Shelby
Smith
Specter
Stabenow
Sununu
Thune
Voinovich
Warrin

NAYS—53

Alexander
Allen
Bailey
Baucus
Biden
Boxer
Bork
Bunning
Burns
Burr
Chaffee
Cantor
Cochran
Collins
Conrad
Cox
Craig
Crandon
DeMint

The amendment (No. 5088) was rejected.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 5088

The PRESIDING OFFICER. There are 4 minutes equally divided on the Kennedy amendment.

Mr. KENNEDY. Mr. President, here is the Army Manual of 2006 printed after the Senate of the United States went on record in accepting the McCain amendment prohibiting torture. In the printed Army Manual is a list of the prohibited activities where any person who is a member of the Defense Department is prohibited to engage in these kinds of activities because they have made a finding that they are basically and effectively torture.

Today we have thousands of Americans in the Central Intelligence Agency, Special Forces, the SEALs, and American contractors working for the CIA around the world fighting terrorism. All this amendment does is give notice to each and every country that any country that is going to practice these kinds of techniques on any American will be guilty effectively of a war crime.

That is effectively what we have done with the Army Manual, and we ought to protect our intelligence agency personnel, our SEALs, and all of those who are all over the world protecting the United States.

Arguments against? It is a violation of the Constitution because it is an instruction to a member of the Cabinet about what they ought to do.

Here it is for airports. The Secretary of Transportation shall conduct an assessment with foreign countries.
The assistant legislative clerk proceeded to call the roll.

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

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

UNANIMOUS CONSENT REQUEST—S. 2781

Mr. INHOFE. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar 625, S. 2781, and I ask unanimous consent that the committee-reported amendment be, for the third time, passed and the motion to reconsider be laid upon the table.

Mr. JEFFORDS. I object. I agree that wastewater security is an important issue. In fact, it is made even more important because the Homeland Security appropriations conference has exempted these facilities from security requirements—a decision that I understand was due in large part to the Senator's request. I will consider these facilities within the protections of that bill.

Although I would like to have seen stronger chemical security provisions than the bill as I understand it, the Senate is on the verge of passing and approving the committee-reported amendment to the bill. I suggest the absence of a quorum.

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

Mr. LEVIN. Senators WARNER and JEFFORDS, I am fully with the Senator from Arizona.

Mr. WARNER. Mr. President, I ask unanimous consent that the Senate pass the motion to amend, by unanimous consent, the committee report for S. 2781, to delete the language that would have lessened the protections for wastewater facilities.

Mr. LEVIN. Without objection, it is so ordered.

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

The assistant legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. WARNER. 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. WARNER. I concur with the Senator from Arizona.

Mr. LEVIN. Without objection, it is so ordered.

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

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

The assistant legislative clerk proceeded to call the roll.

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Mr. LEVIN. Without objection, it is so ordered.

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

The assistant legislative clerk proceeded to call the roll.

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

The assistant legislative clerk proceeded to call the roll.

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Mr. LEVIN. Without objection, it is so ordered.

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

The assistant legislative clerk proceeded to call the roll.

The assistant legislative clerk proceeded to call the roll.
month and agree that it provides critical guidance to our soldiers in the field. That said, the content of the field manual is an issue separate from those at issue in this bill, and it was not my intent to effect any change in the field manual through this legislation.

Mr. MCCAIN. I concur wholeheartedly with the Senator from Virginia. As the Senator from Virginia is aware, there is a provision in the bill before the Senate that defines “cruel and inhuman treatment” under the War Crimes Act. I would note first that this definition is limited to criminal offenses under the War Crimes Act and is distinct from the broader prohibition contained in the Detainee Treatment Act. That act defined the term “cruel, inhuman and degrading treatment” with reference to the reservation the United States took to the Convention Against Torture.

In the war crimes section of this bill, cruel and inhuman treatment is defined. It is intended to include the torture of individuals, regardless of cause or place, and in the war crimes section, it sets a standard that is more comprehensive than the “nontransitory” requirement applies to the harm, not to the act producing the harm. Thus if a U.S. soldier is, for example, subjected to some terrible psychological condition that lasts for a brief time but that causes serious and nontransitory mental harm, a criminal act has occurred.

Mr. WARNER. That is my understanding and intent as well, and I agree with the Senator’s other clarifying remarks.

In the same section, the term “serious physical pain or suffering” is defined as a bodily injury that involves one of four characteristics: “a substantial risk of death,” “extreme physical pain,” “a significant risk of serious or permanent psychological harm or suffering,” or “significant loss or impairment of the function of a bodily member, organ, or mental faculty.” I do not believe that the term “bodily injury” adds a separate requirement which must be met for an act to constitute serious physical pain or suffering.

Mr. McCAIN. I am of the same view.

Mr. LEVIN. And would the Senator from Arizona agree with my view that section 8(a)/(3) does not make lawful or give the President the authority to make lawful any technique that is not permitted by Common Article 3 or the Detainee Treatment Act?

Mr. McCAIN. I do agree.

Mr. WARNER. I agree with both of my colleagues.

Mr. KENNEDY. Mr. President, in times of war, our obligation is to protect our Nation and to protect those men and women who risk their lives to defend it. This bill fails that duty. By failing to renounce torture, it inflames an already dangerous world and makes new enemies for America in our war against terror. This puts cause or people and our troops at greater risk. That is why so many respected military leaders oppose this bill.

Throughout our history, America has led the world in promoting human rights and decency. We have fought wars against tyranny and oppression. Our enemies have employed tactics that were rightly and roundly condemned by the civilized world. We maintained American strength and honor by refusing to stoop to the level of our enemies. And we should not stoop to the level of the terrorists in the war on terror.

I rise to express my profound opposition to this bill both in terms of its substance and the procedure by which it reached the floor. The Armed Services Committee reported out a bill that I supported. That bill was not perfect, but it preserved our commitment to the Geneva Conventions, limited the possibility that detainees would be treated abusively and set up procedures for military tribunals that generally respected the fundamental requirements of fairness.

Republican members of the Armed Services Committee then began a process of secret negotiation with the White House that resulted in a bill that is far worse than the committee bill. Indeed, we have continued to see changes in that bill as it has been moved toward the floor in a rush to achieve passage before the Senate recesses for the election. This rush to passage serves a political agenda is no way to produce careful and thoughtful legislation on profound issues of national security and civil liberties. At this point, most Members of this body hardly know what they are being asked to approve.

The bill as it now appears on the floor works profound and disastrous changes in our law.

This legislation sets out an overly broad definition of unlawful enemy combatant. This definition would allow the President to pick up anyone citizen and legal residents included anywhere around the world, and throw them into prison in Guantanamo without even charging or trying them. These people would never get a day in court to prove their innocence. There is no check whatsoever on the President’s ability to detain people in an arbitrary manner.

We already know that our military has made mistakes in detaining people. We are currently holding dozens of people at Guantanamo whom we know based on the military’s own records are not guilty of anything. Yet they have not been set free.

This legislation also makes a distinction between citizens and lawful permanent residents. Citizens cannot be subject to military commissions and their flawed procedures. Yet lawful permanent residents, those green card holders on the path to citizenship, could be sent to military commissions. Green Card holders must obey our laws, pay taxes, and register for the draft. They are serving our country in Iraq. They have an obligation to protect our laws, and they deserve the protection of those same laws.

The Geneva Conventions were adopted in the wake of the horrific atrocities during World War II. These conventions reflect the consensus on how individuals should be treated in times of war. They set a minimum floor of humane treatment for all prisoners, military and civilian alike. This floor is known as Common Article 3 because it is common to all of the Conventions. Yet this bill gives the President authority to decide what conduct violates Common Article 3 of the Geneva Conventions.

Again, the President’s authority to define the meaning of Common Article 3 is virtually unreviewable. He is required to publish his interpretation in the Federal Register, but the administration has already made clear that it will not make public which interrogation tactics are being used. Moreover, the bill expressly states that the Conventions cannot be relied upon in any U.S. court as a source of rights. The President’s interpretation may well likely escape judicial review, as well.

As the final method of concealing its activities, the administration has stripped the courts of their ability to review the confinement or treatment of detainees. The administration won a provision that eliminates the ability of any detainee anywhere in the world to file a habeas corpus petition challenging the justification for or conditions of his or her confinement. The provision applies to all existing petitions and would require their dismissal, including the Hamdan case itself. There is no justification for stripping courts of jurisdiction to issue the Great Writ of habeas corpus which has been a foundation of our legal system with roots in the Magna Carta. The availability of the Great Writ is assured in the Constitution itself, which permits its suspension only in times of invasion or rebellion. This provision of the bill is most likely unconstitutional.

The administration has pursued a strategy to defeat accountability since it first began to take detainees into custody. It chose Guantanamo and secret prisons abroad because it thought U.S. law would not apply. It fought hard to prevent detainees from obtaining counsel and then argued that U.S. Courts lacked jurisdiction to hear detainees’ complaints. It sought the prohibition on habeas corpus petitions adopted in the Detainee Treatment Act and then urged courts to misconstrue it to wipe out all pending habeas cases. This new effort to prohibit habeas petitions is a continuation of this effort to escape judicial scrutiny.

The bill also for the first time in our history would authorize the introduction of evidence obtained by torture in a judicial proceeding. Our courts have always rejected this type of evidence...
because it is inconsistent with fundamental notions of justice, and also because it is unreliable. We know that detainees were subjected to harsh interrogation techniques, and made statements as a result. Under this legislation, if those statements were made prior to the passage of the McCain Amendment last winter, then they are admissible. The Congress is saying for the first time in our nation’s history that statements obtained by torture are admissible. This fact, alone, is a stunning statement of how far we have strayed from our bedrock values.

It defines conduct that can be prosecuted as a war crime in a very narrow way that appears designed to exclude many of the abusive interrogation practices that the administration has employed. While some have argued that cruel and inhumane practices such as waterboarding, induced hypothermia and sleep deprivation would surely be covered, the White House and the Public Leadership have refused to commit to this basic interpretation of the bill.

We tried to improve this bill. A number of amendments were offered and should have been adopted. I offered an amendment that responds to the lack of clarity about which practices are prohibited by the bill. Because the administration has refused to commit itself to stop using specific abusive interrogation procedures, our commitment to the standards of Common Article 3 of the Geneva Conventions is in doubt. That puts our own people at risk. As military leaders have repeatedly stated, our adherence to the Geneva Conventions is essential to protect our own people around the world. America has thousands of people across the globe who do not wear uniforms, but put their lives on the line to protect this country every day. CIA agents, Special Forces members, contractors, journalists and others will all be learned our back on the standards of Common Article 3.

The bill as it has reached the floor would diminish the security and safety of Americans everywhere and further erode our civil liberties. I strongly oppose this bill.

Mr. GRASSLEY. Mr. President, we hear on a daily basis about the war we are currently engaged in, the war on terror, but I don’t think most of us stop to think about what that actually means.

As citizens of the greatest country in the world, we have become so accustomed to all the rights afforded us by our Constitution that we now take them for granted. We are incredibly fortunate to live in a nation that our freedom and safety is our Government’s first priority.

We aren’t living in the world I grew up in. Our Nation was rocked to its core 5 years ago when our country was attacked as never before. Thousands of innocent Americans were murdered simply because they lived in the one country that, above all others, embodies freedom and democracy. The mastermind behind those attacks was Khalid Shaikh Mohammed, who is now in custody and soon will be brought to justice.

In the aftermath of these attacks, Congress appropriated funds to our President to “use all necessary force against those nations, organizations, or persons he determines planned, authorized, committed or aided the terrorist attacks that occurred on September 11, 2001, or harbored such organizations or persons.” President Bush used this authorization, combined with his constitutional powers to make these sorts of judgments during times of war, to try enemy combatants in military commissions.

Earlier this month, we observed the 5-year anniversary of the horrific attacks on America. I cannot imagine the reaction that would have come if, 5 years ago, Members of Congress had stood on this floor and suggested that we wait to prevent another attack on our country. Five years ago, with the images of the collapsing Twin Towers and the burning Pentagon and the smoldering Pennsylvania field seared into our memories, we saw the handwriting on the wall that we intended to protect Americans first.

In Hamdan v. Rumsfeld, which the Supreme Court decided earlier this year, the Court ruled that the administration’s use of military commissions to try unlawful enemy combatants violated international law. This decision forced our interrogators, key in defending America from terrorist attack, to curtail their investigations. Without a clarification of the vague requirements, these interrogators might be subject to prosecution for war crimes. It also brought to an end the prosecution of unlawful enemy combatants through the military commissions.

It is key to point out that military commissions have been used throughout American history to bring enemy combatants to justice since before the United States was even officially formed. George Washington used them during the American Revolution, and since our Constitution was ratified, Presidents have used military commissions to try those who seek to harm Americans during every major conflict. Some of our most popular Presidents from history have taken this route, including Franklin and Brandeis and Franklin Roosevelt. Whenever the leaders of this great Nation have seen threats posed by those who refuse to abide by the rules of war, they have taken the necessary steps to protect us.

Our President has come to us and asked for help in trying these terrorists whose sole goal is to kill those who love freedom. He has asked for our help in ensuring that those investigating potential terrorist plots against our Nation and our citizens are secure from abuse and from being held in unlawful war crimes. These people are part of our first line of defense in securing the safety of our country—we owe it to them to protect them. Because of the Supreme Court’s decision in Hamdan, the only way these terrorists will be brought to justice and our interrogators will be protected for doing their jobs is for Congress to write a new law establishing the military commissions and clarifying our obligations under the Geneva Conventions.

I firmly believe that enemy combatants in our custody enjoyed ample due process in the military commissions established by the administration, which were brought to a halt by the Supreme Court. The compromise that we are considering here today gives more rights to terrorists who were caught trying to harm America and our allies.

Mr. President, it is essential that we protect human dignity at every opportunity, but we have gone well beyond that with this legislation. The legislation before us responds to the Supreme Court’s decision in Hamdan and seeks to project national security while ensuring that the terrorists who seek to destroy America are properly dealt with. This bill affords these unlawful enemy combatants rights that they themselves would never consider granting to American soldiers. It is beyond reason, beyond fair, and beyond time for Congress to act. We must pass this bill and reinstate the programs that, I believe, have been a crucial part of our Nation’s security over the last 5 years.

Mr. WARNER. Mr. President, I ask unanimous consent to have printed in the Record a joint statement regarding alleged violations of the Geneva Conventions. There being no objection, the material was ordered to be printed in the Record, as follows:

**JOINT STATEMENT OF SENATORS MCCAIN, WARNER, AND GRAHAM ON INDIVIDUAL RIGHTS UNDER THE GENEVA CONVENTIONS, SEPTEMBER 28, 2006**

Mr. President, we are submitting this statement into the record because it has been suggested by some that this legislation would prohibit litigants from raising alleged violations of the Geneva Conventions. This suggestion is misleading on three counts.

First, it presumes that individuals currently have a private right of action under Geneva. Secondly, it implies that the Congress is restricting individuals from raising claims that the Geneva Conventions have been violated as a collateral matter. It is clear that they have an independent cause of action.

Finally, this legislation would not stop in any way a court from exercising any power it has to consider the United States’ obligations under the Geneva Conventions, regardless of what litigants say or do not say in the documents that they file with the court.

The Supreme Court’s decision in Hamdan left untouched the widely-held view that the Geneva Conventions provide no private rights of action to individuals. And, in fact, the majority in Hamdan suggested that the Geneva Conventions do not afford individuals private rights of action, although it did not need to reach that decision. This view has been underscored by judicial precedent—and even Salim Hamdan...
himself did not claim in his court filings that he had a private right of action under Geneva.

Still, this legislation would not bar individuals who raise constitutional claims in their pleadings any allegation that a provision of the Geneva Conventions—or, for that matter, any other treaty obligation that has the force of law—has been violated not the intent of Congress to dictate what can or cannot be said by litigants in any case.

By the same token, this legislation explicitly reserves untouched the constitutional functions and responsibilities of the judicial branch of the United States. Accordingly, when Congress says that the President can interpret Geneva, it is merely asserting a longstanding constitutional principle. Congress does not intend with this legislation to prohibit the Federal courts from considering whether the obligations of the United States under any treaty have been met. To paraphrase an opinion written by Chief Justice Roberts recently, if treaties are to be given effect as Federal law under our legal system, determining their meaning as a matter of Federal law is the province and duty of the judiciary head by the Supreme Court. Procedures are a matter of Federal law. Accordingly, Congress has legislated in harmony with the Supreme Court's view. It is not the intent of Congress to interfere with judicial review of the President's interpretation of the Geneva Conventions. Congress has enacted legislation that does not encroach on any constitutional power of the Federal bench, a co-equal branch of government.

Most importantly, the lack of judicial enforceability through a private right of action has absolutely no bearing on whether Geneva is binding on the executive branch. Even if the Geneva Conventions are not enforceable by individuals in our Nation's courts, the President and his subordinates are bound to comply with Geneva's set of treaty obligations that form part of our American jurisprudence. That is clear to us and to all who have negotiated this legislation in good faith.

Mrs. BOXER. Mr. President, I view this bill as a weak plan that will lead to delay after delay in convicting terrorists, endanger our troops on the field, and surrender one of the bedrock constitutional principles of our justice system.

We had a chance to improve this bill with amendments, but this rubber stamp Senate defeated them one after another, leaving us with a flawed plan that makes us less safe.

The Republicans even voted against a bipartisan bill that came out of the Senate Armed Services Committee.

Mr. McCONNELL. Mr. President, I rise today in support of the Military Commissions Act of 2006. I support this legislation, first and foremost, because this bill recognizes that we are a Nation at war. We are a Nation at war, and we are at war with Islamic extremists. We are not conducting a law enforcement operation against a terrorist, we are at war. We are at war with terrorists who want to kill our citizens, cripple our economy, and discredit the principles we hold dear—freedom and democracy.

Once you accept the premise that we are at war, the most important consideration should be, Does this bill protect the American people? I submit that this bill does just that. It does so by permitting the President's CIA interrogation program to continue. This is of profound importance. If the attacks of September 11, 2001, taught us anything, it is that self-imposed limitations on the intelligence-gathering efforts of the President have devastating consequences. For instance, the wall of separation between the intelligence community and the law enforcement community that existed prior to 2001 proved to be an imposing hurdle to foiling the attack. According to the report of the 9/11 Commission, in late summer 2001, the U.S. Government, in effect, conducted its search for 9/11 hijacker Khalid Mihdhar with one hand tied behind its back. As we all know, that search was unsuccessful. Comparable pre-9/11 efforts with respect to Zacarias Moussaoui were similarly frustrated in large part due to this wall.

Thankfully, with the PATRIOT Act, we removed this wall of separation, and now the intelligence and law enforcement arms of our Government can share information and more effectively protect us here at home.

Another lesson of September 11 was the unpredictable but well-placed bomb on human intelligence. Prior to September 11, we were woefully deficient in our human intelligence regarding al-Qaida. Al-Qaida is an extremely difficult organization to infiltrate. You can't just jam up a terrorist with one bomb. But interrogation offers a rare and valuable opportunity to gather vital intelligence about al-Qaida's capabilities and plans before they attack us.

The CIA interrogation program provided crucial human intelligence that has saved American lives by helping to prevent new attacks. As the President has explained, 9/11 mastermind Khalid Shaikh Mohammed told the CIA about planned attacks on U.S. buildings in 1999. When the President ordered terrorist organizations to set off explosives high enough in the building so the victims could not escape through the windows, the CIA was able to head off multiple attacks.

As the President also noted, the program has also yielded human intelligence regarding al-Qaida's efforts to obtain biological weapons such as anthrax. And it has helped lead to the capture of key al-Qaida figures, such as KSM and his accomplice, Ramzi bin al-Shih.

Another means of evaluating the importance of this program is by considering a grim hypothetical. What if al-Qaida or other terrorists organizations were able to get their hands on nuclear, chemical, or biological weapons and were trying to attack a major U.S. city? The price of even a few millions of lives could be at stake. Under such a chilling scenario, wouldn't we want our intelligence community to have all possible tools at its disposal? Would we want our intelligence community to rely on someone who was behind its back as it did before September 11? Unfortunately, that threat is all too real. The potential for al-Qaida to attack a U.S. city with a device that could kill millions of people reflects how vital it is to permit the intelligence community to make full use of the tools it needs to continue protecting American lives. The compromise preserves this crucial intelligence-gathering ability while letting the CIA and others on the front lines to continue protecting America.

In addition, this bill protects classified information from being released to al-Qaida terrorists. This also is a serious concern. The leaks, intelligence officials and informants—men and women who put their lives at risk to defend this Nation—must be protected at all costs.

If we needed any reminding why terrorists should not be given sensitive information, we should just look at the prosecution of the 1993 World Trade Center bombers. According to the man who prosecuted these Islamic extremists, intelligence from U.S. Government sources was supplied to defendants through the discovery process.

This information was later delivered directly to Osama bin Laden while he was living in Sudan. Let me repeat that. Information given to the jihadist enemies was supplied to defendants through the discovery process. That is just common sense. This bill protects classified information.

Finally, while this bill preserves our ability to continue to protect America, it also provides detainees with fair procedural rights.

In fact, this legislation provides broader protections for defendants than did Nuremberg. Liberal law professor Cass Sunstein has written that the military commissions authorized by the President's 2001 military order provided far greater procedural safeguards than any previous military commission, including Nuremberg." Let me say that again: liberal law professor Cass Sunstein noted that the President's 2001 military order provided far greater procedural safeguards than any previous military commission, including Nuremberg. And in this legislation, we provide defendants with even broader procedural safeguards than the President's 2001 military order.

This system is exceedingly fair since al-Qaida in no way follows the Geneva Conventions or any other international norm. Al-Qaida respects no law, no authority, no legitimacy but that of its own twisted strain of radical Islam.

Al-Qaida grants no procedural rights to Americans they capture. Look at journalist Daniel Pearl, who was beheaded by al-Qaida in Pakistan in 2002. Al-Qaida simply executes those they capture, even civilians like Pearl. Not only do they unconstitutionally kill innocent civilians, they broadcast these brutal executions on the Internet for all to see.
Mr. President, I would just conclude by stating that this legislation is vitally important. It is vitally important because it is wartime legislation. It is vitally important because this bill protects our national security, it protects classified information, and it protects the rights of defendants. Most important, it protects America. For these reasons, I urge its passage.

Mr. CORNYN. Mr. President, once the Military Commissions Act, MCA, is signed into law and section 7 is effective, Congress will finally accomplish what it sought to do through the Detainee Treatment Act—DTA—last year. It will finally get the lawyers out of Guantanamo Bay. It will substitute the blizzard of litigation instigated by Rasul v. Bush with a narrow DC Circuit—only review of the Combatant Status Review Tribunal—CSRT—hearings.

Perhaps even more important than the narrow standards of review created by the DTA is the fact that that review is exclusive to the court of appeals. This is by design. Courts of appeals do not hold evidentiary hearings or otherwise take in evidence outside of the administrative record. The DC Circuit will be the only court reviewing the CSRT review provisions of the DTA. The circuit court will review the administrative record of the CSRTs to make sure that the right standards were applied, the standards that the military used for CSRTs. The circuit court will determine whether the CSRT system as a whole is consistent with the Constitution and with Federal statutes.

There is no invitation in the DTA or MCA for Congress to reconsider the sufficiency of the evidence. Weighing of the evidence is a function for the military when the question is whether someone is an enemy combatant. Courts simply lack the competence—the knowledge of the battlefield and the nature of our foreign adversary—to judge whether particular facts show that someone is an enemy combatant. By making review exclusive to the DC Circuit, the DTA helps to ensure that the narrow review standards it sets do not somehow grow into something akin to Federal courts' habeas corpus review of State criminal convictions. The court's role under the DTA is to simply ensure that the military applied the right rules to the facts. It is not the court's role to interpret those facts and decide what they mean.

Because review under the DTA and MCA will be limited to the administrative record, there is no need for any lawyer to ever again go to Guantanamo to represent an enemy combatant challenging his detention. The military, I am certain, will make the paper record available inside the United States. This is one of the major benefits of enacting the MCA. As I and others have noted previously, the hundreds of lawyer visits to the spark-plug facility have seriously disrupted the operation of the Naval facility there. They have forced reconfiguration of the facility and consumed enormous resources, and have led to leaks of information that have made it harder for our troops there to do their job, to keep order at Guantanamo. Some of these detainees lawyers have even bragged about what they had been able to do with their access on the military, and how they have disrupted interrogations at Guantanamo.

Putting an end to that was the major purpose of the DTA. Today, with the MCA, we see to it that this goal is effected.

Another major improvement that the MCA makes to the DTA is that it tightens the bar on nonhabeas lawsuits contained in 28 U.S.C. §2241(e)(2). That paragraph, as enacted by the DTA, barred postrelease conditions-of-confinement lawsuits, but only if the detainee had been found to be properly detained as an enemy combatant by the U.S. Court of Appeals on review of a CSRT hearing. Although nothing in the DTA or MCA directly requires the military to conduct CSRTs, this limitation on the bar to non-habeas actions effectively did compel the military to hold CSRTs—and to somehow get the detainee to appeal to the DC Circuit. The MCA has eliminated the ability to allow the detainee to sue U.S. troops at Guantanamo after his release.

The MCA revises section 2241(e)(2) by, among other things, adopting a much narrower exception to the bar on postrelease conditions-of-confinement lawsuit. If MCA, 2242(e)(2) will bar nonhabeas lawsuits so long as the detainee "has been determined by the United States to have been properly detained as an enemy combatant or is awaiting such determination." This new language does several things. First, it eliminates the requirement that the DC Circuit review a CSRT, or that a CSRT even be held, before nonhabeas actions are barred. This is important because many detainees were released before CSRTs were even instituted. We do not want to bar those who were properly detained as enemy combatants to be able to sue the U.S. military. And we do not want to force the military to hold CSRT hearings forever, or in all future wars. Instead, under the new language, the determination that is the precondition to the litigation bar is purely an executive determination. It is only what the United States has decided that will matter.

In addition, the language of (e)(2) focuses on the propriety of the initial detention. There inevitably will be detainees who are captured by U.S. troops, or who are handed over to us by third parties, who initially appear to be enemy combatants. But who, upon further inquiry, are found to be unconnected to the armed conflict. The U.S. military should not be punished with litigation for the fact that they initially detained such a person. As long as the individual was at least initially on the battlefield and was an enemy combatant, the nonhabeas litigation is now barred, even if the U.S. later decides that the person was not an enemy combatant or no longer poses any threat. The inquiry created here is not unlike that for reviewing, in the civilian criminal justice context, the propriety of an arrest. An arrest might be entirely legal, might be based on sufficient probable cause. It is not simply because the suspect was not later convicted of a crime. The arresting officer cannot be sued and held liable for making that initial arrest, so long as the arrest itself was sustained by probable cause, even if the arrestee is later conclusively found to be innocent of committing any crime. The arresting officer cannot be sued and held liable for making that initial arrest, so long as the arrest itself was sustained by probable cause, even if the arrestee is later conclusively found to be innocent of committing any crime. The arresting officer cannot be sued and held liable for making that initial arrest, so long as the arrest itself was sustained by probable cause, even if the arrestee is later conclusively found to be innocent of committing any crime.

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The biggest change that the MCA makes to section 221I is that the new law applies globally, rather than just to Guantanamo detainees. We are legislating through this law for future generations, creating a system that will operate not only throughout this war but for future wars in which our Nation fights. In the future, we may again find ourselves involved in an armed conflict in which we capture large numbers of enemy soldiers. It is not unlikely that the safest and most secure place to hold those soldiers will be inside the United States. The fact that we hold those enemy soldiers in this country should not be an invitation for each of them to sue our Government. We held very large numbers of enemy soldiers in this country during World War II. They did not sue our Government seeking release. The Rusal decision would seem to have required that enemy combatants held in this country during wartime can sue to challenge enemy determination as to what happens to them. It is inevitable that those held inside this country would have been allowed to sue as well. That is simply not acceptable. It would make it very difficult to fight a major war in the future if we were to determine that everyone detained inside this country could sue our military. Through section 7 of the MCA, we not only solve our current problems with Guantanamo, but we plan for future conflicts as well. We ensure that we will again hold enemy soldiers in prison camps inside our country if we need to, without becoming embroiled in a tempest of litigation.

I imagine that, now that Congress has clearly shut off access to habeas corpus, the lawyers suing on behalf of the detainees will shift their efforts toward arguing for an expansive interpretation of the judicial review allowed under the DTA. Paragraphs 2 and 3 of section 7 of the MCA allow the DC Circuit to review a CSRT enemy combatant determination. The Government has provided a CSRT hearing to every detainee held at Guantanamo, with the likely exception of those transferred here this month, so all of those detainees will now be allowed to seek DTA review in the DC Circuit. Paragraphs 2 and 3 allow the DC Circuit to ask whether the military applied its own standards and procedures for CSRTs to the detainees. They clearly should be—then it should be—allowed to review the CSRT decisions, to judge whether those standards invite the court to ask whether the determining whether the military’s evidentiary findings are accurate.
will work, what the statute says on its face, how the Justice Department has construed that statute. By rejecting the Specter amendment earlier today, and by passing the MCA later today, the Senate makes clear that it does not disagree with the Justice Department and does not want to change this system.

I will close my remarks by quoting at length from the testimony of U.S. Attorney General William Barr, who spoke on the matters addressed by this legislation at the Judiciary Committee on June 15, 2005. Mr. Barr’s testimony informs our understanding of the history, law, and practical reality underlying the DTA and the MCA. I would commend his statement to anyone seeking to understand these statutes and the complex relationship between the President’s war-making power and the judiciary. This relationship is superficially similar to, but is fundamentally different from, the judiciary’s role in civilian, criminal, judicial and an opportunity to contest such designations, none of the detainees had taken any action to place themselves under the protection of our laws; their only connection with the United States is that they confronted U.S. troops on the battlefield. And finally, the nature of the power being used against these individuals is not the domestic law enforcement power—we are not seeking to subject these individuals to the obligations and sanctions of our domestic laws—rather, we are waging war against them as foreign enemies, a context in which the concept of Due Process is inapposite.

In society today, we see a tendency to impose the judicial model to every field of decision-making. The notion is that the propriety of any decision can be judged by determining whether it satisfies some objective standard of procedural fairness. Such a judgment must be made by a “neutral” arbitrator based on an adversarial evidentiary hearing. What we are seeing today is an extreme manifestation of this judicial model: we use the judicial rules and standard applicable in the domestic law enforcement context and extend them to the fighting of wars. In my view, this outcome could be more farcical, or more dangerous.

These efforts flow from a fundamental error—confusion between two very distinct constitutional realms. In the domestic realm, the judicial role is disciplinary—sanctioning an errant member of society for transgressing the internal protections of the Geneva Convention and hence entitled to POW status? If the answer is yes, then the captives are held as prisoners of war entitled to be treated in accord with the requirements of the Convention. If the answer is no, then the captives are held under humane conditions according to the common law of war, though not covered by the Geneva Convention. The threshold determination in deciding whether the Convention applies is a “group” decision, not an individualized decision.

The third kind of action we are taking goes beyond simply holding an individual as an enemy combatant. It applies so far only to a subset of the detainees and is punitive in nature. In some cases, we are taking the further step of subjecting these individuals to death penalty trials for war crimes. Shortly after the attacks of 9/11, the President established military commissions to address war crimes committed by members of al-Qaeda and their Taliban supporters.

Again, our experience in World War II provides a useful parallel. While the vast majority of Axis prisoners were simply held as enemy combatants, military commissions were convened at various times during the war. As Barr notes, “the point here is that the ultimate substantive decision rests with the President and that the courts have no authority to substitute their judgments for that of the President.”

As to the detention of enemy combatants, the determination that a particular foreign person seized on the battlefield is an enemy combatant has always been recognized as a matter committed to the sound judgment of the Commander in Chief and his military forces. There has never been a requirement that our military engage in evidentiary proceedings to establish that each individual captured is, in fact, an enemy combatant. The threshold determination in deciding whether the Convention applies is a “group” decision, not an individualized decision. The notion is that the ultimate substantive decision rests with the President and that the courts have no authority to substitute their judgments for that of the President.

Barr notes, “the point here is that the ultimate substantive decision rests with the President and that the courts have no authority to substitute their judgments for that of the President.”

Moreover, most of the guarantees embodied in the CSRT parallel and even surpass the guarantees that wish to challenge their classification as enemy combatants. The Supreme Court has indicated that hearings conducted to determine a detainee’s status, pursuant to the Geneva Convention, could satisfy the core procedural guarantees owed to an American citizen. In certain respects, the CSRT process establishes guarantees close to the Supreme Court’s standards by giving the detainee a fact-based review of whether they qualify under the Treaty.

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As to the detention of enemy combatants, World War II provides a dramatic example. During that war, we held hundreds of thousands of Axis soldiers in the camps within the United States. These foreign prisoners were not charged with anything; they were not entitled to lawyers; they were not given access to U.S. lawyers; they were not entitled to any information regarding the detention of alien enemy combatants.

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rules of the body politic. The Framers recognized that in the name of maintaining domestic tranquility an overzealous government could oppress the very body politic it is meant to protect. The government itself could become an oppressor of “the people.”

Thus our Constitution makes the fundamental premise of efficiency in the realm of law enforcement by guaranteeing that no punishment can be meted out in the absence of virtual certainty of individual guilt. The Constitutionized Bill of Rights contains a number of specific constraints on the Executive’s law enforcement powers, many of which expressly provide for governmental preeminence to neutralize any “check” on executive power. In this realm, the Executive’s subjective judgments are irrelevant; it must gather and present objective evidence and meet evidentiary standards to satisfy the appropriate constitutional standards at each stage of a criminal proceeding. The underlying premise in this realm is that it is better for society to suffer the cost of the guilty going free than mistakenly to deprive an innocent person of life or liberty. The situation is entirely different in armed conflict where the entire concept of external threat is in play. In armed conflict, the body politic is not using its domestic disciplinary powers to sanction an errant member, rather it is exercising its national power to neutralize an external threat and preserve the very foundation of all our civil liberties. Here the Constitution is not concerned with handicapping the government in the event of emergency, but rather it is designed to maximize the government’s efficiency to achieve victory—even at the cost of “collateral damage” that would be unacceptable in the domestic realm.

It seems to me that the kinds of military decisions at issue—namely, those that who poses a threat to our military operations—are quintessentially Executive in nature. They are not amenable to the type of process we employ in the domestic law enforcement arena. They cannot be reduced to neat legal formulas, purely objective tests and evidentiary standards. They necessarily require the exercise of prudential judgment and the weighing of risks. This is one of the reasons why the Constitution vests ultimate military decision-making in the President as Commander-in-Chief. This concept of the Commander-in-Chief means anything, it must mean that the office holds the final authority to direct our military forces—be it by issue of a military order to avoid an unacceptable risk to our forces, the safety of our homeland, or the ultimate military and political objectives of the campaign. I am not speaking here of “deference” to Presidential decisions. In some contexts, courts are fond of saying that they “owe deference” to some Executive decisions. But this suggests that the court has the ultimate decision-making authority and is only giving weight to the judgment of the Executive. This is not a question of deference—the point here is that the President has the authority to substitute his judgment for that of the President.

The Constitution’s grant of “Commander-in-Chief” power must, at its core, mean the plenary authority to direct military force against persons the Commander judges as a threat to the safety of our forces, the safety of our homeland, or the ultimate military and political objectives of the conflict. At the heart of these kinds of military decisions is the concept of external threat. The concept constitutes a threat or potential threat and what level of coercive force should be employed to deal with these dangers. These decisions cannot be reduced to mandatory standards or a predicate threshold, that must be satisfied as a condition of the President ordering the use of military force against a particular individual. What would that standard be? Reasonable suspicion, probable cause, substantial evidence, preponderance of the evidence, or beyond a reasonable doubt? Or would the President really believe that the Constitution prohibits the President from using coercive military force against a foreign person—despite the clear judgment of what constitutes a particular objective standard of evidentiary proof?

Let’s posit a battlefield scenario. American troops are pinned down by sniper fire from a village. As the troops advance, they see two men running from a building that has received recent sniper fire. The troops believe they are probably a sniper team. Is it really being suggested that the Constitution vests these men with the right to go about the American military and military at will? When do these rights arise? If the troops shoot and kill them—i.e., deprive them of life—could it be a violation of due process? Suppose they are wounded and it turns out they were not enemy forces. Does this give rise to Bivens’ Constitutional tort actions for violation of due process? Alternative military operations in time of war could fundamentally alter the character and the political objectives of the conflict. At heart of these kinds of military decisions is the judgment of what constitutes a threat to the safety of our forces, the safety of our homeland, or the ultimate military threat to the safety of our forces, the safety of our forces, the safety of our forces, the safety of our forces, the safety...

Second, the introduction of an ultimate decision-maker outside of the normal chain of command, or altogether outside the Executive Branch, would disrupt the unity of command and undermine the ability of our military forces to operate coherently. The United States would have to field three platoons of lawyers, investigators, and paralegals. Such a result would in effect mean that the Commander-in-Chief’s power is surrendered, diverted resources from winning the war into demonstrating the individual “fault” of persons confronted in the field of battle, and thereby uniquely disadvantage our military vis-a-vis every other fighting force in the world.

A third concern is that the多层次 reservations of the habeas statute do not have any impact in judicial interpretation of the reach of the Fifth Amendment or the related substantive provisions. Moreover, the Court’s recognition in Asal v. Bush that the United States exercises control, but “not ultimate sovereignty” over the leased Guantanamo Bay territory confirms the inapplicability of the Fifth Amendment to aliens held there.

Nevertheless, even if Guantanamo Bay is somehow deemed sovereign United States territory, the Fifth Amendment is still inapplicable. The Supreme Court, in addition to the requisites detention on sovereign United States territory, demands that the aliens only “receive constitutional protections” when they have also “developed substantial connections with this country.” Under the Court’s formulation, “lawful but involuntary” presence in the United States “is not of the sort to indicate any substantial connection with our country” sufficient to trigger constitutional protections. The “voluntary connection” necessary to trigger the Fifth Amendment’s due process guarantee is somehow lacking with respect to enemy combatants.

Whatever else may be said, there can be no dispute that these individuals did not arrive in Guantanamo Bay but were captured by enemy combatants that have been transported to Guantanamo Bay for detention thus are not entitled to Fifth Amendment habeas rights. In his dissent, Justice Breyer noted that the Supreme Court’s decision in Asal was a statutory ruling, not a constitutional
one. In other words, the Court concluded only that the federal habeas statute confers jurisdiction on federal district courts to hear claims brought by aliens detained at Guantánamo. The Court nowhere suggested that the Constitution grants such aliens a right of access to American courts.

An important consequence follows: Congress could not restrict or even to eliminate entirely the ability of enemy aliens at Guantánamo Bay to file habeas petitions. Congress could consider enacting legislation—either by creating special procedural rules for enemy aliens detainees, by requiring any such habeas petitions to be heard in particular court, or by prohibiting enemy aliens from halting military officials into court altogether."

Mr. President, with the Military Commissions Act, the Senate today enacts Mr. Barr’s third suggestion. We create a system that is consistent with our treaty obligations but that also is consistent with military tradition and the needs of our fighting forces in a time of war. It is a system that will serve this Nation well. I look forward to the day when we can put this system to rest, when we can come together as one country and say: What are the charges against me? I heard one of my colleagues on the other side of the aisle going on yesterday about this habeas provision. He went on about how habeas corpus is to protect U.S. citizens. It is in no way, he went on, aimed at protecting enemy combatants who are picked up.

Therein lies the problem. How do we know they are enemy combatants? Is it because the CIA says they are an enemy combatant? Who says they are an enemy combatant? This is not World War II, folks, where the Germans wore one side and the Japanese wore another. There are no uniforms. There are no uniforms, and the Japanese are on the other side and they have uniforms. This is an amorphous terrorist war where the terrorists don’t wear uniforms. They can be dressed like you or me. They can look just like you or me. They can look just like you or me. So we don’t know.

We have instances where people have been thrown into Guantánamo, for example, and they were fingered by a neighbor who didn’t like them and wanted their property or house or didn’t like them because of something they had done to them in the past. They fingered them and said: Guess what. They are big terrorists. People were picked up and thrown in jail.

Habeas is the one provision that allows someone snatched off the streets here or anywhere else suspected of being a terrorist to at least come forward and say: What are the charges against me?

We have seen this happen in Guantánamo. People kept for months, for years, without ever having a charge filed against them, and many of them we found out were totally innocent.
What does this say to the rest of the world? 
Senator Obama from Illinois told the story the other day about when he was in Chad in August and heard about an American citizen who was picked up in Sudan and held by the Sudanese. He made a trip to get this person released. It was an American journalist. After a while, he was released.

The American journalist came back and said: I was picked up by the Sudanese officials. I asked for permission to contact the U.S. Embassy with a phone call so I could talk to our Embassy.

The Sudanese captor said: Why should we let you do that? You don’t let the people in Guantanamo Bay do that.

The use of habeas is not just to protect the people who are suspected so that we know whether they really are an enemy combatant. It is also as a protection for our troops, our soldiers, our civilians, our business people traveling around the world, people traveling on vacation, journalists, just like this one, who may be snatched, picked up by a foreign government. We want to be able to say to that government: Produce the person. What are the charges? Allow us to try the person. That is the purpose of this.

If the moral argument against torture does not hold any weight with this administration, they should just examine the abundant evidence that torture simply doesn’t work. This is not just my opinion, this is what the experts are saying.

Let me quote from a letter signed by 20 former U.S. Army interrogators and interrogation technicians:

Prisoner/detainee abuse and torture are to be avoided at all costs, in part because they can degrade the intelligence collection effort by interfering with a skilled interrogator’s efforts to establish rapport with the subject.

Simply put, torture does not help gather useful, reliable, actionable intelligence. In fact, it inhibits the collection of such intelligence.

Earlier this month, the U.S. Army released its new field manual 222.3: “Human Intelligence Collector Operations,” which covers interrogations by the U.S. military in detail. This manual replaces the previous manual and is used by our military personnel around the world in performing interrogations.

The Army Field Manual explicitly bans, among other things, beating prisoners, sexually humiliating them, threatening them with dogs, depriving them of food and water, performing mock executions, shocking them with electricity, burning them, causing other pain, or subjecting them to the technique called waterboarding, which simulates drowning.

So why are these techniques explicitly banned in the Army Field Manual, why shouldn’t they be explicitly banned for CIA personnel or CIA contract personnel? Why do we have a high standard for our military and effectively no standard for the CIA and its contractors?

For me, this debate about illegal imprisonment and officially sanctioned torture is not an abstraction. It strikes very close to home for me.

Thirty-six years ago this summer at the height of the Vietnam war, I brought back photographs of the so-called tiger cages at Con Son Island where the U.S. and North Vietnamese prisoners, as well as civilians who had committed no crime whatsoever, were being tortured and killed with the full knowledge and sanction of the U.S. Government. That was July of 1970 when I was a staff person in the House of Representatives working with a congressional delegation on a fact-finding trip to Vietnam.

We had all heard reports about the possible existence of these so-called tiger cages in which people were brutally tortured and killed. Our State Department and our military officials denied their existence. They said it was only Communist propaganda.

Through various sources, I thought that the reports about the tiger cages were at least credible and should be investigated further.

Thanks to the courage of Congressman William Anderson of Tennessee and Congressman Augustus Hawkins of California and to Don Luce, an American working for a nongovernmental organization, and because of the bravery of a young Vietnamese man who gave us the maps on how to find the prison, we were able to expose the tiger cages on Con Son Island.

This young Vietnamese man about whom I speak was let out of the tiger cages, but they kept his brother, and they said: If you breathe one word about this, we are going to kill your brother.

Why did they let him out of the tiger cages? Because he was president of the student body at Saigon University. What had been his crime? He had demonstrated against the war. So they picked up he and his brother and threw them in the tiger cages and tortured them.

The students refused to go back to class—this was a big deal—until they returned this young man to his university, which they did, but they kept his brother. They breathe a word of this, we will kill him.

This young man decided he needed to take a chance, and he took a chance on me. He drew the maps and gave us the story on how to find these tiger cages which we thought were well hidden, and without the maps we would not have found them. Fortunately, I had a camera and a hidden tape recorder which proved useful when I returned to the United States.

So the war crimes that the tiger cages were not all that bad. But then Life magazine published my pictures, and the world saw the horrific conditions where, in clear violation of the Geneva code, North Vietnamese, Vietcong, as well as civilian opponents of the war—just civilians—who committed no crimes whatsoever—were all crowded together in these cages, as I said, in clear violation of the Geneva Conventions and the most fundamental principles of international law.

At the same time, the U.S. Government had been insisting that the North Vietnamese abided by the Geneva Conventions in their treatment of prisoners in North Vietnam. Yet here we were, condoning and assisting in the torture of civilian Vietnamese, along with Vietnamese soldiers and others in clear violation of the Geneva Conventions.

We may not have known about it—our public did not know about that—but the Vietnamese sure knew about it.

I thought we had learned our lesson from that, and then I saw Abu Ghraib and thought: Wait a minute. Haven’t we learned our lesson? And, Mr. President, some of us who had seen the tiger cages were first talked about, they were denied—and they thought they could deny them because it was hard to get to the island. You couldn’t really get out there. As far as they were concerned, no one had ever taken pictures of it and no one had ever really escaped from there, like a Devil’s Island kind of place. So the military denied it. Our Government denied it year after year until I was able to take the pictures and bring back the evidence.

Mr. President, I submit to you and everyone here and the American people that had not that courageous soldier taken the pictures of Abu Ghraib and kept those pictures, they would have denied that ever happened. They would have denied to high Heaven that such things took place at Abu Ghraib.

Thanks to the courage of Congressmen Anderson and Congressman Hawkins, our Government learned its lesson, and it was, indeed, some are no doubt wondering why opposing us in the election. All I can say is: Shame on them. What is more, it is not going to work. Because opposing
this bill, which would give the green light to torture, is far, far bigger than the outcome of the November election.

This is about preserving our core values as Americans. It is about standing up for our troops and ensuring that they do not become subject to torture acts of terror in retaliation. It is about standing up for American citizens, civilians, and others who may be caught up in some foreign land with false charges filed against them, and yet not even being able to contact our embassies to protect fellow Americans. And it is about changing course and beginning to wage an effective war against the terrorists who attacked us on September 11, 2001.

It is time to quit being strong and wrong, and it is time to start being strong and smart. Being strong and wrong has been a disaster. It has bogged us down in a civil war in Iraq. It has turbocharged the terrorists. It has made America less safe. So it is time to get smart and strong. It is time to be true to who we are as Americans. It is time to say no to indefinite—incarceration. It is time to say no to taking away the right of habeas corpus. It is time to say no to torture in all its forms now and at any time in the future.

Mr. President, I yield the floor.

Mr. BIDEN. Mr. President, I want to start by complimenting Senators W ARNER, MCCAIN and GRAHAM and the work that they did to improve this bill, particularly in two areas.

First, our colleagues did the right thing by rejecting the attempt by the administration to reinterpret, by statute, Common Article III of the Geneva Conventions. That would have been an enormous mistake—and an invitation for other countries to define for themselves what the Geneva Conventions require.

Second, our colleagues were right to reject the use of secret evidence in military commissions. Such a proposal is not consistent with American jurisprudence, and would not have satisfied the requirements of the Supreme Court decision in Hamdan.

Overall, the bill provides a much better framework for trying unlawful enemy combatants than under the flawed order issued by the President. All this is positive, and our three colleagues deserve credit for their good work.

But the bill contains a significant flaw. It limits the right of habeas corpus in a manner that is probably unconstitutional. Don't take my word for it. Listen to the words of a conservative Republican. Kenneth Starr, who used to sit on this nation's second highest court, and is now one of the country's leading appellate advocates, in a letter written to Senator SPECTER earlier this week:

Article 1, section 9, clause 2 of the United States Constitution provides that "[t]he privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it." The United States is neither in a state of rebellion nor invasion. Consequently, it is inappropriate for Congress to modify the constitutionally protected writ of habeas corpus under current events.

Accordingly, I believe this bill is likely unconstitutional. I hope that I am wrong. But I fear that I am right, and that we will be back here in a few years debating this issue again.

We had one chance this right— to ensure that we don't end up back here again after a new round of litigation. There was no reason to rush. No one challenges our right to detain the high-value prisoners the President just transferred to Guantanamo. We are not about to release them—nor should we.

But rush we did. In the last week, there have been two different versions of the legislation that emerged from closed-door negotiations with the administration. These bills may fall far, far short of what the President established by order were legal. Simply put, I am not willing to trust the administration's legal judgment again. And it is clear that the administration has put its imprints on this legislation in several troubling respects, including in the stripping of habeas rights.

In the struggle in which we are engaged against radical fundamentalists, we must be both tough and smart. This bill is smart. But it risks continued litigation about how we detain and try unlawful enemy combatants.

It is also not smart because it risks continued harm to the image of the United States. The 9/11 Commission concluded that "[a]llegations that the United States abused prisoners in its custody make it harder to build the diplomatic, political, and military alliances the government will need." The recently released National Intelligence Estimate concluded that there are several factors fueling the spread of the jihadist movement, including "entrenched grievances, such as corruption, injustice, and fear of Western domination, leading to anger, humiliation, and loss of face." The mistreatment of detainees at Abu Ghraib, and concerns about our policies governing detainees at Guantanamo Bay, undoubtedly fuel these grievances and anger against the United States. Our detainee policies have also made it harder for our allies to support our anti-terrorism policies. We have to get this right.

Therefore, even though our colleagues achieved significant improvements, I cannot support this legislation.

Mr. WARNER. Mr. President, at this point in time I yield to the distinguished Senator from Arizona 14 minutes.

I would say that I have been privileged to be a Member of this institution for now 28 years, and I first met JOHN MCCAIN when I was Secretary of the Navy. So that goes back 28 plus another 5 years that I have known of JOHN MCCAIN.

This Chamber, and indeed all of America, knows full well about the extraordinary record that this man has in the service of his Nation, showing unselfishness, showing courage, showing foresight.

I am proud to have worked with him as a partner in these past weeks, indeed, months now, on this piece of legislation.

I just want to express my gratitude, and I think the gratitude of many people across this country, for the service it is rendering the Senate and hopefully will continue to render the Senate in the coming years.

When I step down under the caucuses, it is my hope that JOHN MCCAIN is elected to succeed me as chairman of the Senate Armed Services Committee.

But at this point in time, I am proud to yield, as manager, my time to the Senator from Arizona.

Mr. LEVIN. Mr. President, will the Senator from Arizona respond?

Mr. MCCAIN. I would be glad to.

Mr. LEVIN. Mr. President, I heartily join my good friend from Virginia in his assessment of Senator MCCAIN. I know there has been some disagreement as to who would go first, but that should not in any way, I hope, cloud the real affection which I think everybody in this body holds for Senator MCCAIN and the effort he has made for so long to try to bring some kind of decency to the approaches we use to people whom we detain.

I thank the Senator.

The PRESIDING OFFICER. The Senator from Arizona is recognized for 14 minutes.

Mr. MCCAIN. Mr. President, I thank both my friends of many years, Senator LEVIN and Senator WARNER, for the collegiality, the bipartisanship, and the effort that we all make under the leadership on the Armed Services Committee for the betterment of the men and women who serve our country and our Nation's defense. I am honored to serve under both.

For the record, I believe I just calculated that I say to my dear friend from Virginia, it has been 33 years since I came home from Vietnam and found that our distinguished Secretary of the Navy was very concerned about the welfare of those who had the lack of talent that we were able to get shot down. So I thank my friend from Virginia especially, and I thank my friend from Michigan. I believe our committee conducts itself in a fashion
which has been handed down to us from other great Members of the Senate, such as Richard Russell and others.

Mr. President, before I move on to other issues, I have heard some criticism on the Senate floor today about the way in which the bill treats admissibility of coerced testimony.

A New York Times editorial today said that in this legislation “coercion is defined in a way that exempts anything done before the passage of the 2005 Detainee Treatment Act, and anything else evidence admisses” in their own inimitable style.

This is thoroughly incorrect, and I would like to correct not only the impression but the facts.

This bill excludes any evidence obtained through illegal interrogation techniques, including those prohibited by the 2005 Detainee Treatment Act. The goal is to bolster the Detainee Treatment Act by ensuring that the fruits of any illegal treatment will be per se inadmissible in the military commissions.

For evidence obtained before passage of the Detainee Treatment Act, we adopted the approach recommended by the military JAGs. In order to admit such evidence, the judge—we leave it to the judge—must find that: it passes the legal reliability test—and, as applied in practice, the greater the degree of coercion, the more likely the statement will not be admitted; the evidence possesses sufficient probative value; and that under other circumstances justice would best be served by admission of the statement into evidence.

Mr. President, I ask unanimous consent that three different letters from three different JAGs—Air Force, Navy, and Marine Corps—be printed in the RECORD.

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


Hon. JOHN MCCAIN, Russell Senate Office Building, Washington DC.

DEAR SENATOR MCCAIN: Thank you for your letter of 23 August 2006, in which you requested my written recommendations on the military commissions legislation Congress is expected to consider next month.

You specifically ask for my personal views on the most pressing issues involving the legislation.

As of the date of this letter, several bills have been introduced and I believe the administration is also considering legislation for consideration. I appreciate the opportunity to provide my personal perspective and comments on the general nature of the potential legislation.

I begin with the premise that legislation is appropriate. As the Supreme Court noted again in Hamdan v. Rumsfeld, 548 U.S. 557, 126 S.Ct. 2749 (2006), the President’s powers in war-like situations are specifically authorized by Congress. While different approaches are feasible, I believe the Nation will be best served by a fresh start to the military commissions. Existing criminal justice systems, including the process established by Military Commission Order 1, should be reviewed to develop a system that will best serve the interests of justice and the United States. The Uniform Code of Military Justice (10 U.S.C. § 801 et. seq.) (UCMJ) and the Manual for Courts-Martial (MCM) have provided superb starting points. The processes and procedures used in the UCMJ and MCM have served us well and can be readily adapted to meet the needs of the military commissions.

As I have testified, Congress could enact a UCMJ Article 135a to establish the basic substantive requirements for military commissions, and the order could provide detailed guidance, just as the MCM provides detailed guidance for the trial of courts-martial. Alternatively, Congress could create a separate Code of Military Commissions as a new chapter in Title 10, modeled to an appropriate degree after the UCMJ, and similarly leave the details to an executive order. Either approach must address the requirements of the Geneva Conventions and the concerns articulated in Hamdan.

There will necessarily be differences between current court-martial procedures and the rules and procedures for military commissions. However, the processes and procedures in current court-martial rules can readily be adapted to meet the needs of military commissions and still meet the requirements of criminal justice systems established by common law Article 3 of the Geneva Conventions.

The legislation must appropriately address access to evidence and the accused’s presence during the trial. Specifically, it is my strong position that evidence admitted against an accused and provided to members of a military commission must also be provided to the accused and accused’s counsel. Any statement evidence to be admitted outside the presence of the accused would mean the military commission could convict (and possibly impose a sentence of death) without the accused ever fully knowing the evidence considered against him.

A procedure is extremely problematic, both constitutionally and from a Common Article 3 perspective. The accused’s presence is a critical facet of this legislation. The United States is more than a nation of laws; it is a country founded upon strong moral principles of fairness to all. Moreover, our country—to the delight of our adversaries—has been heavily criticized because our Hamdan military commission process was unfair and did not afford all the judicial guarantees which are recognized as indispensable by civilized nations.

Now is the time to correct that perception and clearly establish procedures and rules that meet that standard. These procedures and rules will do more than merely correct legal deficiencies; they will help reestablish the United States as the leading advocate of the rule of law. I firmly believe doing so is an important facet of winning the global war against terror.

Inextricably tied to that concept is an awareness of recency. We cannot hold out as acceptable the commission process that we would consider to be unfair and illegal if used by a foreign authority to try captured United States servicemen and women for alleged offenses.

Additionally, concerns have been raised about other evidentiary and procedural issues, including the ability of the accused to represent himself, and the admissibility of hearsay, classified evidence, and an accused’s own statements.

The right of an accused to represent himself, and the admissibility of hearsay, classified evidence, and an accused’s own statements are issues that are critical to the fair and effective administration of justice. As I have testified, Congress could enact a separate Code of Military Commissions as a new chapter in Title 10, modeled to an appropriate degree after the UCMJ, and similarly leave the details to an executive order.

Concerns about the admissibility of statements made by an accused primarily involve the current requirement to provide Miranda warnings. As Judge Sullivan observed in Hamdan (cited by CIP A) (Title 18, U.S.C. App III), CIP A is designed to prevent unnecessary or inadvertent disclosures of classified information and acting contrary to the government of the national security implications of going forward with certain evidence. MRE 505 achieves a reasonable accommodation of the United States’ interest relating to the infliction of the accused’s need to be able to mount a defense. The rule permits in camera, ex parte consideration of the Government’s concerns by a judge, the substitution of unclassified summaries or other alternative forms of evidence, and ensures fairness to the accused. Under MRE 505, both the prosecution and the accused are provided with a process going to the court. The accused knows all that is to be considered by the trier-of-fact, has an opportunity to respond, and is able to assist the court if requested to do so.

Concerns about the admissibility of state-
The military commission process must recognize the battlefield is not an orderly place. The requirement to warn an individual before questioning is one area where deviation from UCMJ is permitted by existing UCMJ framework may well be warranted. Generally, if a military judge concludes the confession or admission of an accused is involuntary, the statement is not admissible and would be excluded in a court-martial over the accused's objection. Commonly, a statement is involuntary if it is obtained in violation of the self-incrimination privilege or due process clause of the Fifth Amendment to the Constitution of the United States; Article 31; or through the use of coercion, unlawful influence, or unlawful oath situations. Obviously fact determinative and the military judge decides whether the statement is voluntary considering the totality of the circumstances. I trust the judgment of experienced military judges. Military commissions should be permitted to consider evidence that is found to be unlawfully coerced and thus involuntary.

Finally, appellate jurisdiction over military commission decisions should be clearly established and appropriately vested in the United States Supreme Court held in Handan v. Rumsfeld, 126 S.Ct. 2749 (2006), that absent a sufficient practical need to deviate from existing U.S. laws and judicial decisional procedures, an accused must be present at trial and have access to all evidences presented against him. A four-justice plurality also opined that Article 3 of the 1949 Geneva Conventions requires, at a minimum, that an accused be present at trial and have access to the evidence. In Rumsfeld, Justice Kennedy, who was not part of the plurality, further signaled in a separate concurring opinion that introduction of evidence outside the presence of the accused was troubling and, if done to the prejudice of the accused, would be grounds for reversal. Furthermore, as a matter of policy, adopting such practice for military courts may encourage others to reciprocate in kind against U.S. service members held in captivity.

I recommend that the legislation adopt Military Rule of Evidence 505 (M.R.E. 505), which is partly based on the Classified Information Procedures Act (CIPA). M.R.E. 505 permits a military judge to conduct an in camera, ex parte review of the Government's interest in protecting classified information and encourages the substitution of unclassified summaries or forms of evidence in lieu of the classified information. This type of procedure ensures that classified information is not disclosed under circumstances that could injure national security.

While it is true that application of a M.R.E. 505 process might, Justice Kennedy, who was not part of the plurality, further signaled in a separate concurring opinion that introduction of evidence outside the presence of the accused was troubling and, if done to the prejudice of the accused, would be grounds for reversal. Furthermore, as a matter of policy, adopting such practice for military courts may encourage others to reciprocate in kind against U.S. service members held in captivity. For it is very same law that allows us to hold terrorists for the duration of hostilities, however long those hostilities might last. With regard to hearsay evidence, I have no objection to the introduction of hearsay evidence so long as the evidentiary standard is clarified to exclude information that is unreliable, not probative, unfairly prejudicial, confusing, or misleading, or when such exclusion is supported by a clear and convincing evidence of the integrity of the proceedings. Such an approach would be consistent with the practice of international war crimes tribunals supported by the United States in Rwanda and the former Yugoslavia. Those tribunals satisfy the requirements of the law of war including Common Article 3 of the Geneva Conventions of 1949.

With regard to statements alleged to have been derived from coercion, the presiding military judge is required to determine the statement was coerced, where the standard is sufficiently clear to permit prosecution of all unlawful enemy combatants who engage in or attempt to engage in hostilities against the United States. If the military judge determines the confession was obtained by other means, we should need the military judge to determine the commission is inappropriate vested in the United States...
regarding the fundamental importance of an accused's access to evidence and presence at trial. Simply put, an accused (and his counsel) must be provided the evidence admitted against him. The government must require the government to balance the need for prosecution on particular charges against the need to protect certain classified information. This balancing is obviously fact determinative and thus involuntary.

Domestically, the government must often weigh the sanctity of sensitive information against having to disclose it for use in a successful prosecution believing it is “firmly immovable "judicial guarantees" referenced in Common Article 3 require the same sort of deliberative decision-making in the context of these commissions. Where the government intends to provide an accused using classified information, Military Rule of Evidence (MRE) 505 should serve as the evidentiary benchmark.

The commissions should be pressed over by a certified and qualified (pursuant to Article 26 of the UCMJ) military judge, who is trained to make measured evidentiary rulings. While I recommend that Congress allow for an executive order to promulgate specific applicable evidentiary rules (same as with the Manual for Courts-Martial, or MCM, I do offer comments on what I believe are two more notable evidentiary issues: hearsay and statements by an accused.

Regarding hearsay, the residual hearsay exception found in the Military Rules of Evidence (MRE) provides a solid foundation upon which to build for the commission. The requirement of the military judge find the evidence to be probative and reliable—a standard with international acceptance. In practice, this standard could allow for alternatives to live testimony, such as by video teleconference, which take into account the global nature of the conflict.

I share previously expressed concerns about the admissibility of statements made by an accused as a product of torture or coercion. Without exception, statements obtained by torture, as defined in Title 18 of the U.S. Code, must be inadmissible. Coercion is a more nebulous concept. As a result, military judges should retain discretion to determine whether statements so alleged are admissible. After an examination of all the facts and circumstances surrounding the statement, the military judge could determine that the evidence is probative and reliable because it is either unreliable or lacking in probative value.

In closing, I submit that the jurisdiction of the military commissions should be broad enough to include the prosecution of all unlawful enemy combatants, and not merely members of al Qaeda, the Taliban, and associated organizations. Jurisdiction must extend to other terrorist groups, regardless of their level of organization, and the individual “freelancers” so common on the current battlefield.

Thank you again for the opportunity to provide comment. I look forward to continuing to work toward resolution of this matter.

Very respectfully,

JAMES C. WALKER,
Brigadier General, USMC
Staff Judge Advocate to the Commandant.

Mr. MCCAIN. Mr. President, the JAG of the Air Force says:

And the other two Judge Advocate Generals say the same thing, that the provisions of this bill are exactly in line with their opinions. Frankly, that had a great deal of weight in our adopting them.

Almost exactly 3 months ago, the Supreme Court decided the groundbreaking case of Hamdan v. Rumsfeld. In that case, a majority of the Court ruled that the military procedures used to try detainees held at Guantanamo Bay fell short of the standards of the Uniform Code of Military Justice and the Geneva Conventions.

The Court also determined that Common Article 3 of the Geneva Conventions applies to al-Qaida because our conflict with that terrorist organization is “not of an international character.” Some of my colleagues may disagree with the Court’s decision, but once issued it became the law of the land.

Unfortunately, the Hamdan decision left in its wake a void and uncertainty that Congress needed to address—and address quickly—in order to continue fighting the war on terrorism. I believe this act allows us to do that in a way that protects our soldiers and other personnel fighting on the front lines and respects core American principles of justice. I would like to thank Senators GRAHAM and WARNER and many others for their unceasing work on this bill.

I would like to take a few moments to describe some of the key elements of the legislation.

As is by now well known, Senators WARNER, GRAHAM, and I, and others, have resisted any redefinition or modification of our Nation’s obligations under Common Article 3 of the Geneva Conventions. We did so because we care deeply about legal protections for American fighting men and women and about America’s moral standing in the world. More than 50 retired military generals, according toellite lines and respect core American principles of justice.

Mr. President, I ask unanimous consent to have printed in the Record letters from GEN Colin Powell, GEN Jack Vennesey, and GEN Hugh Shelton, and a letter from the former Commandant of the Marine Corps, General Kruklak.

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

Sincerely,

JAMES C. WALKER,
Brigadier General, USMC
Staff Judge Advocate to the Commandant.

HI. MCCAIN. Mr. President, the JAG of the Air Force says:

Common Article 3 would add to those doubts. Furthermore, it would put our own troops at risk.

I am as familiar with The Armed Forces Officer as Jack Vennesey was after all the horrors of World War II and General George C. Marshall, then Secretary of Defense, used it to tell the world and to remind our soldiers of our moral obligations with respect to those in our custody.

Sincerely,

GENERAL COLIN L. POWELL, USA (Ret.).

SEPTEMBER 12, 2006.

HON. JOHN MCCAIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR MCCAIN: Sometimes, the news is a little garbled by the time it reaches the forests of North-central Minnesota, but I call your attention to recent reports that the Congress is considering legislation which might relax the United States’ support for adherence to Common Article 3 of the Geneva Convention. If that is true, it would seem to weaken the effect of the McCain Amendment on torture of last year. If such legislation is being considered, I fear that it may weaken America in two respects. First, it would erode the moral basis which has generally guided our conduct in war throughout our history. Second, it would give opponents a legal argument for mistreatment of Americans being held prisoner in time of war.

In 1950, 3 years after the creation of the Department of Defense, the then Secretary of Defense, General George C. Marshall, issued a small book, titled The Armed Forces Officer. The book summarized the laws and traditions that governed our Armed Forces throughout the years. As it relates to the issue, it might consider a short quote from the last chapter of that book which General Marshall sent to every American Officer. The last chapter is titled “Americans in Combat” and it lists 29 general propositions which govern the conduct of Americans in war. Number XV, which I long ago underlined in my copy, reads as follows:

“The United States abides by the laws of war. Its Armed Forces, in their dealing with all other peoples, are expected to comply with the laws of war, in the spirit and the letter. To the extent that we are engaged in a war, we do not tolerate harmful non-combatants, if it is within our power to avoid so doing. Wanton killing, torture, cruelty or the working of unusual hardship on the enemy prisoners of war is not justified in any circumstance. Likewise, respect for the reign of law, as that term is understood in the United States, is expected to follow the flag wherever it goes.”

For the long term interest of the United States as a nation and for the safety of our own forces in battle, we should continue to maintain those principles. I continue to read and hear that we are facing a “different enemy” in the war on terror; no matter how true that may be, inhumanity and cruelty are not new to warfare nor to enemies we have faced in the past. In my short 46 years in the Armed Forces, Americans confronted the horrors of the prison camps of the Japanese in World War II, the North Vietnamese in the long years of the Vietnam War, as well as knowledge of the Nazi’s holocaust depredations in World War II. Through those years, we have stood on our own values. We should continue to do so.

Thank you for your own personal courage in maintaining those values, both in war and in peace.
Convention is in error, and if not that the Senate will reject any such proposal.

Very respectfully,

GENERAL JOHN W. VESSY, USA (Ret.)

SEPTEMBER 20, 2006.

Hon. JOHN MCCAIN, U.S. Senate, Washington, D.C.

DEAR SENATOR MCCAIN: I have followed with great interest the debate over whether to redefine in law Common Article 3 of the Geneva Convention. I join my distinguished predecessors as Chairman of the Joint Chiefs of Staff, Generals Vessey and Powell, in expressing concern regarding the contemplated changes to the Geneva Conventions. As a Nation, we have an obligation to the men and women in uniform to unnecessary danger. None of my colleagues should object to the war criminals a realistic goal. None of my colleagues should object to the

Mr. MCCAIN. These men express one common view: that modifying the Geneva Convention will be harder, not easier, to defeat our military's extraordinary presence around the world, Geneva protections are critical. Should the Congress redefine Common Article 3 in domestic statute, the United States would be inviting similar reciprocal action by other parties to the treaty. Such an action could send a terrible signal to other nations that the United States is attempting to water down its obligations under Geneva. At a time when we are deeply engaged in a war of ideas and war on the homefront, this would be an egregious mistake. I firmly believe that not only is such a move unnecessary, it potentially subjects our men and women from harm or unnecessary danger.

The legislation sponsored by Senator Warner, which would enumerate war crime offenses while remaining silent on America's obligations under Common Article 3, is a better course of action. By doing so, we our purpose to prevent the CIA from using the Detainee Treatment Act. The CIA's interrogation program has to do "right" . . . to obey the laws of our country. And, in the boundaries established in the Geneva Conventions, and the War Crimes Act. Nothing—nothing—could be further from the truth. As currently written, the War Crimes Act makes criminal any and all behavior that constitutes a violation of Common Article 3—specifically, any act that constitutes a grave breach of the Geneva Conventions, and the War Crimes Act.

There has been much public discussion about specific interrogation methods that may be further from the truth. As currently written, the War Crimes Act makes criminal any and all behavior that constitutes a violation of Common Article 3—specifically, any act that constitutes a grave breach of the Geneva Conventions, and the War Crimes Act. Nothing—nothing—could be further from the truth. As currently written, the War Crimes Act makes criminal any and all behavior that constitutes a violation of Common Article 3—specifically, any act that constitutes a grave breach of the Geneva Conventions, and the War Crimes Act. Nothing—nothing—could be further from the truth. As currently written, the War Crimes Act makes criminal any and all behavior that constitutes a violation of Common Article 3—specifically, any act that constitutes a grave breach of the Geneva Conventions, and the War Crimes Act.

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I, like many of my colleagues, find troubling the reports that our intelligence personnel feel compelled to purchase liability insurance because of the lack of legal clarity that exists in the wake of the Hamdan decision. This legislation provides an affirmative defense for Government personnel prosecuted under the War Crimes Act for actions they reasonably believed to be legal at the time. That is a long-standing precedent. In addition, it would encumber our personal rights of action against our personnel based on a violation of the Geneva Conventions.

The intent of this provision is to protect officers, employees, members of the Armed Forces, and other agents of the United States from suits for money damages or any other lawsuits that could harm the financial well-being of our personnel who were engaged in lawful— I emphasize "lawful"—activities. It is important to note, however, that the fact that the Geneva Conventions lack specific language and the fact that this legislation does not create such a right—has absolutely no bearing on whether the Conventions are binding on the executive branch. Even if the Geneva Conventions do not expressly embrace or enable our personnel for money damages, the President and his subordinates are nevertheless bound to comply with Geneva. That is clear to me and to all who have negotiated or redefined the Geneva Conventions, it would open the door for our adversaries to do the same, now and in the future. The United States should champion the Geneva Conventions, not look for ways to get around them. The Conventions are binding on the executive branch. To do anything other would put our fighting men and women directly at risk. We owe it to our fighting men and women to uphold the Geneva Conventions, just as we have done for 57 years.

We fought a civil war, and we fought that war with a commitment to those values to preserve the Great Writ of habeas corpus. Since 13th century Anglo jurisprudence, we have had the Great Writ. We have had habeas corpus since the birth of our Nation. We fought a revolution to give us the right to talk to our government, to hold our government accountable to the people. We fought a civil war, and we fought through two world wars. Now, in a matter of hours, in a debate that has so often skirted the issues, we are ready to strip back habeas corpus. I cannot vote for that.

Mr. LEAHY. Mr. President, I wish to commend our distinguished colleague on an excellent summary of the bill and his heartfelt expressions and interpretations of this bill, which I share.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. LEAHY. Mr. President, it is from the President's leadership that we have our values and our Constitution. It takes a commitment to those values to demand accountability from the Government. In standing up for American values and security, I will vote against this bill.

I can give you many reasons, but let me take one. We will turn back the protections of the Great Writ of habeas corpus. Since 13th century Anglo jurisprudence, we have had the Great Writ. We have had habeas corpus since the birth of our Nation. We fought a revolution to give us the right to talk to our government, to hold our government accountable to the people. We fought a civil war, and we fought through two world wars. Now, in a matter of hours, in a debate that has so often skirted the issues, we are ready to strip back habeas corpus. I cannot vote for that.

Senator SMITH spoke stirring earlier today of the dangers of the bill's habeas provision, which would eliminate the independent judicial check on Government overreaching and lawlessness. He quoted from great defenders of liberty. It was Justice Robert H. Jackson who said in his role as Chief Counsel for the Allied Powers responsible for trying German war criminals after World War II: "That four great nations, flushed with victory and stung with injury stay the hand of vengeance and voluntarily submit their captive enemies to the judgment of the law is one of the most significant tributes that Power ever has paid to Reason." He closed the Nuremberg trials about which Senator Durbin and I spoke earlier by saying: "Of one thing we may be sure. The future will never have to ask, with misgiving, 'What could the Nazis have said in their favor?' History will know that whatever could be said, they were allowed to say. They have been given the kind of a trial which they, in the days of their pomp and power, never gave to any man. But fairness is not weakness. The extraordinary fairness of the Nuremberg trials is an attribute of our strength."

He was right and his wisdom was echoed this week at our Judiciary Committee hearing when Admiral Haspel, Commander of the CIA in Afghanistan, testified that fairness and lawfulness are our greatest strengths. This legislation doesn't live up to that ideal. It strips away fairness.

The actions by the U.S. Government, this administration, for all its talk of strength, have made us less safe, and its current proposal is one that smacks of weakness and shivering fear. Its legislative demands reflect a cowing country that is succumbing to the threat of terrorism. I believe we Americans are better than that. I believe we are stronger than that. I believe we are fairer than that. And I believe America should be a leader in the fight for human rights and the rule of law, and that will strengthen us in our fight against terrorists.

We have taken our eye off the ball in this fight against terrorists. That is essentially what all of our intelligence agencies concluded in the National Intelligence Estimate that the administration had for six months while this was rolling along, but that they only shared a part of this past weekend. Our retooled and reorganized intelligence agencies, with leadership handpicked by the administration, have concluded, contrary to the campaign rhetoric of the President and Vice President, that the U.S. is a leader in the fight for human rights and the rule of law, and that will strengthen us in our fight against terrorists.

Surely, the continued occupation of Iraq, when close to three-quarters of Iraqis want U.S. forces to depart their country, is another circumstance being exploited by enemies to demonize our great country.

Passing laws that remove the remaining checks against mistreatment of prisoners will not help us win the battle for the hearts and minds of the generation of young people around the world being recruited by Osama bin Laden and al-Qaida. Authorizing indefinite detention of anybody the Government designates, with any proceeding or without any recourse, putting them into the secret prisons we condemned during the Cold War, is contrary to the widespread claim that the United States would do. That is not what American values, our traditions, and our rule of law would have us do.
This is not just a bad bill, this is truly a dangerous bill.

I have been asking Secretary Rumsfeld’s question for the last several weeks: whether our actions are eliminating more of our enemies than we are creating. But now we understand that that’s not what we are doing. We are creating more enemies than we are eliminating. Our intelligence agencies agree that the global jihadist movement is spreading and adapting; it is “increasing in both number and geographic dispersion.” We are putting ourselves more at risk.

“If this trend continues,” our intelligence agencies say, that is, if we do not wise up and change course and adopt a winning new strategy, “threats to U.S. interests at home and abroad and will become more diverse, leading to increasing attacks worldwide.” Attacks have been increasing worldwide over the last 5 years of these falling policies and are, according to the judgment of our own, newly reconstituted intelligence agencies, likely to increase further in the days and months and years ahead. The intelligence agencies go on to note ominously that “new jihadist networks and cells, with anti-American agendas, are increasingly likely to seek and further employ ‘operational threat’ growth.”

We are rushing through legislation around the world, and it doesn’t inspire confidence for all time is to be the Republican rule of the day. Congressional and legal arguments. Senator Rockefeller’s amendment to incorporate some accountability in the process through oversight of the CIA interroga- tion program was unfortunately rejected by the Republican leadership in the Senate.

Secrecy for all time is to be the Republican rule of the day. Congressional and legal arguments. Senator Rockefeller’s amendment to incorporate some accountability in the process through oversight of the CIA interrogation program was unfortunately rejected by the Republican leadership in the Senate.

This is truly chilling. The Bush-Che- ney administration not only failed to stop our enemies from recruiting and training, but 5 years they have failed to bring Osama bin Laden to justice, even though they had him cornered at Tora Bora. They yanked the special forces out of there to send them into Iraq. We have witnessed the growth of additional enemies.

And what do our intelligence agen- cies suggest is the way out of this dangerous quagmire? The National Intel- ligence Estimate suggests we have to “go well beyond operations to capture or kill terrorist leaders,” and we must foster democratic reforms. Where Amer- ica can be seen abandoning its basic American democratic values, its checks and balances, its great and won- derful legal traditions, and can be seen as becoming more autocratic and less accountable, how will that foster democratic reforms elsewhere? “As I say and not as I do” is a model that has never successfully inspired peoples of the world to see it that way, too.

What is losing in this debate is any notion of accountability and the guiding principles of American values and law. Where are the facts of what has been done to these persons who have not been determined to be enemy combatants. It has moved from being dragged out of their cells suggest is the way out of this dan- gerous quagmire.

We are rushing through legislation that would have a devastating effect on our security and our values. I implore Senators to step back from the brink and think about what we are doing.

The President recently said that “time is of the essence” to pass legisla- tion authorizing military commissions. This is wrong. This should be unconsti- tutional. It is certainly unconscion- able. This is certainly not the action of any Senate in which I have served. It is not worthy of the United States of America. What we are saying is one person will make all of the rules; there will be no checks and balances. There will be no dissent, and there will be nobody’s right to have it. We will remove, piece by piece, every single law that might have allowed checks and balances.

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Remember, we are giving a blank check to a Government whose incompetence was demonstrated in historic dimensions by the lack of preparation in response to Hurricane Katrina. This is the same Government which, in its fight against terrorism, has used the Bush administration's Solicitor General, former Secretary of State Potter Stewart, and the White House as a rubber stamp for policies that undercut America's values.

Jefferson said on another occasion: "I would rather be exposed to the inconveniences attending liberty than to those attending too small a degree of it."

With this bill, the Senate reverses that profound judgment of history, chooses against liberty, and succumbs to fear.

When former Secretary of State Colin Powell wrote last week of his concerns with the administration's bill, he wrote about doubts concerning our "moral authority in the war against terrorism." This General, former head of the Joint Chiefs of Staff and former Secretary of State, was right. Now we have heard from a number of current and former diplomats, military lawyers, Federal judges, law professors, and law school deans, the American Bar Association, and even the first President Bush's Solicitor General, Kenneth Starr, that they have grave concerns with the habeas corpus striping provisions of this bill.

I agree with Mr. Starr that we should not suspend—and we should certainly not eliminate. With with more than 300 law professors, who described an earlier, less extreme version of the habeas provisions of this bill as "unwise and contrary to the most fundamental precepts of this country's tradition." And I agree with more than 30 former U.S. Ambassadors and other senior diplomats, who say that eliminating habeas corpus for aliens detained by the United States will harm our interests abroad, and put our own military, diplomatic, and other personnel stationed abroad at risk. We cannot spread a message of freedom abroad if our message to those who come to America is that they may be detained indefinitely without any recourse to justice.

In the wake of the attacks, and in the face of the continuing terrorist threat, now is not the time for the United States to abandon its principles. Admiral Hartus was right to point out that when we do, there would be little to distinguish America from a "banana republic" or the repressive regimes against which we are trying to rally the world and the human spirit. Now is not the time to abandon American values, to shiver and quake, to rely on secret torture. Those are ways of repression and oppression, not the American way.

We need to pursue the war on terror with strength and intelligence, but we need to uphold American ideals. The President says he wants clarity as to the meaning of the Geneva Conventions and the War Crimes Act. Of course, he did not want clarity when his administration was using its twisted interpretation of the law to authorize torture and cruel and inhumane treatment. He did not want clarity when spying on Americans without warrants. And he certainly did not want clarity while keeping those rationales and programs secret from Congress. The administration does not seem to want clarity when it refuses even to tell Congress what its understanding of the law is following the withdrawal of a memo that said the President could authorize and immunize torture. That memo was withdrawn because it could not withstand the light of day.

It seems the only clarity this administration wants is a clear green light from Congress to do whatever it wants. That is not clarity. That is immunity from crime. I cannot vote for that. That is what the current legislation would give to the President on interrogation techniques.

I worked hard, along with many others of both parties, to pass the current version of the War Crimes Act. I think the current law is a good law, and the concerns that have been raised about it could best be addressed with minor adjustments, rather than with sweeping changes.
In 1996, working with the Department of Defense, Congress passed the War Crimes Act to provide criminal penalties for certain war crimes committed by and against Americans. The next year, again with the Pentagon's support, Congress extended the War Crimes Act to violations of the basic line humanitarian protections afforded by Common Article 3 of the Geneva Conventions. Both measures were supported by a broad bipartisan consensus, and I was proud to sponsor the 1997 amendments.

The legislation was uncontroversial for a good reason. As I explained at the time, the purpose and effect of the War Crimes Act as amended was to provide for the implementation of America's commitment to the basic international standards we subscribed to when we ratified the Geneva Conventions in 1955. Those standards are truly universal: They condemn war criminals whoever and wherever they are.

That is a critically important aspect of the Geneva Conventions and our own War Crimes Act. When we are dealing with fundamental norms that define the commitments of the civilized world, we cannot have one rule for us and one for them, however we define "us" and "them." As Justice Jackson said at the Nuremberg tribunals, "We are not prepared to lay down a rule of criminal conduct against others which we would not be willing to have invoked against us."

In that regard, I am disturbed that the legislation before us narrows the scope of the War Crimes Act to exclude certain violations of the Geneva Conventions and, perhaps more disturbingly, to retroactively immunize past violations. Neither the Congress nor the Department of Defense had any problem with the War Crimes Act when we were focused on using it to prosecute foreign perpetrators of war crimes. I am concerned that this is yet another example of this administration overruling the law to avoid our international obligations, and seeking to immunize others to break the law. It also could well prevent us from prosecuting rogues who we all agree were out of line, like the soldiers who mistreated prisoners at Abu Ghraib.

The President said on May 5, 2004 about prisoner mistreatment at Abu Ghraib:

I view those practices as abhorrent.

He continued:

But in a democracy, as well, those mistakes will be investigated, and people will be brought to justice.

The Republican leader of the Senate said on the same day:

I rise to express my shock and condemnation of these despicable acts. The persons who carried them must face justice.

Many of the reprehensible tactics used in Abu Ghraib—the use of dogs, forced nudity, humiliation of various kinds—do not appear to be covered by the narrow definitions this legislation would graft into the War Crimes Act. Despite the President's calls for clarity, the new provisions are so purposefully ambiguous that we cannot know for sure whether they are covered. If the Abu Ghraib abuses had come to light after the perpetrators left the military, they might have been brought to justice under the administration's formulation.

The President and the Congress should not be in the business of immunizing people who violated the law and made us look bad. If we lower our standards of domestic law to allow outrageous conduct, we can do nothing to stop other countries from doing the same. This change in our law does not prevent other countries from prosecuting our troops and personnel for violations of the Geneva Convention if they choose; it only changes our domestic law. But it could give other countries the green light to change their laws to allow them to treat our personnel in human ways.

Let me be clear. There is no problem facing us about overzealous use of the War Crimes Act by prosecutors. In fact, as far as I can tell, the Ashcroft Justice Department and the Gonzales Justice Department have yet to file a single charge against anyone for a violation of the War Crimes Act. Not only have they never charged American personnel under the act, they have never used it to charge terrorists either.

This bill does not clarify the War Crimes Act. It authorizes and immunizes abhorrent conduct that violates our basic ideals. Perhaps that is why more than 40 religious organizations and human rights groups wrote to urge the Senate to take more time to consider the effects of this legislation on our safety, security, and commitment to the rule of law, and to vote against it if the serious problems in the bill are not corrected.

The proposed legislation would also allow the admission of evidence obtained through cruel and inhuman treatment into military commission proceedings. This provision would once again allow this administration to avoid all accountability for its misguided policies which have contributed to the rise of a new generation of terrorists who threaten us. Not only would the military commissions legislation before us immunize those who violated international and domestic law and stomped on basic American values, but it would allow them then to use the evidence obtained in violation of basic principles of fairness and justice.

Allowing in this evidence would violate our basic standards of fairness without increasing our security. Maher Arar, the Canadian citizen arrested by our government on bad intelligence and sent to Syria to be tortured, confessed to attending terrorist training camps. A Canadian commission investigated Arar's confessions had no basis in fact. They merely reflected that he was being tortured, and he told his torturers what they wanted to hear. It is only one of many such documented cases of bad information resulting from torture. We gain nothing from allowing such information.

The military commissions legislation depends in other unfortunate ways from the Warner-Levin bill. Early this week, apparently at the White House's request, Republican drafters added a breathtakingly broad definition of "unlawful enemy combatant" which in effect would include people—citizens and noncitizens alike—who have "purposefully and materially supported hostilities" against the United States or its allies. It also includes people determined to be unlawful enemy combatants by any "competent tribunal" established by the President or the Secretary of Defense. So the Government can select any person, including a United States citizen, whom it suspects of supporting hostilities—whatever that means—and bring anyone that person to trial under the rights and processes guaranteed in our country. The implications are chilling.

I am sorry the Republican leadership passed up the chance to consider and pass bipartisan legislation that would have made us safer in the fight on terrorism both by giving us the tools we need and by showing the world the values we cherish and defend. I will not participate in a legislative retreat out of weakness that undercuts everything this Nation stands for and that makes us more vulnerable and less secure.

The Senator from Vermont, consistent with my oath of office and my commitment to the basic international law. But it could give other countries the green light to change their laws to allow them to treat our personnel in human ways.

The legislation was uncontroversial for a good reason. As I explained at the time, the purpose and effect of the War Crimes Act as amended was to provide for the implementation of America's commitment to the basic international standards we subscribed to when we ratified the Geneva Conventions in 1955. Those standards are truly universal: They condemn war criminals whoever and wherever they are.

That is a critically important aspect of the Geneva Conventions and our own War Crimes Act. When we are dealing with fundamental norms that define the commitments of the civilized world, we cannot have one rule for us and one for them, however we define "us" and "them." As Justice Jackson said at the Nuremberg tribunals, "We are not prepared to lay down a rule of criminal conduct against others which we would not be willing to have invoked against us."

In that regard, I am disturbed that the legislation before us narrows the scope of the War Crimes Act to exclude certain violations of the Geneva Conventions and, perhaps more disturbingly, to retroactively immunize past violations. Neither the Congress nor the Department of Defense had any problem with the War Crimes Act when we were focused on using it to prosecute foreign perpetrators of war crimes. I am concerned that this is yet another example of this administration overruling the law to avoid our international obligations, and seeking to immunize others to break the law. It also could well prevent us from prosecuting rogues who we all agree were out of line, like the soldiers who mistreated prisoners at Abu Ghraib.

The President said on May 5, 2004 about prisoner mistreatment at Abu Ghraib:

I view those practices as abhorrent.

He continued:

But in a democracy, as well, those mistakes will be investigated, and people will be brought to justice.

The Republican leader of the Senate said on the same day:

I rise to express my shock and condemnation of these despicable acts. The persons who carried them must face justice.

Many of the reprehensible tactics used in Abu Ghraib—the use of dogs, forced nudity, humiliation of various kinds—do not appear to be covered by the narrow definitions this legislation would want to hear. It is only one of many such documented cases of bad information resulting from torture. We gain nothing from allowing such information.

The military commissions legislation depends in other unfortunate ways from the Warner-Levin bill. Early this week, apparently at the White House's request, Republican drafters added a breathtakingly broad definition of "unlawful enemy combatant" which in effect would include people—citizens and noncitizens alike—who have "purposefully and materially supported hostilities" against the United States or its allies. It also includes people determined to be unlawful enemy combatants by any "competent tribunal" established by the President or the Secretary of Defense. So the Government can select any person, including a United States citizen, whom it suspects of supporting hostilities—whatever that means—and bring anyone that person to trial under the rights and processes guaranteed in our country. The implications are chilling.

I am sorry the Republican leadership passed up the chance to consider and pass bipartisan legislation that would have made us safer in the fight on terrorism both by giving us the tools we need and by showing the world the values we cherish and defend. I will not participate in a legislative retreat out of weakness that undercuts everything this Nation stands for and that makes us more vulnerable and less secure.

The Senator from Vermont, consistent with my oath of office and my commitment to the basic international
For example, the bill before us inexplicably fails to prohibit the use of statements or testimony obtained through cruel and inhuman treatment as long as those statements or testimony was obtained before December 30, 2005.

The argument has been made that the bill before us prohibits the use of statements that are obtained through torture. That was never in contention. The problem is that it permits the use of statements obtained through cruel and inhuman treatment that doesn’t meet the strict definition of torture as long as those statements were obtained before December 30, 2005.

This is a compromise on the issue of cruelty—an issue on which there should be no compromise by our Nation or by the Senate. If we compromise on that, we compromise at our peril. The men and women who represent us in uniform will be in much greater danger if we compromise on the issue of statements obtained through cruelty and inhuman treatment.

A compromise on this issue endangers our troops because if other nations apply the same standard and allow statements or confessions obtained through torture to be used at so-called trials of our citizens, we will have little ground to stand on in our objecting to them.

This bill also does many other things which are dramatic changes from the bill that the Armed Services Committee. For instance, the bill would authorize the use of evidence seized without a search warrant or other authorization, even if that evidence was seized from U.S. citizens inside the United States in clear violation of the U.S. Constitution.

Both the committee bill and the bill before us provide the executive branch with the tools it needs to hold enemy combatants accountable for any war crimes they have committed. On this issue we are in agreement. We all agree that people who are responsible for the terrible events of September 11 and other terrorist attacks around the world should be brought to justice.

However, the bill before us differs dramatically from the Senate Armed Services Committee bipartisan-approved bill, particularly when it comes to the accountability of the administration for policies and actions leading to the deaths of detainees.

The bill before us contains provisions that allow the administration to hold persons accountable for the abuse of prisoners in U.S. custody, for violations of U.S. law, for the use of such tactics that have turned the world against America.

Over the last 2 days, we have debated the habeas corpus provision in the bill. Most of that debate has focused on the right of habeas corpus as an individual right to challenge the lawfulness of detention. The writ of habeas corpus does serve that purpose.

But the writ of habeas corpus has always served a second purpose as well: for its 900-year history, the writ of habeas corpus has always served as a means of making the sovereign account for its actions. By depriving detainees of the opportunity to demonstrate that they were detained in error, this bill not only violates a critical right deeply embedded in American law, it also helps ensure that the administration will not be held to account for the illegal or abusive treatment of detainees.

Indeed, the court-stripping provision in the bill does far more than just eliminate habeas corpus rights for detainees. It also prohibits the U.S. courts from hearing or considering "any other action against the United States or its agents relating to any aspect of the detention, treatment, or trial" of an alien detainee. By depriving detainees of access to our courts, even if they have been subject to torture or to cruel and inhuman treatment, this provision seeks to ensure that the administration policies that appear to have violated our obligations under U.S. and international law will never be aired in court.

A number of other provisions in the bill before us appear to be directed at the same objective. For example, section 5 of the bill provides that no person—whether that person is an enemy combatant or anybody else—may invoke the Geneva Conventions as a source of rights in a habeas corpus or other proceeding in any court of the United States. Section 948b(g) of the military commissions part of the bill would similarly provide that no person subject to trial by military commission may invoke the Geneva Conventions as a source of rights. These provisions, like the habeas corpus provision, appear to be designed to ensure that administration policies that may have violated our obligations under U.S. and international law will never be aired in court.

Other provisions in the bill narrow the range of abuses that are covered by the War Crimes Act. As a result of these amendments, some actions that were war crimes at the time they took place will not be prosecutable. Indeed, because of a complex definition in the bill, some actions that violated the War Crimes Act at the time they took place and will violate that act if they take place will not be prosecutable. In other words, this bill carves out a window to immunize actions from prosecution under the War Crimes Act

The administration and its allies have argued that these provisions are necessary to protect CIA interrogators from prosecution for actions that they believed to be lawful and authorized at the time they were undertaken. However, we addressed that problem with the enactment of the Detainee Treatment Provisions. The bill provides a defense to any U.S. agent who engaged in specific operational practices that were officially authorized or reasonably believed to be lawful at the time they were undertaken.

This bill, however, goes far beyond protecting the front line interrogators and agents who believed that their actions were lawful: it changes the law to ensure that the administration officials who provided the authorization and knew or should have known that there was no legal basis for that authorization, will not be held account-able for their actions.

Last year, this Congress took an important step for the rule of law by enacting the McCain amendment, which prohibits the cruel, inhuman, or degrading treatment of detainees in the custody of any U.S. official anywhere in the world. That landmark provision is at risk of being rendered meaningless, if we establish rules ensuring that it can never be enforced.

We need to provide the administration with the tools that are needed to prosecute unlawful enemy combatants for any war crimes that they may have committed. However, we should not do so in a way that is inconsistent with American values as we seek to practice what we preach to the rest of the world.

The bill before us will put our own troops who might be captured in future conflicts at risk if other countries decide to apply similar standards to us, is likely to result in the reversal of convictions on appeal, and is inconsistent with American values. For these reasons, I will vote no on final passage.

Mr. REID. Mr. President, it is my understanding I am to speak and the majority leader will speak and then we will vote: is that true?

The PRESIDING OFFICER. That is correct.

Mr. REID. Mr. President, on a bright and sunny September morning 5 years after history changed for our Nation was attacked. Nearly 3,000 of our citizens were murdered, and our lives as we knew them were forever changed.

The family members of those who died that day and we, their fellow Americans, have been waiting 5 years for those who masterminded that outrageous terrorist attack to be brought to justice.

Osama bin Laden, a man whom we have seen on videotape bragging and laughing about his role in conceiving this deed, remains at large 5 years later. The American people are justifiably frustrated that he has not been brought to justice.

But some of Osama bin Laden’s lieutenants were captured overseas years ago. There is no disagreement whatsoever between Republicans and Democrats on the need to bring these people to justice. We all want to make sure the President has the tools he needs to make this happen.

For 5 years, Democrats stood ready to work with the President and the Republican Congress to establish sound
procedures for military tribunals. Mr. President, why do you think the Democratic ranking member of the Judiciary Committee has been so outraged at what has been going on? He is outraged because as the top Democrat on the Judiciary Committee, I introduced the bill in 2002 to solve the problems that are now before the Senate—4 years ago. No wonder he is incensed.

Unfortunately, President Bush chose to ignore Senator LEAHY and the Congress. He took the advice of former high-ranking military professionals. He set up a flawed and imbalanced military tribunal system that failed to prosecute a single terrorist. Not surprisingly, it was ruled unconstitutional by the U.S. Supreme Court.

Forced by the Court decision to ask Congress for help, the Bush administration initially asked us, the Congress, to rubberstamp basically the same system that the Supreme Court struck down. Their one-sided trial and murky interrogation rules was opposed by such well-respected leaders as GEN Colin Powell and former Secretary of State George Shultz, both Republicans, and many others, Democrats and Republicans.

I must say, a handful of principled Republican Senators, led by the chairman of the Armed Services Committee, Senator WARNER, Senator GRAHAM from South Carolina, and Senator McCAIN from Arizona stepped forward and forced the White House to back down from the worst elements of its extreme proposal. I appreciate the position of those Republican Senators, the name of whom I won’t say now.

I repeat, Mr. President, I admire their courage. I appreciate the improvements they managed to make in this bill. But for them what is before us would be a lot worse.

However, since those Senators announced their agreement with the administration last Friday, the compromise has become much worse. The bill before us now looks more and more like the version that was put before the Senate last Thursday, and from Thursday to Monday, it changed after, I say, back-room meetings with White House lawyers.

We have tried to improve this legislation. My friends, the ranking member of the Armed Services Committee, Senator LEVIN, proposed to substitute the bipartisan bill reported by the Armed Services Committee. That amendment was rejected basically on a party-line vote.

Senators SPECTER and LEAHY, the two Members who are responsible for the Judiciary Committee, the chairman and ranking member, offered an amendment to restore the right of judicial review, and that amendment was rejected on a party-line vote.

And Senator ROCKEFELLER, the ranking Democrat on the Intelligence Committee, offered an amendment to improve congressional oversight of the CIA programs. This amendment was rejected on a party-line vote.

Senator KENNEDY offered an amendment to clarify that inhumane interrogation tactics prohibited by the Army Field Manual could not be used on American citizens. That amendment was rejected on a party-line vote.

Senator BYRD, who has seen things come and go in this body and who has been a Member of Congress for more than 50 years, offered an amendment to sunset military commissions so Congress would be required to reconsider this far-reaching authority after 5 years of having it in effect. That commonsense, realistic amendment was rejected on a party-line vote.

I personally believe, having been in a few courtrooms, that this legislation is unconstitutional. It will certainly be struck down by the Supreme Court in the years ahead, and when that happens, we will be back here debating how to bring terrorists to justice.

The families of the 9/11 victims and the Nation have been waiting 5 years for justice. The perpetrators of these attacks have never been brought to justice. They should not be allowed to wait longer. We should do this right now; we should do it right. We are not doing so by passing this bill.

The national security policies of this administration and this Republican Congress may have been tough, but they certainly haven’t been smart. The American people are paying a tremendous price for their mistakes. History will judge our actions here today. I am convinced that future generations will view passage of this bill as a grave error. I will be recorded as voting against this piece of legislation.

Mr. President, I dislike, I find repulsive, and I do not condone these evil and horrible people, these terrorists. They should be brought before the bar of justice and given what they deserve.

For 5 years, that has not been the case. We Democrats want terrorists brought to justice quickly and in a way that will keep our Constitution and, in this case, give honor to the sacrifices made by American patriots in days past.

I yield the floor.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. FRIST. Mr. President, for the past month we have debated how best to keep America safe. On one point I know all of our colleagues agree is that Khalid Sheikh Mohammed should be brought to justice and be prosecuted for masterminding the mass murders of almost 3,000 Americans on September 11. I know the American people and the families of those victims share that goal.

Every terrorist should be held accountable for their crimes against the innocent, against our enduring freedoms, against the values that we all share. Unfortunately, due to the Supreme Court’s decision in Hamdan v. Rumsfeld, prosecutions of suspected terrorists like Khalid Sheikh Mohammed are at a stand-still, and these prosecutions will remain at a stand-still until we act to authorize military commissions to try these suspected terrorists.

In addition to halting prosecutions of suspected terrorists, the Hamdan decision has undermined effective interrogation methods employed by our intelligence community that yield critical information that allows us to prevent terrorist attacks and to save innocent lives. The information provided by these enemy combatants is our primary source—our best source—one that we can’t afford to lose.

Past interrogations have guided us to the precise location of terrorists in hiding, explained how al-Qaeda leaders communicate with operatives in Iraq, and identified voices in intercepted communications. Without this information, we fight a blind war.

The bill we will vote on in a few minutes addresses the concerns raised by
The Hamdan decision. It provides the legislative framework authorizing military tribunals to prosecute suspected terrorists. It ensures certain protections and rights for the accused as the right to counsel and the right to exclude evidence obtained through torture.

At the same time, the bill recognizes that because we are at war with a different type of enemy, we should not try terrorist detainees in the same way as our uniformed military or civilian criminals.

The bill also protects classified information from terrorists who could exploit it to plan another terrorist attack.

Finally, the bill allows key intelligence programs to continue while ensuring that our detention and interrogation methods comply with both domestic and international laws, including Geneva Conventions Common Article 3.

The bottom line is the bill before us allows us to bring terrorists to justice through full and fair military trials while preserving intelligence programs—intelligence programs that have disrupted terrorist plots and saved countless American lives.

Our national security demands that we pass this bill tonight. We need this tool in the war on terror. In the 5 years since 9/11 we have not suffered another terrorist attack on U.S. soil. One reason we have remained safe is by staying on the offense against emerging threats. This bill is another offensive strike against terrorism.

For the safety and security of the American people, Mr. President, I urge my colleagues to join us in supporting the Military Commission Act of 2006.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The question is, Shall the bill, as amended, pass, as follows:

The bill (S. 3930), as amended, was passed, as follows:

NAYS—34

Akaka
Baucus
Baucus
Bayh
Bingaman
Boxer
Byrd
Cantwell
Chafee
Clinton
Conrad
Dayton

NOT VOTING—1

Snowe

The PRESIDING OFFICER. The result was announced—yeas 65, nays 34, as follows:

[Rollcall Vote No. 259 Leg.]

YEAS—65

Domenech
Ensinger
Enzi
Frist
Graham
Grassley
Hagel
Hatch
Hutchison
Inhofe
Jackson
Johnson
Kyl
Landrieu

Sanatorium
Sessions
Shelby
Specter
Stabenow
Stennis
Sumsun
Talent
Thomas
Thune
Vitter
Warner

S. 3930

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.

SECTION 1. SHORT TITLE, TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Military Commissions Act of 2006.”

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Construction of Presidential authorizations to establish military commissions.
Sec. 3. Military commissions.
Sec. 4. Amendments to Uniform Code of Military Justice.
Sec. 5. Treaty obligations not establishing grounds for certain claims.
Sec. 6. Implementation of treaty obligations.
Sec. 7. Habeas corpus matters.
Sec. 8. Revisions to Detainee Treatment Act of 2005 relating to protection of certain United States Government personnel.
Sec. 9. Review of judgments of military commissions.
Sec. 10. Detention covered by review of decisions of Combatant Status Review Tribunals of propriety of detention.

SEC. 2. CONSTRUCTION OF PRESIDENTIAL AUTHORITY TO ESTABLISH MILITARY COMMISSIONS.

The authority to establish military commissions under chapter 47A of title 10, United States Code, as added by section 3(a), may not be construed to alter or limit the authority of the President to recommend to the Congress of the United States and laws of the United States to establish military commissions for areas declared to be under martial law or in occupied territories should circumstances so require.

SEC. 3. MILITARY COMMISSIONS.

(a) MILITARY COMMISSIONS.—

(1) IN GENERAL.—Subtitle A of title 10, United States Code, is amended by inserting after chapter 47 the following new chapter:

“CHAPTER 47A—MILITARY COMMISSIONS

Subchapter I. General Provisions

‘I. General Provisions................. 948a

‘II. Compositions of Military Commissions............. 948b

‘III. Pre-Trial Procedure............. 948q

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‘II. Compositions of Military Commissions............. 948b

‘III. Pre-Trial Procedure............. 948q

IV. Trial Procedure................. 949a

V. Sentences.................. 949b

VI. Post-Trial Procedure and Review of Military Commissions............. 950a

VII. Punitive Matters.............. 950p

SUBCHAPTER I—GENERAL PROVISIONS

‘Sec. 948a. Definitions.

‘948b. Military commissions generally.

‘948c. Persons subject to military commissions.

‘948d. Jurisdiction of military commissions.

‘948e. Annual report to congressional committees.

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‘948d. Jurisdiction of military commissions.

‘948e. Annual report to congressional committees.

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‘948d. Jurisdiction of military commissions.

‘948e. Annual report to congressional committees.

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Chapter 47 of this title and for the persons designated by the Secretary of Defense as a military judge of a military commission.

*(e) Other duties.—A commissioned officer who is a member of the bar of a Federal court or court of a State, and who is certified to act as military judge in a case of a military commission under this chapter if he is the accuser or a witness or has acted as investigator or a counsel in the same case.

*(f) Ineligibility of certain individuals.—No person is eligible to act as military judge in a case of a military commission under this chapter if he is the accuser or a witness or has acted as investigator or a counsel in the same case.

*(g) Geneva Conventions not established under chapter 47 of this title.

**(c) Construction of provisions.—The procedures for military commissions set forth in this chapter are based upon the procedures for trial by general courts-martial under chapter 47 of this title (the Uniform Code of Military Justice). Chapter 47 of this title does not, by its terms, apply to trial by military commission except as specifically provided in this chapter. The judicial construction and application of that chapter are not binding on military commissions established under this chapter.

**(d) Inapplicability of certain provisions.—The following provisions of this title shall not apply to trial by military commission under this chapter:

1. Section 810 (article 10 of the Uniform Code of Military Justice), relating to speedy trial, including any rule of courts-martial relating to speedy trial.

2. Sections 831(a), (b), and (d) (articles 31(a), (b), and (d) of the Uniform Code of Military Justice), relating to compulsory self-incrimination.

3. Sections 832 (article 32 of the Uniform Code of Military Justice), relating to pre-trial investigation.

**(e) Treatment of rulings and precedents.—The findings, holdings, interpretations, and other precedents of military commissions under this chapter may not be introduced or considered in any hearing, trial, or other proceeding of a court-martial convened under this title. The findings, holdings, interpretations, and other precedents of military commissions under this chapter may not form the basis of any holding, decision, or other determination of a court-martial convened under that chapter.

**(f) Status of commissions under common article 3.—A military commission established under this chapter is a regularly constituted court, affording all the necessary "judicial guarantees which are recognized as indispensable by civilized peoples" for purposes of common Article 3 of the Geneva Conventions.

**(g) Geneva conventions not establishing source of rights.—No alien unlawful enemy combatant subject to trial by military commission under this chapter may invoke the Geneva Conventions as a source of rights.

**§948c. Persons subject to military commissions

Any alien unlawful enemy combatant is subject to trial by military commission under this chapter.

**§948d. Jurisdiction of military commissions

*(a) Jurisdiction.—A military commission under this chapter shall have jurisdiction to try any offense made punishable by this chapter or by any other law of the United States during the armed conflict when committed by an alien unlawful enemy combatant before, on, or after September 11, 2001.

*(b) Lawful enemy combatants.—Military commissions under this chapter shall not have jurisdiction over lawful enemy combatants. Lawful enemy combatants who violate the law of war are subject to chapter 47 of this title. Courts-martial established under that chapter shall have jurisdiction to try a lawful enemy combatant for any offense against the law of war committed by that combatant.

*(c) Determination of unlawful enemy combatant status disposition.—A finding, whether before, on, or after the date of the enactment of this title, that an unlawful enemy combatant under chapter 47 of this title is a member of the bar of a Federal court or a member of the bar of the highest court of a State, and that is certified to be qualified for duty under section 826 of the Uniform Code of Military Justice (article 26 of the Uniform Code of Military Justice) as a military judge in general courts-martial by the Judge Advocate General of the armed force of which such member is a member, is the designation of such member as a military judge in general courts-martial, and shall be evidence of such designation in any proceeding before the military commission pursuant to regulations prescribed by the Secretary of Defense.

**(d) Punishments.—A military commission under this chapter may, under such limitations as the Secretary of Defense may prescribe, adjudicate any punishment not forbidden by this chapter, including the penalty of death when authorized under this chapter or the law of war.

**§948e. Annual report to congressional committees

*(a) Annual report required.—Not later than December 31 each year, the Secretary of Defense shall submit to the Committees on Armed Services of the House of Representatives a report on any trials conducted by military commissions under this chapter during that year.

*(b) Purpose.—Each report under this section shall be submitted in unclassified form, but may include a classified annex.

**SUBCHAPTER II—COMPOSITION OF MILITARY COMMISSIONS

Sec. 948h. Who may convene military commissions.

948h. Who may convene military commissions.

948i. Who may serve on military commissions.

948j. Military judge of a military commission.

948k. Detail of trial counsel and defense counsel.

948l. Detail or employment of reporters and interpreters.

948m. Number of members; excuse of members.

948n. Who may convene military commissions.

Military commissions under this chapter may be convened by the Secretary of Defense or by any officer or official of the United States designated by the Secretary for that purpose.

948i. Who may serve on military commissions.

Military service commissions under this chapter may be convened by the Secretary of Defense or by any officer or official of the United States designated by the Secretary for that purpose.

948j. Military judge of a military commission.

Military commissions under this chapter may be convened by the Secretary of Defense or by any officer or official of the United States designated by the Secretary for that purpose.

948k. Detail of trial counsel and defense counsel.

Subject to subsection (e), trial counsel detailed for a military commission under this chapter shall be detailed as soon as practicable after the signature of charges against the accused.

948l. Detail or employment of reporters and interpreters.

Military commissions under this chapter may be convened by the Secretary of Defense or by any officer or official of the United States designated by the Secretary for that purpose.

948m. Number of members; excuse of members.

Not more than 15 members of a military commission may convene the commission.

948n. Who may convene military commissions.

Military service commissions under this chapter may be convened by the Secretary of Defense or by any officer or official of the United States designated by the Secretary for that purpose.

948o. Detail of counsel generally.

Military service commissions under this chapter may be convened by the Secretary of Defense or by any officer or official of the United States designated by the Secretary for that purpose.

948p. Military defense counsel for a military commission under this chapter.

Military defense counsel for a military commission under this chapter shall be detailed as soon as practicable after the signature of charges against the accused.

948q. Associate defense counsel for a military commission under this chapter.

Military defense counsel for a military commission under this chapter shall be detailed as soon as practicable after the signature of charges against the accused.

948r. Trial counsel, assistant trial counsel, and associate defense counsel for a military commission under this chapter.

Military defense counsel for a military commission under this chapter shall be detailed as soon as practicable after the signature of charges against the accused.

948s. Subject to subsection (e), trial counsel detailed for a military commission under this chapter must—

(a) Be a judge advocate (as that term is defined in section 801 of the Uniform Code of Military Justice) who—

(A) is a graduate of an accredited law school or is a member of the bar of a Federal court or of the highest court of a State; and

(B) is certified as competent to perform duties as trial counsel before general courts-martial by the Judge Advocate General of the armed force of which he or she is a member;

(b) Be a lawyer having at least five years of administrative, regulatory, or judicial experience, including experience in the construction and application of that chapter are not binding on military commissions established under this chapter.

If a military judge is a member of the bar of a Federal court or court of a State, and who is certified to be qualified for duty under section 826 of the Uniform Code of Military Justice (article 26 of the Uniform Code of Military Justice) as a military judge in general courts-martial, he may be convened as a military judge under this chapter.

If a military judge is a member of the bar of a Federal court or court of a State, and who is certified to be qualified for duty under section 826 of the Uniform Code of Military Justice (article 26 of the Uniform Code of Military Justice) as a military judge in general courts-martial, he may be convened as a military judge under this chapter.

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this chapter must be a judge advocate (as so defined) who is—
(1) a graduate of an accredited law school or is a member of the bar of a Federal court or of a State court of a State; and
(2) certified as competent to perform duties as defense counsel before general court-martial by the Judge Advocate General of the armed forces with which he is a member.

(d) CHIEF PROSECUTOR; CHIEF DEFENSE COUNSEL.—(1) The Chief Prosecutor in a military commission under this chapter shall meet the requirements set forth in subsection (c)(1).

(2) The Chief Defense Counsel in a military commission under this chapter shall meet the requirements set forth in subsection (c)(1).

(e) INELIGIBILITY OF CERTAIN INDIVIDUALS.—No person who has acted as an investigator, military judge, or member of a military commission under this chapter in any case may act later as trial counsel or military defense counsel in the same case. No person who has acted for the prosecution before a military commission under this chapter may act later in the same case for the defense, nor may any person who has acted for the defense before a military commission under this chapter act later in the same case for the prosecution.

§ 948l. Detail or employment of reporters and interpreters

(a) COURT REPORTERS.—Under such regulations as the Secretary of Defense may prescribe, the convening authority of a military commission may require by subsection (c) of this section (c)(1).

(b) INTERPRETERS.—Under such regulations as the Secretary of Defense may prescribe, the convening authority of a military commission may require by subsection (c) of this section (c)(1).

(c) TRANSCRIPT; RECORD.—The transcript of a military commission under this chapter shall be under the control of the convening authority, and the convening authority shall also be responsible for preparing the record of the proceedings.

§ 948m. Number of members; excuse of members; impeachment of individual members

(a) NUMBER OF MEMBERS.—(1) A military commission under this chapter shall, except as provided in paragraph (2), have at least five members.

(2) In a case in which the accused before a military commission under this chapter may be sentenced to a penalty of death, the military commission shall have the number of members prescribed by section 948m(c) of this title.

(b) EXCUSE OF MEMBERS.—No member of a military commission under this chapter may be absent or excused after the military commission has been assembled for the trial of a case unless excused—

(1) as a result of challenge;

(2) by the military judge for physical disability or other good cause; or

(3) by order of the convening authority for good cause.

(c) ABSENT AND ADDITIONAL MEMBERS.—Whenever a military commission under this chapter is reduced below the number of members required by subsection (a), the trial may not proceed unless the convening authority details new members sufficient to provide not less than such number. The trial may not proceed if the new members are present after the recorded evidence previously introduced before the members has been read to

the military commission in the presence of the military judge, the accused (except as provided in section 949d of this title), and counsel for both sides.

§ SUBCHAPTER III—PRE-TRIAL PROCEEDURE

Sec. § 949a. Rules.

§ 949b. Unlawfully influencing action of military commission.

§ 949c. Duties of trial counsel and defense counsel.


§ 949e. Challenges.

§ 949f. Oaths.

§ 949g. Former jeopardy.

§ 949h. Pleas of the accused.

§ 949i. Opportunity to obtain witnesses and other evidence.

§ 949k. Defense of lack of mental responsibility.

§ 949l. Voting and rulings.

§ 949m. Number of votes required.

§ 949n. Military commission to announce findings.

§ 949o. Record of trial.

§ SUBCHAPTER IV—TRIAL PROCEDURE

Sec. § 949a. Rules.

§ 949b. Unlawfully influencing action of military commission.

§ 949c. Duties of trial counsel and defense counsel.


§ 949e. Challenges.

§ 949f. Oaths.

§ 949g. Former jeopardy.

§ 949h. Pleas of the accused.

§ 949i. Opportunity to obtain witnesses and other evidence.

§ 949k. Defense of lack of mental responsibility.

§ 949l. Voting and rulings.

§ 949m. Number of votes required.

§ 949n. Military commission to announce findings.

§ 949o. Record of trial.

This page is a part of subsection 949l. Detail or employment of reporters and interpreters. Subsection 948l. Detail or employment of reporters and interpreters is located at page 5 of the document. The document is a part of the CONGRESSIONAL RECORD — SENATE. September 28, 2006.
“(ii) the military judge instructs the members that they may consider any issue as to authentication or identification of evidence in determining the weight, if any, to be given the evidence; or

“(iii) Except as provided in clause (ii), hearsay evidence not otherwise admissible under the rules of evidence applicable in trial by military commission may be admitted in a trial by military commission if the proponent of the evidence makes known to the adverse party, sufficiently in advance to prevent the adverse party with a fair opportunity to meet the evidence, the intention of the proponent to offer the evidence, and the particulars of the evidence (including information on the general circumstances under which the evidence was obtained). The disclosure of evidence under the preceding sentence is subject to the requirements and limitations applicable to the disclosure of classified information in section 949(c) of this title.

“(ii) Hearsay evidence not otherwise admissible under the rules of evidence applicable in trial by general courts-martial shall not be admitted in a trial by military commission if the party opposing the admission of the evidence demonstrates that the evidence is unreliable or lacking in probative value.

“(F) The military judge shall exclude any evidence the probative value of which is substantially outweighed—

“(1) by the danger of unfair prejudice, confusion of the issues, or misleading the commission; or

“(2) by considerations of undue delay, waste of time, or needless presentation of cumulative evidence.

“(3) The accused in a military commission under this chapter who exercises the right to self-representation under paragraph (1)(D) shall conform his deportment and the conduct of the trial to the requirements of this paragraph, and may not divulge the classified information to any person not authorized to receive it.

“*949e. Duties of trial counsel and defense counsel

“(a) TRIAL COUNSEL.—The trial counsel of a military commission under this chapter shall prosecute in the name of the United States.

“(b) DEFENSE COUNSEL.—(1) The accused shall be represented in his defense before a military commission under this chapter as provided in this subsection.

“(2) The accused shall be represented by military counsel detailed under section 949k of this title.

“(c) The accused may be represented by civilian counsel if retained by the accused, but only if such civilian counsel—

“(A) is a United States citizen;

“(B) is admitted to the practice of law in a State or other competent governmental authority;

“(C) has not been the subject of any sanction of disciplinary action by any court, bar, or other competent governmental authority for relevant misconduct;

“(D) has been determined to be eligible for access to classified information that is classified at the level Secret or higher; and

“(E) has signed a written agreement to comply with all applicable regulations or instructions for counsel, including any rules of court for conduct during the proceedings.

“(d) Civilian defense counsel shall protect any classified information detailed during the course of representation of the accused in accordance with all applicable law governing the protection of classified information and may not divulge such information to any person not authorized to receive it.

“(e) If the accused is represented by civilian counsel, military counsel shall act as associate counsel.

“(f) Military commission proceedings of a military commission under this chapter, whether or not the proceedings of a military commission under this chapter.

“(g) The military judge shall conduct proceedings in presence of the accused, defense counsel, and trial counsel; and

“(h) Adequate time shall be allowed for the presentation of the evidence of the accused, defense counsel, and trial counsel.

“(i) The military judge may close to the public all or a portion of the proceedings under paragraph (1) only upon making a specific finding that such closure is necessary to—

“(1) protect information the disclosure of which could reasonably be expected to cause substantial harm to the national security, including intelligence or law enforcement sources, methods, or activities;

“(2) ensure the physical safety of individuals;

“(3) ensure the proper conduct of the trial;

“(4) protect the rights of witnesses; and

“(5) ensure the proper conduct of the trial.

“(j) The military judge may close to the public all or a portion of the proceedings under paragraph (1) only upon making a specific finding that such closure is necessary to—

“(1) protect information the disclosure of which could reasonably be expected to cause substantial harm to the national security, including intelligence or law enforcement sources, methods, or activities;

“(2) ensure the physical safety of individuals;

“(3) ensure the proper conduct of the trial;

“(4) protect the rights of witnesses; and

“(5) ensure the proper conduct of the trial.

“*949f. Protection of classified information

“(a) NATIONAL SECURITY PRIVILEGE.—(A) Classified information shall be protected and is privileged from disclosure if disclosure would be detrimental to the national security and defense.

“(B) The rule in the preceding sentence applies to all stages of the proceedings of military commissions under this chapter.
"(B) The privilege referred to in subparagraph (A) may be claimed by the head of the executive or military department or government agency concerned based on a finding by the head of that department or agency that—

(i) the information is properly classified; and

(ii) disclosure of the information would be detrimental to the national security.

"(C) A person who may claim the privilege referred to in subparagraph (A) may authorize a representative, witness, or trial counsel to claim the privilege and make the finding described in subparagraph (B) on behalf of such person. The authority of the representative, witness, or trial counsel to do so is presumed in the absence of evidence to the contrary.

"(2) INTRODUCTION OF CLASSIFIED INFORMATION.—

"(A) ALTERNATIVES TO DISCLOSURE.—To protect classified information from disclosure, the military judge, upon motion of trial counsel, shall authorize, to the extent practicable—

(i) the deletion of specified items of classified information from documents to be introduced as evidence before the military commission;

(ii) the substitution of a portion or summary of the information for such classified documents in the course of complying with discovery obligations under this section, to protect from disclosure the sources, methods, or activities by which the United States acquired the evidence if the military judge finds that the sources, methods, or activities by which the United States acquired the evidence are classified, and (ii) the evidence is reliable. The military judge may require trial counsel to present to the military commission and the defense, to the extent practicable and consistent with national security, an unclassified summary of the sources, methods, or activities by which the United States acquired the evidence.

"(C) ASSERTION OF NATIONAL SECURITY PRIVILEGE AT TRIAL.—During the examination of any witness, or at any stage of the military commission, the military judge shall determine the relevance and validity of challenges for cause. The military judge may not receive a challenge to more than one person at a time. Challenges by trial counsel shall ordinarily be presented and decided before those by the accused are offered.

"(3) CONSIDERATION OF PRIVILEGE AND RELEVANCE.—During the examination of any witness, or at any stage of the military commission, the military judge shall determine the relevance and validity of challenges for cause. The military judge may not receive a challenge to more than one person at a time. Challenges by trial counsel shall ordinarily be presented and decided before those by the accused are offered.

"(4) ADDITIONAL REGULATIONS.—The Secretary of Defense may prescribe additional regulations, consistent with this subsection, for the introduction of classified information during proceedings of military commissions under this chapter. A report on any regulations so prescribed, or modified, shall be submitted to the Committees on Armed Services of the Senate and the House of Representatives not later than 60 days before the date on which such regulations or modifications, as the case may be, go into effect.

"§ 949f. Challenges

"(a) CHALLENGES AUTHORIZED.—The military judge in a military commission under this chapter may be challenged by the accused or trial counsel for cause stated to the commission. The military judge shall determine the relevance and validity of challenges for cause. The military judge may not receive a challenge to more than one person at a time. Challenges by trial counsel shall ordinarily be presented and decided before those by the accused are offered.

"(b) PEREMPTORY CHALLENGES.—Each accused and the trial counsel are entitled to one peremptory challenge. The military judge may not be challenged except for cause.

"(c) CHALLENGES AGAINST ADDITIONAL MEMBERS.—Whenever additional members are detailed to a military commission under this chapter, the military judge shall determine the relevance and validity of challenges for cause against such additional members are presented and decided, each accused and the trial counsel are entitled to one peremptory challenge against each additional member that previously subject to peremptory challenge.

"§ 949g. Oaths

"(a) IN GENERAL.—(1) Before performing their respective duties in a military commission under this chapter, military judges, members, trial counsel, defense counsel, reporters, and interpreters shall take an oath to perform their duties faithfully.

"(2) The form of the oath required by paragraph (1), the time and place of the taking thereof, the manner of recording the same, and whether the oath shall be taken for all cases in which duties are to be performed for or for a particular case, shall be as prescribed in regulations of the Secretary of Defense. Those regulations may provide—

(A) an oath to perform faithfully duties as a military judge, trial counsel, or defense counsel may be taken at any time by any judge advocate or other person certified to be qualified to perform the duty; and

(B) if such an oath is taken, such oath need not again be taken at the time the judge advocate or other person is detailed to that duty.

"(b) WITNESSES.—Each witness before a military commission under this chapter shall be examined on oath.

"§ 949h. Former jeopardy

"(a) IN GENERAL.—No person may, without his consent, be tried by a military commission under this chapter a second time for the same offense.

"(b) SCOPE OF TRIAL.—No proceeding in which the accused has been found guilty by a military commission under this chapter may lawfully issue; and

"§ 949i. Opportunity to obtain witnesses and other evidence

"(a) RIGHT OF DEFENSE COUNSEL.—Defense counsel in a military commission under this chapter shall have the right to obtain any evidence necessary to obtain witnesses and other evidence as provided in regulations prescribed by the Secretary of Defense.

"(b) PROCESS FOR COMPULSION.—Process issued in a military commission under this chapter to compel witnesses to appear and testify and to compel the production of other evidence—

(i) shall be similar to that which courts of the United States having criminal jurisdiction may lawfully issue; and

(ii) shall run to any place where the United States shall have jurisdiction thereof.

"(c) PROTECTION OF CLASSIFIED INFORMATION.—With respect to discovery obligations of trial counsel under this section, the military judge, upon motion of trial counsel, shall authorize, to the extent practicable—

(A) the deletion of specified items of classified information from documents to be made available to the accused;

(B) the substitution of a portion or summary of the information for such classified documents; or

(C) the substitution of a statement admitting relevant facts that the classified information would tend to prove.

"(d) EXCULPATORY EVIDENCE.—(1) As soon as practicable, trial counsel shall disclose to the defense the existence of any evidence known to trial counsel that reasonably tends to exculpate the accused. Where exculpatory evidence is classified, the accused shall be provided with an adequate substitute in accordance with the procedures under subsection (c).

(2) In this subsection, the term 'evidence known to trial counsel', in the case of exculpatory evidence, means exculpatory evidence that the prosecution would be required to disclose in a trial by general court-martial under chapter 47 of this title.

"§ 949j. Defense of lack of mental responsibility

"(a) AFFIRMATIVE DEFENSE.—It is an affirmative defense in a trial by military commission under this chapter that, at the time of the commission of the acts constituting the offense, the accused, as a result of a severe mental disease or defect, was unable to appreciate the nature and quality or the wrongfulness of the acts of which the accused was guilty; and if the accused does not otherwise constitute a defense.
§ 949m. Number of votes required

(a) CONVICTION.—No person may be convicted by a military commission under this chapter except as provided in section 949t of this title. Defense counsel may object to the conduct of the trial on the ground that the trial is not proceeded with in accordance with this chapter, and the military judge shall rule upon all questions of law, including the admissibility of evidence and all interlocutory questions arising during the proceedings.

(b) COMPLETE RECORD REQUIRED.—A complete record of the proceedings of the military commission shall be prepared in every military commission under this chapter.

(1) The record of the proceedings of the military commission shall include:

(A) The name of the accused.

(B) A general description of the offense charged.

(C) A statement of all evidence presented during the trial.

(D) A statement of the findings of the military commission.

(E) A statement of the sentence of the military commission.

(F) The date and place of the trial.

(G) The names of all witnesses.

(H) The names of all lawyers who represented the accused.

(I) The names of all lawyers who represented the government.

(J) The names of all military commission members.

(K) The names of all persons present in the military commission.

(L) The names of all persons who testified before the military commission.

(M) The names of all persons who were called to testify but were not allowed to testify.

(N) The names of all persons who were present but did not testify.

(O) The names of all persons who were present but did not testify but were allowed to be present.

(P) The names of all persons who were present but did not testify but were not allowed to be present.

(Q) The names of all persons who were present but did not testify and did not participate in the trial.

(R) The names of all persons who were present but did not testify and did participate in the trial.

(S) The names of all persons who were present but did not testify and did not participate in the trial.

(T) The names of all persons who were present but did not testify and did participate in the trial.

(U) The names of all persons who were present but did not testify and did not participate in the trial.

(V) The names of all persons who were present but did not testify and did participate in the trial.

(W) The names of all persons who were present but did not testify and did not participate in the trial.

(X) The names of all persons who were present but did not testify and did participate in the trial.

(Y) The names of all persons who were present but did not testify and did not participate in the trial.

(Z) The names of all persons who were present but did not testify and did participate in the trial.

(aa) The names of all persons who were present but did not testify and did not participate in the trial.

(bb) The names of all persons who were present but did not testify and did participate in the trial.

(cc) The names of all persons who were present but did not testify and did not participate in the trial.

(dd) The names of all persons who were present but did not testify and did participate in the trial.

(2) In any case described in paragraph (1), in which 12 members of the military commission were not reasonably available because of physical conditions or military exigencies, the convening authority shall make a detailed written statement, to be appended to the record, stating why a greater number of members were not reasonably available.

§ 949o. Record of trial

(a) RECORD; AUTHENTICATION.—Each military commission under this chapter shall keep a separate, verbatim, record of the proceedings of the military commission, to be authenticated by reason of his death, disability, or absence. Where appropriate, and to authenticate it by reason of his death, disability, or absence, the record shall be authenticated by the signature of the military judge. If the record cannot be authenticated by the military judge by reason of his death, disability, or absence, it shall be authenticated by the signature of the trial counsel or by a member of the commission if the trial counsel is unable to authenticate it by reason of his death, disability, or absence. Where appropriate, and as provided in regulations prescribed by the Secretary of Defense, the military commission under this chapter may contain a classified annex.

(b) COMPLETE RECORD REQUIRED.—A complete record of proceedings and testimony shall be prepared in every military commission under this chapter.

(c) PROVISION OF COPY TO ACCUSED.—A copy of the record of the proceedings of the military commission under this chapter shall be given to the accused as soon as it is authenticated. If the record contains classified information, the classified annex, the accused shall be given a redacted version of the record consistent with the requirements of section 949d of this title. Defense counsel shall have the right to inspect the classified annex, as provided in regulations prescribed by the Secretary of Defense.

SUBCHAPTER V—SENTENCES

§ 949b. Review by the convening authority

(a) NOTICE TO CONVENING AUTHORITY OF FINDINGS AND SENTENCE.—The findings and sentence of a military commission under this chapter shall be reported in writing promptly to the convening authority after the announcement of the sentence.

(b) SUBMITTAL OF MATTERS BY ACCUSED TO CONVENING AUTHORITY.—(1) The accused may submit to the convening authority matters for consideration by the convening authority with respect to the findings and the sentence of the military commission under this chapter.

(2) A motion under paragraph (1) shall be made in writing within 20 days after the accused has been given an authenticated record of the findings and sentence of the military commission under this chapter.

(b) TREATMENT DURING CONFINEMENT BY OTHER THAN THE ARMED FORCES.—Persons confined under subsection (a)(2) in a penal or correctional institution not under the control of an armed force are subject to the same discipline and treatment as persons confined or committed by the courts of the United States or of the State, District of Columbia, or place in which the institution is situated.

SUBCHAPTER VI—POST-TRIAL PROCEDURE AND REVIEW OF MILITARY COMMISSIONS

§ 950a. Error of law; lesser included offense

(a) ERROR OF LAW.—A finding or sentence of a military commission under this chapter shall not be held incorrect on the ground of an error of law unless the error materially prejudices the substantial rights of the accused.

(b) LESSER INCLUDED OFFENSE.—Any reviewing authority with the power to approve or affirm a finding of guilty by a military commission under this chapter may approve or affirm, instead, so much of the finding as is correct, in substance, and as the reviewing authority determines to be justified by the evidence in the record consistent with the requirements of section 949d of this title.

§ 950b. Review by the convening authority

(a) NOTICE TO CONVENING AUTHORITY OF FINDINGS AND SENTENCE.—The findings and sentence of a military commission under this chapter shall be reported in writing promptly to the convening authority after the announcement of the sentence.

(b) SUBMITTAL OF MATTERS BY ACCUSED TO CONVENING AUTHORITY.—(1) The accused may submit to the convening authority matters for consideration by the convening authority with respect to the findings and the sentence of the military commission under this chapter.

(2) A motion under paragraph (1) shall be made in writing within 20 days after the accused has been given an authenticated record of the findings and sentence of the military commission under this chapter.

(b) TREATMENT DURING CONFINEMENT BY OTHER THAN THE ARMED FORCES.—Persons confined under subsection (a)(2) in a penal or correctional institution not under the control of an armed force are subject to the same discipline and treatment as persons confined or committed by the courts of the United States or of the State, District of Columbia, or place in which the institution is situated.

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(b) LESSER INCLUDED OFFENSE.—Any reviewing authority with the power to approve or affirm a finding of guilty by a military commission under this chapter may approve or affirm, instead, so much of the finding as is correct, in substance, and as the reviewing authority determines to be justified by the evidence in the record consistent with the requirements of section 949d of this title.
not order a rehearing, the convening authority shall dismiss the charges. A rehearing as to the findings may not be ordered by the convening authority when there is a lack of evidence in the record to support the findings. A rehearing as to the sentence may be ordered by the convening authority if the convening authority disapproves the sentence.

§950c. Appellate referral; waiver or withdrawal of appeal

(a) AUTOMATIC REFERRAL FOR APPELLATE REVIEW.—Except as provided under subparagraph (B) of section 949b of this title, in each case in which the final decision of a military commission (as approved by the convening authority) includes a finding of guilty, the convening authority shall refer the case to the Court of Military Commission Review. Any such referral shall be made in accordance with procedures prescribed under regulations of the Secretary.

(b) WAIVER OF RIGHT OR REVIEW.—(1) In each case subject to appellate review under section 950b of this title, except a case in which the sentence as approved under section 950b of this title extends to death, the accused may file with the convening authority a statement expressly waiving the right of the accused to such review.

(2) A waiver under paragraph (1) shall be by both the accused and a defense counsel.

(3) A waiver under paragraph (1) must be filed, if at all, within 10 days after notice on the appeal is served on the accused or on defense counsel under section 950b(c)(4) of this title.

(c) APPEAL.—(1) Subject to paragraphs (2) and (3), the convening authority may, in his sole discretion,—

(A) dismiss any charge or specification by setting aside a finding of guilty thereto; or

(B) change a finding of guilty to a charge to a finding of guilty to an offense that is a lesser included offense of the offense stated in the charge.

(2) The convening authority shall serve on the accused or on defense counsel notice of any action taken by the convening authority under this subsection.

(d) ORDER OF REVISION OR REHEARING.—(1) Subject to paragraphs (2) and (3), the convening authority of a military commission under this chapter may, in his sole discretion,—

(A) dismiss any charge or specification by setting aside a finding of guilty thereto; or

(B) change a finding of guilty to a charge to a finding of guilty to an offense that is a lesser included offense of the offense stated in the charge.

(2) The convening authority may, in his sole discretion,—

(A) dismiss any charge or specification by setting aside a finding of guilty thereto; or

(B) change a finding of guilty to a charge to a finding of guilty to an offense that is a lesser included offense of the offense stated in the charge.

(3) The convening authority is not required to take action on the findings of a military commission under this chapter if the convening authority takes action on the findings, the convening authority may, in his sole discretion,—

(A) dismiss any charge or specification by setting aside a finding of guilty thereto; or

(B) change a finding of guilty to a charge to a finding of guilty to an offense that is a lesser included offense of the offense stated in the charge.

(4) The convening authority shall serve on the accused or on defense counsel notice of any action taken by the convening authority under this subsection.

(e) ORDER OF REVISION OR REHEARING.—(1) Subject to paragraphs (2) and (3), the convening authority of a military commission under this chapter may, in his sole discretion,—

(A) dismiss any charge or specification by setting aside a finding of guilty thereto; or

(B) change a finding of guilty to a charge to a finding of guilty to an offense that is a lesser included offense of the offense stated in the charge.

(2) The convening authority may, in his sole discretion,—

(A) dismiss any charge or specification by setting aside a finding of guilty thereto; or

(B) change a finding of guilty to a charge to a finding of guilty to an offense that is a lesser included offense of the offense stated in the charge.

(3) The convening authority is not required to take action on the findings of a military commission under this chapter if the convening authority takes action on the findings, the convening authority may, in his sole discretion,—

(A) dismiss any charge or specification by setting aside a finding of guilty thereto; or

(B) change a finding of guilty to a charge to a finding of guilty to an offense that is a lesser included offense of the offense stated in the charge.

(4) The convening authority shall serve on the accused or on defense counsel notice of any action taken by the convening authority under this subsection.

(f) ORDER OF REVISION OR REHEARING.—(1) Subject to paragraphs (2) and (3), the convening authority of a military commission under this chapter may, in his sole discretion,—

(A) dismiss any charge or specification by setting aside a finding of guilty thereto; or

(B) change a finding of guilty to a charge to a finding of guilty to an offense that is a lesser included offense of the offense stated in the charge.

(2) The convening authority may, in his sole discretion,—

(A) dismiss any charge or specification by setting aside a finding of guilty thereto; or

(B) change a finding of guilty to a charge to a finding of guilty to an offense that is a lesser included offense of the offense stated in the charge.

(3) The convening authority is not required to take action on the findings of a military commission under this chapter if the convening authority takes action on the findings, the convening authority may, in his sole discretion,—

(A) dismiss any charge or specification by setting aside a finding of guilty thereto; or

(B) change a finding of guilty to a charge to a finding of guilty to an offense that is a lesser included offense of the offense stated in the charge.

(4) The convening authority shall serve on the accused or on defense counsel notice of any action taken by the convening authority under this subsection.

§950d. Appeal by the United States

(a) INTERLOCUTORY APPEAL.—(1) Except as provided in paragraph (2), in a trial by military commission under this chapter, the United States may take an interlocutory appeal to the Court of Military Commission Review, in accordance with procedures prescribed by the Secretary.

(2) A notice of appeal under section 949b of this title need not be in writing if it is transmitted in accordance with regulations prescribed by the Secretary.

(b) WAIVER OF RIGHT OF APPEAL.—(1) The United States may appeal an interlocutory order of the trial military judge with respect to matters of law.

(c) APPEAL.—(1) An appeal under this section shall be filed, if at all, within 30 days after the date of such order or ruling.

(d) APPEAL FROM ADVERSE RULING.—(1) The United States may appeal an adverse ruling by the trial military judge with respect to matters of law, in accordance with regulations prescribed by the Secretary.

§950e. Rehearings

(a) ESTABLISHMENT.—The Secretary of Defense shall establish a Court of Military Commission Review, in accordance with procedures prescribed by the Secretary.

(b) APPELLATE MILITARY JUDGES.—The Secretary shall assign appellate military judges to a Court of Military Commission Review. Each appellate military judge shall meet the qualifications for military judges prescribed under section 948(b) of this title or shall be a civilian with comparable qualifications.

(c) CASES TO BE REVIEWED.—(1) The Court of Military Commission Review, in accordance with procedures prescribed under regulations of the Secretary, shall review the record in each case that is referred to the Court by the convening authority under section 950c of this title with respect to any matter of law raised by the accused which is not reviewed in section 949b of this title.

(2) A notice of appeal under section 949b of this title need not be in writing if it is transmitted in accordance with regulations prescribed by the Secretary.
"(A) written notice of the final decision of the Court of Military Commission Review is served on the accused or on defense counsel; or

"(B) the accused submits, in the form prescribed by section 950c of this title, a written notice waiving the right of the accused to review by the Court of Military Commission Review of the final decision of the Court of Appeals as the Secretary may prescribe.

"(b) STANDARD FOR REVIEW.—In a case reviewed by it under this section, the Court of Appeals may act only with respect to matters of law.

"(c) SCOPE OF REVIEW.—The jurisdiction of the Court of Appeals on an appeal under subsection (a) shall be limited to the consideration of—

"(1) whether the final decision was consistent with the standards and procedures specified in this chapter; and

"(2) to the extent applicable, the Constitution and the laws of the United States.

"(d) SUPREME COURT.—The Supreme Court may review by writ of certiorari the final judgment of the Court of Appeals pursuant to section 1257 of title 28.

§ 9505. Appointment of United States Appellate Counsel

"(a) APPOINTMENT.—The Secretary of Defense shall, by regulation, establish procedures for the appointment of appellate counsel for civilian counsel appearing before military commissions as approved, reviewed, or affirmed by the Court of Appeals for the District of Columbia Circuit or the Supreme Court.

"(b) REPRESENTATION OF UNITED STATES.—Appellate counsel appointed under subsection (a) shall represent the United States in any appeal or review proceeding under this chapter before the Court of Military Commission Review.

"(c) REPRESENTATION OF ACCUSED.—The accused shall be represented by appellate counsel appointed under subsection (a) before the Court of Military Commission Review, the United States Court of Appeals for the District of Columbia Circuit, and the Supreme Court, and by civilian counsel if retained by the accused. Any such civilian counsel shall meet the qualifications under paragraph (3) of section 946(b) of this title for civilian counsel appearing before military commissions under this chapter and shall be subject to the requirements of paragraph (4) of that section.

§ 9506. Execution of sentence: procedures for execution of sentence of death

"(a) IN GENERAL.—The Secretary of Defense is authorized to carry out a sentence imposed by a military commission under this chapter in accordance with such procedures as the Secretary may prescribe.

"(b) EXECUTION OF SENTENCE OF DEATH ONLY UPON APPROVAL BY THE PRESIDENT.—If the sentence of a military commission under this chapter extends to death, that part of the sentence providing for death may not be executed until approved by the President. In such a case, the President may commute, remit, or suspend the sentence, or any part thereof, as he sees fit.

"(c) EXECUTION OF SENTENCE OF DEATH ONLY UPON-final judgment of legality of proceedings.—(1) If the sentence of a military commission under this chapter extends to death, the sentence may not be executed until the sentence is affirmed as the legality of the proceedings (and with respect to death, approval under subsection (b)).

"(2) If the final judgment of the proceedings is final for purposes of paragraph (1) when—

"(A) the time for the accused to file a petition for review by the Court of Appeals for the District of Columbia Circuit has expired and the accused has not filed a timely petition for such review; or

"(B) review is completed in accordance with the judgment of the United States Court of Appeals for the District of Columbia Circuit and—

"(i) a petition for a writ of certiorari is not timely filed;

"(ii) such a petition is denied by the Supreme Court; or

"(iii) review is otherwise completed in accordance with the judgment of the Supreme Court.

"(d) SUSPENSION OF SENTENCE.—The Secretary of the Defense, or the convening authority in the case (other than the Secretary), may suspend the execution of any sentence or part thereof in the case, except a sentence of death.

§ 9507. Finality or proceedings, findings, and sentences

"(a) FINALITY.—The appellate review of records of trial provided by this chapter, and the proceedings, findings, and sentences of military commissions reviewed or affirmed by the Court of Appeals as provided by section 950c of this title, are final.

"(b) REPRESENTATION OF UNITED STATES.—In any appeal or review proceeding under this chapter, the District of Columbia Circuit or the Supreme Court shall, by regulation, establish procedures for counsel appearing before military commissions under this chapter.

"(c) REPRESENTATION OF ACCUSED.—The accused shall be represented by appellate counsel appointed under subsection (a) before the Court of Military Commission Review, the United States Court of Appeals for the District of Columbia Circuit, and the Supreme Court, and by civilian counsel if retained by the accused. Any such civilian counsel shall meet the qualifications under paragraph (3) of section 946(b) of this title for civilian counsel appearing before military commissions under this chapter and shall be subject to the requirements of paragraph (4) of that section.

§ 9508. Conviction of lesser included offense

"(a) PURPOSE.—The provisions of this subchapter codify offenses that have traditionally been triable by military commissions. This chapter does not establish new crimes that did not exist before its enactment, but rather codifies those crimes for trial by military commission.

"(b) EFFECT.—Because the provisions of this subchapter (including provisions that incorporate definitions in other provisions of law) are declarative of existing law, they do not prescribe for crimes that occurred before the date of the enactment of this chapter.

§ 9509. Principals

"Any person is punishable as a principal under this chapter, if—

"(1) commits an offense punishable by this chapter, or aids, abets, counsels, commands, or procures its commission;

"(2) causes the principal to be injured, by accomplice, or otherwise, which injury would not have been inflicted but for the offense or attempt to commit an offense committed by him, his accomplice, or otherwise;

"(3) is a superior commander who, with regard to acts punishable under this chapter, knew, had reason to know, or should have known, that a subordinate was about to commit such acts or had done so and who failed to take the necessary and reasonable measures to prevent such acts or to punish the perpetrators thereof.

§ 9509a. Accessory after the fact

"Any person subject to this chapter, knowing that an offense punishable by this chapter has been committed, receives, comforts, or assists the offender in order to prevent his apprehension, trial, or punishment shall be punished as a military commission under this chapter may direct.

§ 9509b. Conviction of lesser included offense

"An accused may be found guilty of an offense necessarily included in the offense charged if the facts and circumstances (even though failing to effect its commission, is an attempt to commit that offense.

§ 9509c. Effect of conviction

"(a) EFFECT OF CONVICTION.—Any person subject to this chapter may be convicted of an attempt to commit an offense although it appears on the trial that the offense was committed.

"(b) Solicitation

"Any person subject to this chapter who solicits or advises another or others to commit one or more substantive offenses triable by military commission under this chapter shall, if the offense solicited or advised is attempted or committed, be punished with the punishment provided for the commission of the offense, but, if the offense solicited or advised is not committed or attempted, he shall be punished as a military commission under this chapter may direct.

§ 9509d. Crimes triable by military commission

"(a) DEFINITIONS AND CONSTRUCTION.—In this section:

"(1) MILITARY OBJECTIVE.—The term 'military objective' means—

"(A) combatants; and

"(B) those objects during an armed conflict:

"(i) which, by their nature, location, purpose, use, or effect, effectively contribute to the opposing force’s war-fighting or war-sustaining capability; and

"(ii) the total or partial destruction, cap- ture, or neutralization of which would con- stitute a definite military advantage to the attacker under the circumstances at the time of the attack.

"(2) PROTECTED PERSON.—The term 'protected person' means any person entitled to protection under one or more of the Geneva Conventions, including—

"(A) civilians not taking an active part in hostilities;

"(B) military personnel placed hors de combat by sickness, wounds, or detention; and

"(C) military medical or religious per- sonnel.

"(3) PROTECTED PROPERTY.—The term 'protected property' means property specifically protected by the law of war (such as build- ings dedicated to religion, education, art,
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science or charitable purposes, historic monuments, hospitals, or places where the sick and wounded are collected, if such property is not being used for military pur-
poses, shall not otherwise constitute a military ob-
jective. Such term includes objects properly
identified by one of the distinctive emblems of the Geneva Conventions, but does not in-
clude civilian property that is a military ob-
jective.

(4) CONSTRUCTION.—The intent specified
for an offense under paragraph (1), (2), (3), (4), or (5) precludes the appli-
cability of such offense with regard to—

(A) collateral damage; or

(B) damage, or injury incident to a lawful attack.

(5) OFFENSES.—The following offenses shall be trialable by military commission under this chapter at any time without limit-
tation:

(1) MURDER OF PROTECTED PERSONS.—Any
person subject to this chapter who intentionally
kills one or more protected persons shall be punished by death or such other pun-
ishment as a military commission under this chapter may direct.

(2) ATTACKING CIVILIANS.—Any person sub-
ject to this chapter who intentionally en-
gages in an attack upon a civilian population as such, or civilians not taking an active part in hostilities, shall be punished, if death results to one or more of the vic-
tims, by death or such other punishment as a military commission under this chapter may direct, and, if death does not result to any of the victims, by such punish-
ment, other than death, as a military commission under this chapter may direct.

(3) ATTACKING CIVILIAN OBJECTS.—Any
person subject to this chapter who intentionally en-
gages in an attack upon protected property shall be punished as a military commission under this chapter may direct.

(4) ATTACKING PROTECTED PROPERTY.—Any
person subject to this chapter who intentionally
engages in an attack upon protected property shall be punished shall be punished as a military commission under this chapter may direct.

(5) PILLAGING.—Any person subject to this chapter who intentionally en-
gages in an attack upon a civilian object that is not a military objective shall be punished as a military commission under this chapter may direct.

(6) DENYING QUARTER.—Any person sub-
ject to this chapter who, with effective posses-
sion or control over subordinate groups, de-
clares, for no legitimate military purpose, or in fact, with the intent of per-
mitting an attack upon the civilian population or upon property belonging to the civilian population, shall be punished as a military commission under this chapter may direct.

(7) TAKING HOSTAGES.—Any person subject
to this chapter who, having knowingly seized or detained one or more persons, threatens to kill, injure, or continue to detain such person or persons with the intent of compel-
ing any nation, person other than the hos-
age, or group of persons to act or refrain from acting as an explicit or implicit condi-
tion for the release of such person or persons, shall be punished, if death results to one or more of the victims, by death or such other punishment as a military com-
mission under this chapter may direct, and, if death does not result to any of the vic-
tims, by such punishment, other than death, as a military commission under this chapter may direct.

(8) EMPLOYING POISON OR SIMILAR WEAP-
ONS.—Any person subject to this chapter who intentionally, as a method of warfare, em-
loys a substance or weapon that releases a substance that causes death or serious and
lasting damage to health in the ordinary course of events or which has an asphyxiating,
bacteriological, or toxic properties, shall be punished, if death results to one or more of the victims, by death or such other punish-
ment as a military commission under this chapter may direct, and, if death does not re-
sult to any of the victims, by such punish-
ment, other than death, as a military commis-
sion under this chapter may direct.

(9) USING PROTECTED PERSONS AS A SHIELD.—Any person subject to this chapter who intentionally uses a protected person with the intent to shield a military objective from attack, or to shield, favor, or impede military operations, shall, if death results to one or more of the victims, by death or such other punishment as a military commission under this chapter may direct, and, if death does not result to any of the victims, by such punish-
ment, other than death, as a military commission under this chapter may direct.

(10) USING PROTECTED PROPERTY AS A SHIELD.—Any person subject to this chapter who intentionally uses the location of, protected property with the intent to shield a military objective from attack, or to shield, favor, or impede military operations, shall be punished as a military commission under this chapter may direct.

(11) TORTURE.—

(1A) OFFENSE.—Any person subject to this chapter who commits an act specifically in-
tended to inflict severe physical or mental pain or suffering (other than pain or suf-
fering incidental to lawful sanctions), in-
cluding serious physical abuse, upon another
or from acting as an explicit or implicit condi-
tion for the release of such person or persons, shall be punished, if death results to one or more of the victims, by death or such other punishment as a military-commission under this chapter may direct, and, if death does not result to any of the victims, by such punish-
ment, other than death, as a military commission under this chapter may direct.

(12) SEVERE MENTAL PAIN OR SUFFERING DE-
FINED.—In this section, the term ‘severe mental pain or suf-
fering’ means bodily injury which involves—

(i) a substantial risk of death;

(ii) extreme physical pain;

(iii) protracted and obvious disfigure-
ment; or

(iv) severe mental pain or suffering incidental to lawful sanctions,
including serious physical abuse, upon another

(13) INTENTIONALLY CAUSING SERIOUS BOD-
ILY INJURY.—Any person subject to this chapter who intentionally causes serious
bodily injury to one or more persons, includ-
ing lawful combatants, in violation of the law of war shall be punished if death results to one or more of the victims, by death or such other punishment as a military commission under this chapter may direct, and, if death does not result to any of the victims, by such punish-
ment, other than death, as a military commission under this chapter may direct.

(14) MURDER IN VIOLATION OF THE LAW OF
WAR.—Any person subject to this chapter who intentionally kills one or more persons, including lawful combatants, in violation of the law of war shall be punished by death or such other punishment as a military commission under this chapter may direct.

(15) MURDER IN VIOLATION OF THE LAW OF
WAR.—Any person subject to this chapter who intentionally kills one or more persons, including lawful combatants, in violation of the law of war shall be punished as a military commission under this chapter may direct.

(16) TORTURE.—Any person subject to this chapter, who, with effective posses-
sion or control over subordinate groups, de-
clares, for no legitimate military purpose, or in fact, with the intent of per-
mitting an attack upon the civilian population or upon property belonging to the civilian population, shall be punished as a military commission under this chapter may direct.

(17) USING TREACHERY OR PERJURY.—Any
person subject to this chapter who, after in-
forming the confidence or belief of one or more
person that they were entitled to, or obliged to accord, protection under the law of war, intentionally makes use of that confidence or belief in killing, injuring, or otherwise causing the death or such other punishment as a military commission under this chapter may direct.

(18) IMPROPERLY USING A DISTINCTIVE EM-
BLEM.—Any person subject to this chapter who intentionally uses a distinctive em-
blem, shall be punished as a military commission under this chapter may direct.

(19) IMPROPERLY USING A FLAG OF TRUCE.—Any person subject to this chapter who, with effective possession or control over subordinate groups, declares, for no legitimate military purpose, or in fact, with the intent of per-
mitting an attack upon the civilian population or upon property belonging to the civilian population, shall be punished as a military commission under this chapter may direct.

(20) IMPROPERLY USING A FLAG OF TRUCE.—Any person subject to this chapter who, with effective possession or control over subordinate groups, declares, for no legitimate military purpose, or in fact, with the intent of per-
mitting an attack upon the civilian population or upon property belonging to the civilian population, shall be punished as a military commission under this chapter may direct.

(21) IMPROPERLY USING A DISTINCTIVE EM-
BLEM.—Any person subject to this chapter who intentionally uses a distinctive em-
blem, shall be punished as a military commission under this chapter may direct.
recognized by the law of war for combatant purposes in a manner prohibited by the law of war shall be punished as a military commission under this chapter may direct.

(19) INTENTIONALLY MISTREATING A DEAD BODY.—Any person subject to this chapter who intentionally mistreats the body of a dead person, without justification by legitimate military necessity, shall be punished as a military commission under this chapter may direct.

(20) RAPE.—Any person subject to this chapter who forcibly or with coercion or threat of force wrongfully invades the body of a person by penetrating, however slightly, the body, or by any other entry (whether natural or artificial), shall be punished as a military commission under this chapter may direct.

(21) SEDUCING OR ABUSE.—Any person subject to this chapter who has sexual intercourse with any part of the body of the accused, or with any foreign object, shall be punished as a military commission under this chapter may direct.

(22) TERRORISM.—Any person subject to this chapter who intentionally kills or injures one or more protected persons, or intentionally engages in an act that evinces a wanton disregard for human life, in a manner calculated to influence or affect the conduct of government or civilian population by intimidation or coercion, or to retaliate against government conduct, shall be punished, if death results to one or more of the victims, by death or such other punishment as a military commission under this chapter may direct, and, if death does not result to any of the victims, by such punishment, other than death, as a military commission under this chapter may direct.

(23) VIOLATION OF THE LAW OF WAR.—Any person subject to this chapter who commits or conspires to commit an offense under the law of war, and who knowingly does an overt act to effect the object of the conspiracy, shall be punished, if death results to one or more of the victims, by death or such other punishment as a military commission under this chapter may direct, and, if death does not result to any of the victims, by such punishment, other than death, as a military commission under this chapter may direct.

§950w. Perjury and obstruction of justice; contempt

(a) PERJURY AND OBSTRUCTION OF JUSTICE.—A military commission under this chapter may try offenses and impose such punishment as the military commission may direct for perjury, false testimony, or obstruction of justice by persons who are military commissions under this chapter.

(b) CONTEMPT.—A military commission under this chapter may for contempt punish any person who uses any menacing word, sign, or gesture in its presence, or who disturbs its proceedings by any riot or disorder.

(2) TABLES OF CHAPTERS AMENDMENTS.—The tables of chapters at the beginning of subtitle A, and at the beginning of part II of chapter 47A, of title 10, United States Code, are each amended by inserting after the item relating to chapter 47 the following new item:

94A. Military Commissions

(b) SUBMITAL OF PROCEDURES TO CONGRESS.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report setting forth the procedures for military commissions prescribed under chapter 47A of title 10, United States Code (as added by subsection (a)).

SEC. 6. IMPLEMENTATION OF TREATY OBLIGATIONS AND PROHIBITIONS.

(a) IMPLEMENTATION OF TREATY OBLIGATIONS.—(1) IN GENERAL.—The acts enumerated in subsection (d) of section 2481 of title 18, United States Code, as added by subsection (a) of section 850(a), title 10, United States Code, violate the Geneva Conventions and the laws of war.

(b) PROHIBITION ON EXECUTIONS.—The provisions of section 2481 of title 18, United States Code, as amended by this section, constitute violations of common Article 3 of the Geneva Conventions and the laws of war.

(c) OTHER VIOLATIONS.—No foreign or international court or tribunal shall have jurisdiction over a person alleged to have committed a violation of the Geneva Conventions or any protocols thereto in any habeas corpus or other civil action or proceeding to which the United States or its States or territories is a party as a source of rights in any court of the United States or its States or territories.

(d) REGULATIONS.—The President shall issue regulations implementing the provisions of this section, consistent with the People's Republic of China's national law and policy.

(e) DEFINITIONS.—In this section, the term "Geneva Conventions" means the four Geneva Conventions of August 12, 1949 (6 UST 3316).

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(e) DEFINITIONS.—In this section, the term "Geneva Conventions" means the four Geneva Conventions of August 12, 1949 (6 UST 3316).
as to grave breaches of common Article 3(3) as a matter of United States law, in the same manner as other administrative regulations.

(3) Nothing in this section shall be construed to affect the constitutional functions and responsibilities of Congress and the judicial branch of the United States.

(4) DEFINITIONS.—In this subsection:

(A) TERRORISM.—The term ‘‘terrorism’’ includes serious bodily injury, including those placed out of combat by sickness, wounds, detention, or any other cause, including those placed out of combat by sickness, wounds, detention, or any other cause, including those placed out of combat by sickness, wounds, detention, or any other cause, including those placed out of combat by sickness, wounds, detention, or any other cause, including those placed out of combat by sickness, wounds, detention, or any other cause.

(B) CONSPIRACY.—The term ‘‘conspiracy’’ includes serious bodily injury, including those placed out of combat by sickness, wounds, detention, or any other cause.

(C) ARTICLES.—The term ‘‘articles’’ includes serious bodily injury, including those placed out of combat by sickness, wounds, detention, or any other cause.

(D) CRIMINAL RESPONSIBILITY.—The term ‘‘criminal responsibility’’ includes serious bodily injury, including those placed out of combat by sickness, wounds, detention, or any other cause.

(E) DETERMINATION.—The term ‘‘determination’’ includes serious bodily injury, including those placed out of combat by sickness, wounds, detention, or any other cause.

(F) LOSS OF LIFE.—The term ‘‘loss of life’’ includes serious bodily injury, including those placed out of combat by sickness, wounds, detention, or any other cause.

(G) INJURY.—The term ‘‘injury’’ includes serious bodily injury, including those placed out of combat by sickness, wounds, detention, or any other cause.

(H) PERSON.—The term ‘‘person’’ includes serious bodily injury, including those placed out of combat by sickness, wounds, detention, or any other cause.

(2) RETROACTIVE APPLICATION.—The amendments made by this subsection, except as specified in subsection (d)(2)(E) of section 2441(2) of title 18, United States Code, shall take effect as of November 26, 1997, as if enacted immediately after the amendments made by section 583 of Public Law 105–118 (as amended by section 4002(e)(7) of Public Law 107–273).

(3) COMPLIANCE.—The President shall take action to ensure compliance with this subsection, including through the establishment of administrative rules and procedures.

SEC. 7. HABEAS CORPUS MATTERS.

(a) IN GENERAL.—Section 2241 of title 28, United States Code, shall not apply, with respect to any alien who is or was detained by the United States to have been properly detained as an enemy combatant or is awaiting such determination.

(b) EXCEPTION.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.
shall apply to all cases, without exception, pending on or after the date of the enactment of this Act which relate to any aspect of the detention, transfer, treatment, trial, or condition of an alien detained by the United States since September 11, 2001.

SEC. 8. REVISIONS TO DETAINEE TREATMENT ACT OF 2005 RELATING TO PROTECTION OF CERTAIN UNITED STATES GOVERNMENT PERSONNEL.

(a) COUNSEL AND INVESTIGATIONS.—Section 1004(b) of the Detainee Treatment Act of 2005 (42 U.S.C. 2000dd–1) is amended—

(1) by striking “may provide” and inserting “shall provide”;

(2) by inserting “or investigation” after “criminal prosecution”; and

(3) by inserting “whether before United States courts or agencies, foreign courts or agencies, or international courts or agencies,” after “described in that subsection”.

(b) PROTECTION OF PERSONNEL.—Section 1004 of the Detainee Treatment Act of 2005 (42 U.S.C. 2000dd–1) shall apply with respect to “specified in the military order” and inserting “by the military order” and inserting “by the United States”.

SEC. 9. REVIEW OF JUDGMENTS OF MILITARY COMMISSIONS.


(1) in subparagraph (A), by striking “pursuant to Military Commission Order No. 1, dated August 31, 2005 (or any successor military order)” and inserting “by a military commission under chapter 47A of title 10, United States Code”;

(2) by striking subparagraph (B) and inserting the following new subparagraph (B):

“(B) GRANT OF REVIEW.—Review under this paragraph shall be as of right.”;

(3) in subparagraph (C)—

(A) in clause (1)—

(i) by striking “pursuant to the military order” and inserting “by a military commission”;

(ii) by striking “at Guantanamo Bay, Cuba”; and

(B) in clause (ii), by striking “pursuant to such order and inserting “by the military commission”;

and

(4) in subparagraph (D)(i), by striking “specifies in the military order” and inserting “specified for a military commission”.

SEC. 10. DETENTION COVERED BY REVIEW OF DECISIONS OF COMBATTANT STATUS REVIEW TRIBUNALS OF PROPRIETY OF DETENTION.


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

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

The motion to lay on the table was agreed to.

Mr. WARNER. Mr. President, I move the Presiding Officer.

This matter has now been brought to conclusion.

I yield the floor.

SECURE FENCE ACT OF 2006— Resumed

CLOTURE MOTION

The PRESIDING OFFICER (Mr. ALLEN). Under the previous order, pursuant to rule xxii, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The legislative day was as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule xxii of the Standing Rules of the Senate, do hereby move for a cloture on Calendar No. 615, H.R. 6061, a bill to establish operational control over the international land and maritime borders of the United States.

Bill Frist, Lamar Alexander, Richard Burr, Gordon Smith, John Thune, Johnny Isakson, John Cornyn, Judd Gregg, Jim Inhofe, Saxby Chambliss, Sam Brownback, Tom Coburn, Jeff Sessions, Richard Shelby, Craig Thomas, Michael B. Enzi, Lisa Murkowski.

Mr. BYRD. Mr. President, I support cloture on H.R. 6061, the Secure Fence Act. The sooner the Congress passes this bill, the sooner the President can put aside the misguided amnesty legislation passed by the Senate earlier this year. The American people have listened and rejected the call to offer U.S. citizenship to illegal aliens. They have said NO to amnesty! Hallelujah! Comprehensive immigration reform is a euphemism for amnesty, and I oppose it absolutely and unequivocally. I voted against the amnesty bill passed by the Senate, and I will continue to vote against amnesty as long as I am in the Senate.

I have seen how amnesties encourage illegal immigration, with the amnesties of the 1980s and 1990s corresponding with an unprecedented rise in the population of unlawful aliens. I have seen how amnesties open the border to terrorists, with the perpetrators of terrorist plots against our country taking advantage of amnesties to circumvent the regular border and immigration checks.

I have seen how amnesties afford special rules to some immigrants. Amnesty undermines that great and egalitarian American promise that the rules will be applied equally and fairly to everyone.

We are a nation of immigrants to be sure, but that does not mean that we are obligated to give away U.S. citizenship. According to immigration experts, until recently the Congress never granted amnesty to any generation of immigrants. The Congress encouraged immigrants to learn the Constitutional principles of our Government and the history of our country. Immigrants learned English, and tried to assimilate, U.S. citizenship was their reward. The Congress did not reward illegal aliens with U.S. citizenship.

Now that this idea of amnesty has been rejected by the Congress, perhaps the administration will begin, at long last, to actually reducing the number of illegal aliens already in the country. Such an effort will require a significant investment of funds to hire law enforcement and border security agents, and to give them the resources and equipment they need to do their job. In the years immediately after the September 11 attacks, those funds had not only been left out of the President’s annual budgets but had been continuously blocked by the White House in the appropriations process. I and others tried to add funds where possible, but not until recently did the administration begin to realize the inadequacies along the border. So much more is required and needs to be done.

The bill before the Senate today is a good bill. It will authorize two-layer fencing along the southern border where our security is weakest, and set timetables to which the Congress can hold the administration. But this bill will amount to little or no protection without the resources to implement it. The administration must do more. I respect its continued and committed effort to prevent illegal immigration, the protective barrier called for in this bill will amount to nothing more than a line drawn in the sands of our porous Southern border.

Mr. KENNEDY. Mr. President, now we have 4 minutes that can be equally divided between those in favor and those in opposition: am I correct?

The PRESIDING OFFICER. The Senator is correct.

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

Let us review where we in the Senate have been on the issue of immigration. May I, we passed by 63 votes, with 1 favorable vote missing, a comprehen- sive measure to try to deal with a complex and difficult issue. The House of Representatives passed this bill, but they refused to meet with the Senate of the United States. The House of Representa- tives held 60 hearings all over the country at taxpayers’ expense—millions and millions of dollars. What do they come up with? After all the pounding and finger-pointing, they came up with an 800-mile fence.

Listen to Governor Napolitano: You show me a 50-foot fence, and I will show you a 51-foot ladder.

This is a feel-good bumper-sticker vote. It is not going to work. Why? Because half of all the undocumented come here legally. They don’t come over the fence.

Do you hear us? This is going to cost $8 billion. Let us listen to what Secretary Chertoff said about this issue. Secretary Chertoff said: “Don’t give us old fences. Give us 20th century solutions.” Tom Ridge, the former head of Homeland Security, said the same thing.

We need to be smarter. Let us do what we should have done in the first place. Let us sit down with the House, the way this institution is supposed to work, rather than just take what is served up by the House of Representa- tives that said take it or leave it. That is what they are saying to the Senate.

We have had a good debate which resulted in a comprehensive measure. Let
us have a conference with the House. But let us reject this bumper-sticker solution. It isn’t going to work. It is going to be enormously costly.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, we know that fencing works. It is a proven approach. The San Diego fence has been incredibly successful. The illegal entries have fallen from 500,000 to 100,000. Crime in San Diego County, the whole county, dropped 56 percent. It is an absolutely successful experiment in demonstration of this working.

The chief of Border Patrol told one of the House hearings that it multiplies the capacity of their agents to be effective. There is no way individual agents can run up and down the border without some barriers in these high-traffic areas.

Secretary Chertoff asked us explicitly for 800 miles of barriers and fencing. He asked for that. We voted for it in May. We voted 83 to 16 in favor of the fence. And in August we voted 92 to 3 in favor of funding. But we haven’t gotten there yet.

This bill is the kind of bill which can allow us to go forward and complete what the American people would like to see, and maybe then we can have some credibility with the public and we can begin to deal with the very important, sensitive issues of comprehensive immigration reform which I favor. But I believe the present bill that came through the Senate did not meet the required standard. We can do much better.

We have voted for this. We voted for it at least three times to make it a reality. And then we will have some credibility with the American people after we do that and then begin to talk coherently about how to fix an absolutely broken immigration system.

I urge support of cloture.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call is waived.

The question is, Is it the sense of the Senate that debate on Calendar No. 615, H.R. 6061, a bill to establish operational control over the international land and maritime borders of the United States, shall be brought to a close?

The yeas and nays are mandatory under the rule. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. MCCONNELL. The following Senator was necessarily absent: the Senator from Maine (Ms. SNOWE).

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

The yeas and nays resulted—yeas 71, nays 28, as follows:

[Rollcall Vote No. 260 Leg.]

Mr. FEINGOLD. Mr. President, every Member of this body recognizes that border security is critical to our Nation’s security. We can and must improve our efforts at the borders and prevent potential terrorists from entering our country. I have long supported devoting more personnel and resources to border security, and I will continue to do so.

But this bill is a misguided effort to secure our borders. I cannot justify pouring billions of Federal dollars into efforts that are not likely to be effective.

Recent Congressional Budget Office estimates indicate that border fencing can cost more than $3 million per mile. Under this legislation, we would be committing vast resources to an unproven initiative. Adding hundreds of miles of fencing along the border will almost certainly not stem the flow of people who are willing to risk their lives to come to this country.

Furthermore, there are very serious concerns about the environmental impact this type of massive construction project would have on fragile ecosystems in border areas. Before we pour precious Federal dollars into a massive border fencing system, at the very least we should do a thorough analysis of the most effective and fiscally responsible measures of ensuring our borders against illegal transit. In fact, S. 2611, the Comprehensive Immigration Reform Act of 2006, would direct

The PRESIDING OFFICER. The following Senators voted—yeas 71, nays 28, as follows:

The yeas and nays resulted—yeas 71, nays 28, as follows:

[Rollcall Vote No. 260 Leg.]
the Attorney General, in cooperation with other executive branch officials, to conduct such a study on this question. The study would analyze the construction of a system of physical barriers along the southern international land and maritime border, including the feasibility, cost, and impact of such barriers on the surrounding area.

Another reason that this bill is misguided is that improving our border security alone will not stem the tide of people who are willing to risk everything to enter this country. According to a recent Cato Institute report, the probability of catching an illegal immigrant has fallen over the past two decades from 33 percent to 5 percent, despite the fact that we have tripled the number of border agents and increased the enforcement budget tenfold. It would be fiscally irresponsible and self-defeating to devote more and more Federal dollars to border security efforts, when we are also creating a realistic immigration system that allows people who legitimately want to come to this country to go through legal channels to do so.

That is why I oppose the House "enforcement only" bill. That is why business groups, labor unions and immigrant's rights groups have all come together to demand comprehensive immigration reform. And that is why I oppose this bill. We need a comprehensive, pragmatic approach that not only strengthens security, but also brings people out of the shadows and ensures that our government knows who is entering this country for legitimate reasons, so we can focus our efforts on finding those who want to do us harm. Border security alone is not enough. I will vote against cloture on this bill.

The PRESIDING OFFICER. The Senator from Alaska.

DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2007—CONFERENCE REPORT

Mr. STEVENS. Mr. President, I ask unanimous consent that, notwithstanding the provisions of rule XXII, the Senate proceed to the immediate consideration of the conference report to accompany H.R. 5631, the Defense appropriations bill. I further ask unanimous consent that notwithstanding the provisions of rule XXII, the Senate agree to a conference report on H.R. 5631, the Defense appropriations bill, with an amendment, and the Senate agree to the same without amendment, and the Senate agree to the same, signed by all of the conferees on the Senate side.

This conference report was printed in the Record of September 25, 2006.

The PRESIDING OFFICER. The Senator from Alaska, Mr. STEVENS. Mr. President, the time is equally divided, as I understand it.

The PRESIDING OFFICER. The Senator from Alaska is correct.

Mr. STEVENS. Mr. President, I am pleased to present the conference report which I have prepared for the Senate. The report was prepared with an amendment, and the Senate agree to the same without amendment, and the Senate agree to the same, signed by all of the conferees on the Senate side.

The conference report was printed in the Record of September 25, 2006.

The bill fully funds the 2.2 percent across-the-board military pay raise as proposed in the President's budget.

Our conference report represents a balanced approach to fulfilling the financial needs of the Department for fiscal year 2007. It provides $436.5 billion in new discretionary spending authority for the Department of Defense. This amount also includes $70 billion in emergency spending for early fiscal year 2007 costs associated with operations in Iraq and Afghanistan and the global war against terrorism.

The bill fully funds the 2.2 percent across-the-board military pay raise as proposed in the President's budget.

This conference agreement also provides $17.1 billion for additional fiscal year 2007 reset funding for the Army and $5.8 billion for the Marine Corps. These are specific amounts identified by the services as necessary to meet their fiscal year 2007 equipment requirements.

The additional reset funding provides for the replacement of aircraft lost in battle and those lost in accidents and production of combat and tactical vehicles, ammunition, and communications equipment.

In addition, the conference report provides $1.1 billion for body armor and personal protection equipment and $1.9 billion to combat improvised explosive devices.

The bill also provides $1.5 billion for the Afghanistan security forces fund and $1.7 billion for the Iraq security forces fund. These funds will continue the training of indigenous security forces and provide equipment and infrastructure essential to developing capable security forces in Afghanistan and Iraq.

The bill does not address the funding for basic allowance for housing within the military personnel accounts, sustainment, readiness and modernization funds contained in the operation and maintenance accounts, environmental funding, or Defense Health Program funding. These accounts will be considered later this year with the House Appropriations subcommittees for those accounts. They are separate from this bill.

Finally, I would like to note that the bill provides more than $3 billion for National Guard and Reserve equipment to improve their readiness in combat operations as well as their critical role in our Nation's response to natural disasters.

I urge all Members of the Senate to support this bill. It supports the men and women in uniform who risk their lives for our country each day. By voting for this measure, we show our support for what they do.

I also wish to thank my cochairman again, Senator INOUYE, for his support and invaluable counsel on the bill.

And before I recognize him, I would like to allocate 10 minutes of the time on our side to the distinguished Senator from Oklahoma. But I yield to my friend from Hawaii.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. Mr. President, I rise to express my strong support for the conference report on H. R. 5631, the Department of Defense Appropriations bill, as the chairman has noted, includes some $436.6 billion for the Department of Defense, including $70 billion to help offset the cost of war in Iraq and the global war on terrorism for the first several months of fiscal year 2007.

I want to remind my colleagues that the bill does not include funding, as noted by the chairman, for the Defense Health Program or for environmental and real property maintenance and related programs.

By agreement between the Appropriations Committees in both Houses, these amounts will be carried in the Military Construction bill which has not yet passed the Senate.

Accounting for these changes, the bill is $9.3 billion higher than the bill which passed the Senate. Of this amount, approximately $4.7 billion is in emergency funding for the war on terror, and the balance is for regular appropriations.

This bill provides for the essential requirements of the Department of Defense and is a fair compromise between
the priorities of the House and the Senate. To my colleagues on the democratic side, I would say this is a good bill.

It was fashioned in a bi-partisan manner and it funds our critical defense needs.

Several items which were added to this bill by democratic amendments are addressed favorably in this conference report.

The agreement urges the President to report his plans in the event of increased sectarian violence in Iraq. It urges the director of national intelligence to assess many elements of the potential for civil war in Iraq.

It includes an additional $100 million to help eradicate poppies in Afghanistan and it addresses concerns raised in the Senate about increasing funding to find the leaders of al-Qaida.

I point out to the Senate that all the members of the conference on both sides of the aisle supported this agreement.

I fully support the bill that the Chairman is recommending, and I urge my colleagues to support the measure as well.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. COBURN. Mr. President, I thank the Senator from Alaska for all his hard work and dedication on defense in this country and the hard work he put forward in this bill, undoubtedly will pass this body and be unanimously. I will note that there were several things I have a criticism of in the bill and things I would like to have seen in it, but they are not there. But I also note that we are having trouble maintaining Abrams fighting vehicles, maintaining tanks.

As we look at this bill, the $70 billion we are going to have for the war, that is an emergency and it is appropriate, there is no question about it. What is not appropriate in this bill—and this body passed 96 to 1—is the fact that we agreed in this body that whatever the earmarks were in the bill, there ought to be a scorecard on them, on whether the earmarks met the mission of the Defense Department.

There are going to be a lot of earmarks that are good, but a lot of them are stinky. There are 2,000 earmarks in the bill directed by Members of Congress—somewhere around $8 billion—and a significant number of those don’t have anything to do with the mission of the Defense Department, and they have everything to do with us failing to do the things we should do in terms of prioritizing and making the hard decisions in this country who is responsible. I am going to vote for the bill because of its importance for our country. But in this bill, you don’t know who did the earmarks. They are very cleverly written. You cannot find out exactly what contractor they are going to. You don’t know who is doing what, why, and what for. You don’t know who is responsible.

I urge my colleagues to support the measure as well.

Mr. HARKIN. Mr. President, let me thank the chairman, Senator STEVENS from Alaska, and his ranking member, the Senator from Hawaii, Mr. INOUYE, for their hard work on this Defense appropriations bill. As a member of that subcommittee, I have been pleased to work with them and their very able staff and deduce a Defense appropriations bill that does indeed meet the needs of our times and provides the funding resources our military needs in these very trying times. Again, I express my support for the underlying bill, the Defense appropriations bill. Again, my gratitude goes to the Senator from Alaska and the Senator from Hawaii for all their hard work.

Mr. KENNEDY. Mr. President, I welcome the decision by the Defense Appropriations Subcommittee to support the Senate’s request for a new National Intelligence Estimate on conditions in Iraq.

Earlier this week, the American people were shocked to learn about an assessment from the intelligence community which unequivocally concluded that the war in Iraq is creating a new generation of terrorists. It was especially shocking, given the administration’s repeated insistence that we are winning the war on terror and that America is safer because of the war in Iraq. That 5-month-old assessment addressed the impact of the Iraq war on the global threat of terrorism, outside of Iraq’s borders.

But what about Iraq itself? What is the collective assessment of the intelligence community about the prospects for success in Iraq versus the likelihood of full-scale civil war? The President insists that we are winning in Iraq but, remarkably, the intelligence community has not prepared a National Intelligence Estimate on conditions inside Iraq for more than 2 years. That must change.

America is in deep trouble in Iraq, and it’s mystifying that an Intelligence estimate focusing on the internal situation in Iraq has not been prepared since July 2004. We know that the President is determined to convince the American people that he is winning the war and that America is safer, but what does the intelligence community believe? The recent revelations about the April 6 estimate underscore the value and importance of obtaining comprehensive, coordinated information from the intelligence community to inform our policy judgments and to ensure that the American people have the facts, not just the political spin of the White House.

Stopping the slide into full-scale civil war is our greatest challenge and highest priority in Iraq. The continuing violence and death is ominous. The UN reports that more than 6,500 civilians were killed in July and August alone. Militias are growing in strength and continue to operate outside the law. Death squads are rampant. Reports of torture in official detention centers remain widespread. Kidnappings are on the rise, and so are the numbers of Iraqis fleeing the violence.

More than 140,000 American troops are on the ground. It’s essential that we obtain—and obtain soon—a candid and comprehensive assessment from the intelligence community on whether Iraq is in or is descending into civil war and what can be done to stop the sectarian violence that is spiraling out of control.

The stakes are enormously high for our troops and our national security, and completing a new NIE on Iraq should be one of Director Negroponte’s highest priorities.

After our Senate amendment requiring a new estimate was approved to this bill on August 3, Director Negroponte agreed to ask the intelligence community to prepare it. Certainly nobody has an interest in unnecessarily rushes the intelligence community. But it has been more than...
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2 years since an NIE on Iraq was prepared, and that’s too long. It has been nearly 2 months since Mr. Negroponte announced his decision to ask the intelligence community to prepare a new assessment, yet the first step—determining the scope of the issues to be covered—has not even been finished.

With Iraq on the brink of a full-scale civil war, preparation of this intelligence assessment cannot be delayed any longer. With more than 140,000 Americans under fire every hour of every day, it’s wrong to slow-roll this assessment. For the sake of our men and women in uniform, the intelligence community must move forward, and it must move forward soon.

Earlier today I sent a letter to Mr. Negroponte with Senators Rockefeller, Biden, Levin, Reid, and Reed urging him to move forward and indicating that preparation and completion of this intelligence assessment cannot be delayed any longer.

As the intelligence community finalizes the terms of reference for the new Iraq National Intelligence Estimate, Mr. Negroponte should be mindful of the specific provisions in this conference agreement, which urge him to follow the parameters set out in the Senate amendment to this bill. Under the amendment, the following issues would be included in the new National Intelligence Estimate on Iraq:

- The prospects for controlling severe sectarian violence that could lead to civil war; the prospects for reconciling Iraq’s ethnic, religious, and tribal divisions; an assessment of the extent to which militias are providing security and the extent to which the Government of Iraq has developed and implemented a credible plan to disarm, demobilize, and reintegrate the militias into the government security forces and is working to obtain a political commitment to ban militias; an assessment of whether Iraq is succeeding in creating a stable and effective unity government, and the likelihood that the government will address the concerns of the Sunni community; and the prospects for economic reconstruction and the impact it will have on security and stability.

- It is obviously important that we obtain an open and honest assessment from the Director of National Intelligence, particularly on the question of whether Iraq is or is descending into civil war, and we look forward to receiving the most thorough and comprehensive National Intelligence Estimate possible. To this end, we would also benefit significantly by having the following areas addressed in a new Iraq NIE:

  - An assessment of the threat from violent extremist-related terrorism, including al Qaeda, in and from Iraq, including the extent to which terrorist actions in Iraq are targeted at the United States presence there and the likelihood that terrorist groups operating in Iraq will target U.S. interests outside Iraq; an assessment of whether, and in what ways, the large-scale presence of multinational forces in Iraq helps or hinders the prospects for success in Iraq; a description of the optimistic, most likely, and pessimistic scenarios for the stability of Iraq through 2007; and an assessment of the extent to which the situation in Iraq is affecting our relations with Iran, Saudi Arabia, Turkey, and other countries in the region.

The war in Iraq continues to be an immense strategic blunder for our country, and having the most thorough and comprehensive National Intelligence Estimate possible will greatly inform the ongoing debate about our options for the future.

A new National Intelligence estimate is long overdue. As John Adams said, “Facts are stubborn things.” It is abundantly clear that the facts matter on Iraq. They mattered before the war and during the war, and they matter now, as we try to deal effectively with the continuing quagmire.

I urge my colleagues to support this conference agreement, and I look forward to obtaining the new National Intelligence Estimate on Iraq and to obtaining it soon.

Mr. President, I ask unanimous consent to have the letter to which I referred printed in the Record.

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


Ambassador John D. Negroponte, Director of National Intelligence, Office of the Director of National Intelligence, Washington, DC.

Dear Director Negroponte: We welcome your response to our July 26 correspondence and our August 3 amendment to the Department of Defense Appropriations bill for fiscal year 2006 requiring an updated National Intelligence Estimate on Iraq. An NIE focusing on Iraq has not been prepared in more than two years, and we welcome your August 4 announcement that you have asked the intelligence community to prepare this document.

As the intelligence community finalizes the terms of reference for the new Iraq National Intelligence Estimate, we draw your attention to a provision in the conference agreement on the Department of Defense Appropriations bill which urges you to follow the parameters set out in our August 3 amendment on the NIE. Under the Senate amendment, the following issues would be included:

- The prospects for controlling severe sectarian violence that could lead to civil war;
- The prospects for Iraq’s ethnic, religious, and tribal divisions;
- An assessment of the extent to which militias are providing security and the extent to which the Government of Iraq has developed and implemented a credible plan to disarm and demobilize and reintegrate the militias into the government security forces and is working to obtain a political commitment to ban militias;
- An assessment of whether Iraq is succeeding in creating a stable and effective unity government, and the likelihood that the government will address the concerns of the Sunni community;
- The prospects for economic reconstruction and the impact it will have on security and stability.

The stakes are enormously high in Iraq, and having the most thorough and comprehensive NIE possible will greatly inform the debate about our options in Iraq.

I look forward to hearing from you about the final terms of reference for the new Iraq NIE and to receiving the updated NIE. Certainly nobody has an interest in unnecessarily rushing the intelligence community. But it has been more than two years since an NIE on Iraq was prepared and nearly two years since you and your department asked the intelligence community to prepare a new assessment. With more than 140,000 troops on the ground in Iraq, preparation of this intelligence assessment cannot be delayed any longer.

Sincerely,

John D. Rockefeller IV, Joseph Biden, Jr., Carl Levin, Harry Reid, Edward M. Kennedy.

Mr. LEAHY. Mr. President, the Senate is poised to approve the fiscal year 2007 Department of Defense Appropriations conference report. Like past Defense Appropriations bills, there are things in this bill that I support and there are others that I disagree with. Without taking much of the Senate’s time today I want to mention one small but very important provision in this bill.

Section 9012 of the conference report states that no funds shall be made available for the establishment of permanent U.S. military bases in Iraq or to exercise U.S. control over any oil resource of Iraq. This language, which was sponsored by Senator Biden and which I strongly support, provides an important signal to the Iraqi people and to the sovereign government of Iraq that it is not the intent of the United States to control or maintain a
permanent military presence in their country. It is especially important in light of the recent surveys which indicate that a significant majority of Iraqis want United States military forces to withdraw from their country. For many of you and for people around the world who have concerns and suspicions about the Bush administration’s intentions in Iraq, this makes clear that regardless of the disagreements among us over the continued deployment of U.S. troops in Iraq, we agree not to establish permanent bases or to control Iraqi oil resources.

Mr. MCCONNELL. Mr. President, on a related note, one portion of the much-publicized National Intelligence Estimate that came out this week has caused much attention. It was a segment that said, “We cannot measure the extent of the spread of [jihadist terrorism] with precision . . . .” This candid admission reflects just how difficult good intelligence is to come by. It also reflects why it is so important that this bill permits the CIA interrogation program to continue—because it provides valuable intelligence.

Over the weekend, much was made about the leak of national security information. Some of our colleagues pounced on the media reports to bolster their argument that we should pull out of Iraq, pull out now. But whoever leaked this report somehow forgot to mention that this information comes from the intelligence community. As anyone who read the declassified report knows, the findings are clear: If we defeat the terrorists in Iraq, there will be fewer terrorists inspired to carry on the fight. And remember what the 9/11 Commission concluded, and I quote: “If, for example, Iraq becomes a failed state, it will go to its borders the island of places that are breeding grounds for attacks against Americans at home.”

Mr. President, we know what will happen if we leave Iraq before the job is finished. That is simply not in dispute. Remember what we declared that, for him, Iraq was the “capital of the Caliphate.” We must not and we will not give him that victory.

**RYAN WHITE CARE ACT**

Mr. ENZI. Mr. President, I rise again today to ask unanimous consent that the Senate pass S. 2823, the Ryan White HIV/AIDS Treatment Modernization Act, and I will make the formal request in just a few moments.

I want to make a few comments first in hopes that some who have a hold on this bill and who might have the objection themselves. Just last week we requested the unanimous consent agreement to pass this bipartisan, bicameral legislation as it passed out of the House Energy and Commerce Committee. And it was a clean bill; it will pass on the floor of the House, and I expect by significant margins. But five Senators from three States are blocking a vote to create a more equitable program for providing life-sparing treatments for individuals suffering from HIV and AIDS.

Now, 2 days ago I made this same request to pass this critical legislation, and the five Senators who are holding up this legislation chose not to come to the floor to discuss their concerns or to debate their issues. Instead, the Senator from Minnesota, Mr. DAYTON, was gracious enough to notify us of his objection, even though he stated he would vote for the bill.

So today again the Senators from New York, New Jersey, and California, those who have hold on this critical legislation, to come to the floor themselves and lodge their objections to explain why their parochial interests should be permitted to deny lifesaving care to people who don’t live in their States.

Now, I have a chart here that shows the New York and New Jersey situation. You can see that New York, under the current law, receives $509 per case above the national average. Under some of the transition, they would gain $60 million over 4 years instead of losing $74 million in 4 years by not complying with the transition language.

This bill would ensure that every State in the Nation has the appropriate funding to care for their residents living with HIV and AIDS.

Let me show you another chart. On the left-hand side, the States in red will have losses under the current law for not meeting the deadline. When we pass the new law, California would gain $60 million over 4 years and have more time. So it is kind of a win-win situation for California. Under some of the formula, they were hoping, I think, to gain even more. But they can meet the deadline; extra help has been offered. So if they would take the extra help, they could meet that timeline, and under this bill, they would gain $60 million over 4 years instead of losing $74 million over that same 4 years by not complying with the transition language.

This bill would ensure that every State in the Nation has the appropriate funding to care for their residents living with HIV and AIDS.
Mr. COBURN. Would the Senator yield for a question?

Mr. ENZI. The Senator has the floor.

Mr. COBURN. Would the Senator yield for a question?

Mr. DAYTON. Mr. President, I am responding to the question that has just been asked.

Mr. ENZI. Mr. President, I thank the Senator for his courtesy and for warning me about his intention here tonight. I salute him for his leadership on this legislation, which I support, so I am in a bit of an awkward situation, as he has recognized. But I guess I would ask the chairman, if my information is correct, that there are actually 14 States that would lose funding under the revised formula.

As the chairman said the other day, there is a hold-harmless clause that is in effect, as I understand, for 3 years, and this is a 5-year reauthorization, so at that point these other States would lose funding.

Does the chairman find it surprising that Senators from those States are doing what I think I would do if I were in that situation? I am grateful for the sentiment that he expresses, but I find it unsurprising that they are doing what any of us believe would do, which is to protect our States.

My second question to the chairman is: Given that this is a $12.2 billion reauthorization over 5 years, what would it cost in additional authorization to give these States over the next 5 years the same amount of money as they receive presently?

Mr. ENZI. Mr. President, I thank the Senator for his reluctant objection, although it still counts as an objection.

The PRESIDING OFFICER. Has the Senator from Minnesota objected?

Mr. DAYTON. Mr. President, I am responding to the question that has just been asked.

Mr. ENZI. Mr. President, I will yield for some other questions as soon as I finish answering this question.

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

Mr. ENZI. There aren't 14 States that will lose money. There are 14 States that lose money under the new bill doesn't pass. There are only five States that will lose money under the new bill, the bill we are trying to get passed by unanimous consent—the bill that we are at least trying to be able to bring up by unanimous consent. We tried a number of different ways. There are just five States that are involved in losing money. Of those five, three have said we have to be fair. Two have said we don't care whether we are fair or not.

Mr. DAYTON. If I may direct a question again to the chairman, how much would it cost in addition to the $12.2 billion for this 5-year authorization? What additional authorization would it cost to give those five States the same level of funding over the next 5 years that they would receive as of today?

Mr. ENZI. Mr. President, I don't have that number. Like I say, we ran about 300 different iterations of different formulas. I will get the Senator that number.

But there is 3 years hold harmless in this. You are talking about 5 years hold harmless. Hold harmless means...
against those funds for those people who have no treatment today. There is something very wrong in the Senate when the leaders of the charge for this bill, with the exception of Senator Kennedy who has done miraculous work with Senator Enzi—the leaders in the Senate who are blocking this bill and making sure everybody has equal access to care for HIV in this country are four conservative Senators.

We ought to ask a question about that. Why are we down here fighting for this? We believe in equal treatment. We believe in equal access. Where are the people who claim all the time to defend that? Why aren't they here on the floor of the Senate?

I want to make a couple of other points. The Labor-HHS bill that we are going to be voting on this fall has $1 billion in earmarks in it; $1 billion in earmarks. Most of it has zero, in comparison to saving somebody's life, like ADAP drugs and access to treatment if you are infected with HIV and you don't have any access to care whatsoever. We don't see anybody volunteering to give up their earmarks. Here is a stack of earmarks for New York State alone, last year in excess of $400 million. Nobody offered to give up the earmarks, the special projects that politicians get benefits from that sometimes do good and sometimes don't do good—nobody offered to give those up to pay for this loss. We are doing, having the privileges and prerogatives of a Senator or a Congressman to grease the skids of our reelection with an earmark, but we will not give some of that up to make sure somebody in a State that is not having access, who is going to die in the next 3 months, has access to lifesaving drugs.

That is an incrimination on this process. It is an incrimination on this body. So if we allow this to continue to be held up.

New York State carried over $27 million. The Department of HHS—their average is $1,613. I represent the State of North Carolina. We have one of the fastest growing populations of HIV-infected individuals in the United States. Today what does North Carolina receive?—$1,028 per individual infected with HIV/AIDS. Can any Member come to the floor and tell me that is equitable? Can any Member come to the floor and suggest to me that this funding, designed to provide the drugs that these people need to live is equitable? That New York should get $2,122 per person infected with HIV/AIDS. Can any Member do that? If you don't have the people, if you don't have the infected patients, you should not get the money. What is the fear? The fear is, they know they don't have the people. Therefore, they will not get the money. So why not have the debate? Stall and see what happens.

The chairman said there were a number of States—New York being the most egregious—where they received $2,122 per infected patient. The national average is $1,613. I represent the State of North Carolina. We have one of the fastest growing populations of HIV-infected individuals in the United States. Today what does North Carolina receive?—$1,028 per individual infected with HIV/AIDS. Can any Member here defend that immoral position. I challenge them to come down and defend that immoral position. I challenge them to come down and defend that immoral position.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. BURR. Mr. President, I thank Chairman Enzi and Ranking Member Kent, for an incredible amount of work, not just within our committee but in a bicameral way with the House. Seldom do we get the opportunity to come to the floor of the Senate fully knowing that the House is on board to every word that is in a bill, which means even with the 2 days that the chairman has suggested we have before this bill adversely affects thousands in this country, we could actually have it on the President's desk and signed, but tonight, at almost 9 o'clock, with four Senators on the floor, finding absent the Senators who object to us bringing up this bill. Why would they object?

Senator DAYTON said because they owe it to their States to get as much money as they possibly can and not be equitable under a distribution formula.

I tell you that could be the reason. But I think the reason they are not here is because the position is indefensible; to allow us to bring this bill to the floor one would challenge them on why they take the position that they do. Their position is indefensible because this formula is run on numbers. It is very simple. The chairman stated it to the Senator from Minnesota very clearly. For every patient you have you get dollars to make sure that you provide the services and the pharmaceuticals that are needed. If you don't have the people, if you don't have the infected patients, you should not get the money. What is the fear? The fear is, they know they don't have the people. Therefore, they will not get the money. So why not have the debate? Stall and see what happens.

The chairman stated there were a number of States—New York being the most egregious—where they received $2,122 per infected patient. The national average is $1,613. I represent the State of North Carolina. We have one of the fastest growing populations of HIV-infected individuals in the United States. Today what does North Carolina receive?—$1,028 per individual infected with HIV/AIDS. Can any Member here defend the position that they do? Their position is indefensible because this formula is run on numbers.
You know what, the people in North Carolina say: We are tired. It can't happen anymore. You have to change it.

I have a State who, annually, has individuals on the ADAP waiting list—individuals waiting in line to be eligible to receive those drugs. I am tired of having to watch those individuals go back home to die alive. This is not vision of America they have been taught. We have been taught that we need to make sure that safety net is there. But the argument tonight is that we are going to be denied the safety net in some States so that others can keep feeding at the trough—whether they have the population or not.

The people in North Carolina are tired of watching their State contribute the second highest percentage of dollars to the Ryan White Program but getting less federal funding than States who barely contribute a dime on their own.

They are tired of seeing African-American women in the South of the United States 26 times more likely to be HIV-positive than a White woman and to see States that deny them the ability to provide the drugs that these women need. They are tired of hearing about women in San Francisco and New York getting dog-walking services and massages when some of my constituents can't even get HIV drugs.

They are tired of hearing terms such as "double counting," "hold harmless," "duplication of names," "grandfathered in." All of those terms translate to one word: unequal.

What is so wrong with the concept that Ryan White dollars follow HIV-infected individuals?

Recently, I had individuals in my office. They suggested that 3 years was not enough time to account for the infected population, that in fact they are going to be penalized because they have individuals who are infected with HIV/AIDS than what we count today.

It is real simple. The chairman said 3 years hold harmless. They have 3 years to produce those names to verify that they are eligible for the funds, and if they don't do that then, in fact, that money goes elsewhere. So what was their argument? Three years is not enough time.

Every one of the individual who is infected is collateral in some type of program and service and receiving drugs and services. Clearly, if they receive those drugs and services on a regular basis, it is easy to account for who they are and where they are.

In fact, if they are not there, the last thing you want to do is have a program that accounts by an individual's name. But, in fact, that is what we do with this formula.

Right now, the Federal Government is giving exotic fruit to California and New York. North Carolina is getting rotten apples. That is about the comparison. We allow them to have a Cadillac and, in fact, we don't even give those folks in North Carolina a car.

The transition that is going on in America is that the infected population is in rural America, and many of them are showing up in the southeastern part of the United States. They are not in the urban areas, they are not what we consider title I or title II towns. We don't get the enhanced dollars because of the concentration in a big city. They are at the end of a dirt road. They are 30 miles from an AIDS clinic.

What do we do with service that newly infected population in the South, which is predominantly African-American women, it is not only where we get the money to supply the drug, it is where we get the money to provide the transportation so they can go to an AIDS clinic. Where do we get the money to provide the rest of the service for somebody who doesn't have a relationship with a health care professional? The closest thing they get to a primary care is the day they walk in and get their drugs and they get a "quickie" check up. Then it is another process of a bus or a van or a friend who takes them to get it. But without that extra bit, they would never get the drug. So the drug companies didn't supply some type of transportation.

In 2000, North Carolina had 12,489 people living with HIV/AIDS. There are 6,000-plus infected people more today than that 2000 statistic. I know how to plan to society what North Carolina's going to do because we keep their names. We track the individuals.

We are not asking for more money than we have in infected patients. We are asking for this formula to be fair.

Through December 2004, North Carolina was a State with the 14th greatest number of AIDS cases in the Nation, and the highest ranking State—the only State in the top 17—without a title I city that had enhanced reimbursement of the size of the city and the infected population.

In 2004, 66.7 percent of people living with AIDS in North Carolina were African-American—the fifth highest rate in the Nation. The national average in 2004 was 39.9, and ours is 66.7. I would like to think there would be 100 Senators down here talking about the outrage; that they would look at the racial disparity in this, the regional disparity; and that they would be concerned because we want to make sure that title II money goes to those who are the lowest.

In 2004, 72 percent of the new North Carolina cases in 2005 were minorities. It may be that the 66.7 percent of the infected population is, in fact, the low watermark, not the high watermark as we begin to see those new cases of minority individuals.

For those of us who are here arguing tonight that this should be changed, we recognize the fact that women of color in the South are 26 times more likely to be HIV-positive than White females.

This is an alarming trend that this Nation ought to turn around. We have a lot to do in 2 days—now a night and a day. We want to make that September 30th deadline.

It is clear that individuals in New York want to maintain the $2,100 per case and not accept the $1,613 average. The individuals in New Jersey want to keep their $1,923 and not settle for the $1,613 that we are talking about. They are willing to suggest that is an equitable tradeoff with North Carolina that gets $1,129 per individual infected by HIV.

It is time that we show the leadership that we have to point out to people who are holding this up that we cannot let them hide behind some defense that "I can't lose for my State" money that they cannot prove goes in their State to save the lives of people who are dying in my State because they can't get the pharmaceutical products they need.

I yield the floor.

Senator BURR is a force in our committee. He works extremely hard. His remarks go to the core of what we are trying to do. He is an example for all of us.

Senator Dayton, I must tell you that my good friend Senator Enzi is a very fair man. If the chairman were asked, Chairman Enzi, why should New York give up anything? Why shouldn't they insist on keeping the special position they have?

Let me ask this question: How did New York get that special position? How did it happen? They came to the Congress a number of years ago. They said: We have an extraordinary problem in New York. Our problem is great. We have this growing problem with AIDS, and we need extra money.

The Nation said: We believe you are hurting, New York. We believe you have a special problem, and we will give you special money, extra money. You will get more than the rest of the country. New York is a special case because the disease is more centered there and is spreading most rapidly there.

That was a good and decent thing for the country to do. It made sense that this bill passed. I am not disputing that. But I am telling you right now, as a representative of the people of the State of Alabama, having talked to the leadership that deals with AIDS in my State, they are really upset. They cannot imagine how it is possible that now my State and the entire Southern region of the country—people infected with AIDS than any other region of the country—the South has the highest rate of increase of any region in the
country. I will show this chart. It is actually beginning to surge here. It is a crisis in our State. Even this new bill, as Chairman ENZI said, still provides more money per patient for a big-city State than we would get in Alabama, even though our AIDS rate increase is higher by far than the Northeast or other areas.

How can that be justified? I know the people of New York say that New York City deserves more money to protect itself from terrorists because terrorists are more likely to attack New York. They complain about this. But the truth is, they get a lot more money in New York for that protection than the rest of the country gets. I think current legislation will give them even more for it. Why? Because the terrorist threat is more real. Well, the AIDS threat is real here; more real in Alabama. And it is falling on poor people and it is falling on the African-American community and it is falling hardest on African women.

Senator BURS said that, and that is an absolute fact. The numbers bear it out without any doubt whatsoever. I believe a fair proposal is on the floor of the Senate. I believe if we had any pretense of disinflation that this is fairly and objectively with the deadly disease of AIDS, we need to pass this legislation. It is absolutely not right to continue this disproportionate shifting of revenue from States all over America to big cities that are getting almost twice as much in some instances as the poorer States and the rural States. It is not right to continue that. We need to fix that.

The chairman didn’t overreact. Maybe next time, if we can’t get this bill passed, we ought to pass a bill that makes it completely level across the board and not leave some of these States with a continued advantage. They have had an advantage for years and years, New York. I suggest that we need to work on that and work on it hard.

Let me point out again the yellow line which represents the increase in the South—far higher than the Northeast and the West. That is where the big cities are that are getting the biggest amount of money per patient, not just more money total but more money per patient.

We have all read reports of abuses of those moneys and some of the worst things happening in some of the cities. Senator COBURN mentioned the great conferences they go to where they have rock concerts and spend this money that they claim they do not have, I guess, to treat people who are sick.

Let’s look at the next chart just to make one more point about what this legislation that Chairman ENZI and the committee hammered out is trying to do. There are 1.185 million Americans living with HIV/AIDS, and 250,000 of them do not know they are infected. One of the greatest things we can do is to make sure that people who are infected with HIV/AIDS know it as soon as possible. Treatment will commence immediately. It can mean years of extra life, years of extra healthy ability to live a normal life if we diagnose them early.

This bill provides new moves toward early diagnosis, early detection, and early testing. It absolutely is the right thing to do.

I was in my home State talking to some of our AIDS people who work on a daily basis. They told me about a lady who was pregnant, and they did a test on her. She was 7 months pregnant. She was positive for HIV. That was a tragedy, of course. But that child, given the right treatment, is almost certain to be born without AIDS because she was diagnosed as having it before the child was born. Had she not been diagnosed, there would have been a 50-50 chance that the child would have been born with AIDS. What a tragedy which was averted in that instance. They began to talk to her and they ended up talking to her boyfriend. He agreed to be tested. They found out that he was positive. He didn’t know that. Had he known that, he would never have infected the lady. I am convinced of it. Most people are not infected with AIDS. They get infected with their partners if they know they have AIDS.

There are a lot of reasons for early detection. One is that it will help reduce the spread of AIDS because most people would not want their partners to be infected. It would allow them to get on medication at the earliest possible time. We made some real progress in that area. It can save lives and money in the long run.

I salute the chairman. I think the Senate has a chance to work all the bills he is leading members on in the HELP committee, I do not know. It is a tremendous challenge and the Senator does it with good humor and consistent efforts to do right thing.

The Senator is exactly right on this important issue. I thank the Senator for his leadership. We must pass this reform. We must have equity in distribution of the money. It absolutely needs to show a shift of resources to the most threatened area of our country—that is the South, our poor, our African American community, and particularly, African American women.

I yield the floor.

The PRESIDING OFFICER (Mr. DeMINT). I call the attention of the Senator from Wyoming.

Mr. ENZI. Mr. President, I thank the Senator from Alabama for his kind comments and even more so for his passion and understanding on this issue. I thank the others who have spoken.

We had given those who are objecting to the Senate completing this bill an hour to state their case; no one showed up. We were pretty sure of that based on the fact they had one of the Members who is not running for office to be the one to object. They sent someone from a State that actually gains by having the bill completed. That tells something about how willing they are to defend the position they have on this bill.

This bill is critical to people all over the United States. There are HIV/AIDS families in every single State asking Congress to pass this bill and to pass it immediately.

Thirteen States, on September 30, will have huge losses in revenue. We are getting more calls, naturally.

This is not just a bill. This is not just policy. This is life and death to people across this country.

We have heard people are on waiting lists that cannot get drugs because the money does not follow the person. The money goes to the States that had the money before. This bill readjusts that so the people who need the drugs get the drugs. It sounds like an American principle to me.

As I mentioned before, there are other bills we work on where we are changing the formula. I have been very fortunate the people working with those bills have said, yes, we have to be fair. We are always transition into these things. This is no exception. Three years of hold-harmless. That means they get the same amount of money whether they deserve it or not for 3 years, while they count again to see if they have more or less people affected.

Mr. SANTORUM. Mr. President, I realize that Senator ENZI has been working with Senator KENNEDY and others to craft this underlying bipartisan, bicameral product. Already today, he has discussed how the bill will ensure more equitable treatment of resources, and save lives through treatment. However, he has also mentioned that someone from California is holding up the bill, due to concerns about converting their HIV system to standards created by the Centers for Disease Control and Prevention. I am curious about that, given that Pennsylvania, like California, is also in the process of converting its systems. How long have States under current law to change their system?

Mr. ENZI. The 2000 reauthorization stated that States need to have CDC accepted HIV data as early as 2005 but not later than 2007. Therefore, States have already had seven years to make this change.

Mr. SANTORUM. How many more years will California and Pennsylvania have to make that change?

Mr. ENZI. Under the bipartisan, bicameral product, California and Pennsylvania will have 4 more years to make the change. Thus, you both will have had over a decade to convert your systems. However, in fiscal year 2011, only CDC standards for HIV cases will be based for the funding. What would Pennsylvania and California lose if those States did not receive the 4-year extension you are proposing?
Mr. ENZI. According to a February 2006 report by the GAO, Pennsylvania would lose $9 million and California would lose $18.5 million in 1 year. With this bill that allows those States to still count the people that matter while the systems are transitioning, Pennsylvania would instead gain $4.3 million and California would gain $15.4 million.

Mr. SANTORUM. Will C donné provide assistance to States that need to make this change? How will the Federal Government provide that assurance?

Mr. ENZI. CDC has offered to provide assistance to States throughout the process. In fact, I recently confirmed today that CDC has already offered California technical assistance—up to six staff for up to 6 months—to help them make this change. Further, given some confusion about that technical assistance, I have asked CDC to send a letter to California, reiterating that they would provide that assistance.

Mr. HATCH. Mr. President, I rise to support the effort to call up and immediately adopt S. 2923, the Ryan White HIV/AIDS Treatment Modernization Act.

Adoption of this legislation offers us the opportunity to make a difference in the lives of the hundreds of thousands of people in the United States who are living with HIV/AIDS. We should not let this opportunity pass. I am pleased to have joined HELP Committee Chairman Enzi and Ranking Minority Member Kennedy, Majority Leader Frist, and Senators DeWine and Baucus in introducing this reauthorization bill.

As my colleagues are aware, I was the author of the original legislation along with Senator Kennedy and we introduced the first bill on this issue in the 101st Congress. The Ryan White Comprehensive AIDS Resources Emergency Act of 1990 was signed into public law on August 18, 1990 and became—excluding Medicaid and Medicare—the United States' largest Federally funded program for the care of those living with HIV and AIDS. It was a lot of hard work. But it was a lot of hard work for a very important cause.

Let us take a moment to remember one of the reasons why we did all that hard work in the first place. His name was Ryan White. Ryan was born in Kokomo, IN, in 1971. Three days before his birth, he was diagnosed with severe hemophilia. Fortunately for Ryan and his parents, there was a new blood-based product approved by the Food and Drug Administration called Factor VIII, which contains the clotting agent found in blood.

While he was growing up, Ryan had many bleeds or hemorrhages in his joints which were very painful. A bleed occurs from a broken blood vessel or vein. Think of a water balloon. When the blood has nowhere to go, it swells up in a joint and causes painful pressure. To prevent this, Ryan would receive injections or IVs of Factor VIII, which clotted the blood and then broke it down.

In December of 1984, Ryan was battling severe pneumonia and had to undergo surgery to have 2 inches of his left lung removed. Two hours after the surgery, doctors told his mother that he had contracted AIDS as a result of his biweekly treatment with Factor VIII. He was given 6 months to live.

Ryan White was a fighter. He was determined to continue at his school and live life normally. But in 1985, not many people knew the truth about AIDS. Not very much was known about AIDS at all. Most of the so-called facts that people claimed to know were speculation. So Ryan faced a lot of discrimination, mostly based on the unknown.

Ryan was soon expelled from his high school because of the supposed health risk from the situation. This became one of the most controversial cases in North America, with AIDS activists lobbying to have him reinstated while attempting to explain to the public that AIDS cannot be transmitted by casual contact.

After legal battles, Ryan and his mother settled with the school to have separate rest rooms and use disposable silverware from the cafeteria. He agreed to drink from separate water fountains and no longer used the high school gymnasium.

But those concessions didn’t stop much. Students vandalized his locker. Some restaurants threw his dishes away after he left. A bullet was even fired into the local headquarters in some areas. This strain is felt both in urban centers, where the epidemic continues to rage, and in smaller cities and rural areas, where the epidemic is expanding rapidly.

This reauthorization bill addresses those inequities and revalues funding formulas so that money for the program follows the epidemic. It keeps money for the AIDS Drug Assistance Program—known as ADAP—within funding formulas that even grants States flexibility to transfer funds to ADAP when they have demonstrated need. Currently, funds for the ADAP supplemental pool are frequently dipped into for other purposes, resulting in inadequate funding and waiting lists. It also protects States and eligible metropolitan areas from suffering catastrophic losses in funding.

I know that it is never easy to revise a bill that contains funding formulas. It is always easier to make a few new exceptions. But let us move beyond the narrow fight and work for the greater good.

We have been talking a lot about numbers and codes and case counts and reporting data, but we need to remember that these are actual human beings affected by this, real people who need our help. Hundreds of thousands of people continue to live affected with and die from this disease, and we need to bring out all the tools within the Federal arsenal to help fight for them.

As of December 31, 2005, the Utah Department of Health reported a total of 1,907 people living with HIV and AIDS
in the State of Utah. Many of these individuals rely on Title II funding from the Ryan White Program to receive health care, vital medications and support services.

These individuals are also counting on making their lives more accessible to care and services that have such a big impact on their survival and quality of life. We in Congress are being counted on to work together on behalf of the nearly 1 million people living with HIV/AIDS in our country.

The authorization period for the Ryan White Program expired in 2005. It is incredibly important that we reauthorize the program again now in order to continue providing the care that is so critical to these populations and alleviate strain from shifts in the epidemic felt by health care providers.

There are real people counting on us. We need to move forward in reauthorizing the only Federal program that helps the neediest of people living with this epidemic disease. This bill extends the availability of vital services, and it includes changes that intend to fix discrepancies that have resulted in Ryan White funds not following the epidemic.

This is a good bill and I urge my colleagues to support it.

Mr. ENZI. I am very distressed. I have had a lot of success on other bills we are trying to get through. People have not been willing to listen to reason and understand the urgency of a lot of the issues, particularly in the health area, but also in the education, labor, and pensions area.

As a committee, we work on these things across the aisle and across the building. As a result, we have had 12 bills signed by the President. Of those 12 bills, we have only spent about 2 hours total in the Senate debating them because we work across the aisle and across the building. We work on important issues. We solve the parts we can and we bring them here. This is one of those where we thought we had the parts solved that we could. There are a lot of moving parts to a lot of these things. We work to get as much consensus as we can, but occasionally we reach a sticking point like this.

I am really disappointed we have reached a sticking point like this where people are going to die. If, by tomorrow, we have not passed this bill and the case load gets longer than tomorrow, I am going to ask the leader to file cloture on this bill so we can see if five Senators can hold up a Senate bill.

If we leave tomorrow or the next day, it won’t ripen yet, but it can ripen as soon as we can get back. We can spend the time debating it, and those States that are losing money on September 30, while they will not be able to retrieve all the money they will lose, they will have some breathing room for the future.

I am desperate. I usually do not have to do that sort of thing. I am willing to do it on this bill. I am very distressed. Usually we are able to get agreement.

We went a long ways toward giving concessions to those States.

In all fairness, if you do not have the cases, you really should not have the money tomorrow, let alone 3 more years. We have tried to be reasonable. We have tried to help out States. We have run a bunch of formulas to make it as fair as we possibly could and to protect the States as much as we can, but it is time to be fair to the people with HIV/AIDS and to be fair to the families of people with HIV/AIDS.

I ask unanimous consent that a Washington Post article be printed in the RECORD.

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

[From the Washington Post, Sept. 28, 2006]


democrats argue over aids funding bill

(By Erica Werner)

WASHINGTON.—House members from rural areas and the South clashed with big-city lawmakers Thursday over who should get a bigger share of federal money to care for AIDS patients.


The HIV/AIDS epidemic is moving," countered Rep. Joe Barton, R-Texas. "This is a very fair compromise. It begins to treat all states on an equal footing.

The House was expected to vote on the bill later in the evening. A two-thirds vote was needed for passage.

Even if it passes the House, the bill faces uncertain prospects in the Senate before Congress recesses at the end of the week to campaign for re-election. Senators from New York, New Jersey and California are blocking it.

Supporters said the election-year updates were needed because of how AIDS has changed since the Ryan White law first passed in 1990. Once a big-city epidemic infecting mostly gay white men, the disease is now prevalent in the South and among minorities.

By some measures federal funding has not kept up, and states like California, New York and New Jersey get more money per patient than Alabama, Kentucky or North Carolina.

The Ryan White amendments, the first since 2000, make a number of changes aiming to spread money more equally around the country.

While current law only counts patients with full-blown AIDS, the revision also would count people with the HIV virus who have not developed AIDS.

That change would favor parts of the country where the disease is a newer phenomenon, which tend to be southern and rural areas.

New York state stands to lose $100 million over the five years of the bill. New Jersey would lose $70 million.

Alabama, by contrast, would get an increase from $11 million a year to about $18 million a year.

"The problem is that the population of those needing services has grown, but the funding for Ryan White programs has not grown with it," said Rep. Danny Davis, D-Ill.

"That means if we’re going to give to some people who are very deserving, we’re going to take from others who are very deserving.

California and some other states are worried about a change in the bill that mandates counting HIV patients by name instead of codes. Some states used code-based systems out of concern for patient privacy. California could lose an estimated $50 million in the last year of the bill if the name-based system would take effect, because it won’t be prepared to make the transition.

Mr. ENZI. I have a unanimous consent that has been agreed to by the majority and minority leader. I yield back all time on the Defense appropriations conference report.

MORNING BUSINESS

Mr. ENZI. Mr. President, I ask that 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.

TIME ALLOCATION

Mr. ENZI. I further ask that all time after 9 p.m. tonight be counted postclock, notwithstanding the adjournment of the Senate.

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

PRYOR NOMINATION TO PBS BOARD

Mr. PRYOR. Mr. President, I am very proud to say that my father has been nominated to a seat on the board of the Corporation for Public Broadcasting. I think he will do an excellent job. I think we will all be proud of his service there. However, because he is my father, I decided to recuse myself from that nomination and abstain from any votes. I don’t think it has all been worked out yet, but my anticipation is that it will not be done by rolloc call vote but by voice vote or some other type of vote.

I would like the record to show that I am abstaining from that vote and recusing myself from that nomination.

I thank the Chair.

Mr. WARNER. Mr. President, might I say that I was privileged not only to serve with the Senator’s father but consider him a good personal and professional working partner. He is an extraordinary individual and the citizens of this country are fortunate if his nomination is confirmed and he takes up that service.

Mr. LEVIN. Mr. President, I add my compliments and congratulations to the Senator dad. I feel so close to him that I am tempted to recuse myself, but I won’t do that. Instead, I will be very happy to vote for him whether it is a rolloc call or a voice vote.

Mr. LEAHY. Mr. President, I was privileged to serve with David Pryor. I am proud of him. I think it is going to be a wonderful opportunity for the board to have his services.
TRIBUTE TO SPECIAL AGENT JOHN BAILEY

Mr. REID. Mr. President, I rise to honor the life of Special Agent John Lawrence Bailey. More than 15 years ago, Special Agent Bailey gave his life in the line of duty. Today, in a fitting memorial, law enforcement agents throughout Nevada enter the Federal Bureau of Investigation building in Las Vegas that bears his name.

John Bailey was an American success story. Born in 1942, he attended the University of Pittsburgh on an athletic scholarship. Shortly after receiving his degree, he served in the United States Marine Corps. He would answer his nation's call by joining thousands of young men who went to Vietnam. There, John was awarded the Vietnam Campaign Medal, the Vietnam Service Award, and a Bronze Star. After Vietnam, John entered Quantico and began his distinguished career with the FBI.

While John had numerous work accomplishments, those who knew him best could say that he was most proud of his family. Although not a member of Federal law enforcement, but his family was always supportive. Joined by his wife Beth and their two daughters, Amanda and Megan, the Bailey's came to Nevada in 1974.

On the morning of June 25, 1990, Special Agent Bailey found himself in the middle of an armed robbery in a bank. Instead of standing by in fear, John confronted the robbers and drew his weapon. The robbers quickly turned and Special Agent Bailey fired. The bullet missed one suspect, but Agent Bailey was able to capture them and end the robbery. While securing the suspects, something distracted him. In that split second, a robber recovered his weapon and shot John. He died at the scene.

His heroism that day to save the lives of his fellow citizens was not out of the ordinary for those who knew John. As a 21-year veteran of the FBI, John was highly decorated agent. He was known throughout the Nevada law enforcement community for his efforts to break up organized crime in Las Vegas. His work even touched my life.

John Bailey was a good man and a friend. When I was the commissioner of Nevada, I worked with John to clean up the gambling industry. It wasn't an easy task because organized crime had deep roots in Las Vegas. Each day, I faced threats against my life and against my family. There were even attempts to bribe me. Special Agent Bailey made the arrests on the gangsters who were after me. I will never forget him.

For all these reasons, I was pleased that the FBI will name their building in Las Vegas after Special Agent Bailey. It is a fitting tribute for a fallen officer. Later this fall, the FBI will be moving to a new building in Las Vegas. It is important to the FBI—and to me personally—that the new building at 1787 West Lake Mead Boulevard continue to carry the name of Special Agent John Bailey. Soon, I look forward to touring this new ‘John Lawrence Bailey Memorial Building.'

I am pleased to have this opportunity to honor John before the Senate. With the dedication of the new FBI building, I am hopeful that future generations of law enforcement officers will be able to take a moment to reflect on the life and accomplishments of this distinguished officer.

NORTHEASTERN NEVADA HISTORICAL SOCIETY

Mr. REID. Mr. President, I rise to recognize the 50th anniversary of the Northeastern Nevada Historical Society. This important event is a testament to the hard work of many individuals across Nevada, and it is worthy of recognition today.

Since its founding in 1956, the Historical Society has grown from a membership of 8 to include over 2,000 members this year. Throughout this half-century, the Historical Society has dedicated itself to the preservation of Nevada's heritage. Its collection of documents, artifacts, and art has become a valuable resource for genealogists, historians, Nevadans, Nevada residents, and visitors.

Today, almost any member of the public has access to the extensive research materials of the Northeastern Nevada Historical Society. Legal documents, personal papers, newspapers, maps, oral histories, family histories, and municipal records combine with a library of more than 2,200 books and 33,000 photographs to enhance the collection.

In 1968, the Northeastern Nevada Historical Society founded a museum in Elko. The Northeastern Nevada Museum showcases the Society’s collections and permanent displays as well as special exhibits. The museum has prospered through the years, adding exhibition space to accommodate an increasingly large collection and growing popularity among patrons. It is a source of pride for the entire Elko community.

The Historical Society’s collections represent many different faces of Nevada. Exhibits on geology and natural resources display the history of Nevada. Another important exhibit is the treasure trove of artifacts from the Great Basin Indian tribes. History comes alive at the museum through representations of the Pony Express, mining camps, the California Trail, and the Basque and Chinese experience in the West. The museum’s collection extends into the 21st century to reflect the well-preserved wilderness and contemporary art that define Nevada today.

The Historical Society has also reached out to the residents of northern Nevada. They welcome school groups, sponsor speaker series and slide shows, and host local artists. At the same time, the Historical Society extends its reach beyond the local region by publishing a quarterly journal and attracting museum visitors from many different states and countries.

I can confidently say that the people of Nevada are grateful for the Historical Society’s dedicated effort to preserve the rich history of our State. I am proud to commend the Northeastern Nevada Historical Society and extend my congratulations on the Society’s 50th anniversary. I am confident that the next 50 years will be just as successful as the past 50 have been.

LOCAL LAW ENFORCEMENT ENHANCEMENT ACT OF 2005

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. Each Congress, Senator KENNEDY and I introduce hate
GLOBAL WARMING

Mr. INHOFE. This past Monday, I took to this floor for the eighth time to discuss global warming. My speech focused on the myths surrounding global warming and how our national news media has embraced itself with a 100-year documented legacy of coverage on what turned out to be trendy climate science theories.

Over the last century, the media has flip-flopped between global cooling and warming scares. At the turn of the 20th century, the media peddled an upcoming ice age—and they said the world was coming to an end. Then in the 1930s, the alarm was raised about disaster from global warming—and they said the world was coming to an end. Then in the 1970s an alarm for another ice age was raised—and they said the world was coming to an end. And now, today, we are back to fears of catastrophic global warming—and again they are saying the world is coming to an end.

Today I would like to share the fascinating events that have unfolded since my floor speech on Monday.

This morning, CNN ran a segment criticizing my speech on global warming and attempted to refute the scientific evidence I presented to counter climate fears.

First off, CNN reporter Miles O'Brien inaccurately claimed I was “too busy” to appear on his program this week to discuss my 50-minute floor speech on global warming. But they were told I simply was not available on Tuesday or Wednesday.

I did appear on another CNN program today—Thursday—which I hope everyone will watch. The segment airs tonight on CNN’s Headline News at 7 p.m. and repeats at 9 p.m. and midnight eastern.

Second, CNN’s O’Brien falsely claimed that I was all “alone on Capitol Hill” when it comes to questioning global warming.

Mr. O’Brien is obviously not aware that the U.S. Senate has overwhelmingly rejected Kyoto-style carbon caps when it voted down the McCain-Lieberman climate bill 40 to 28 last year—an even larger margin than its rejection in 2003.

Third, CNN’s O’Brien, claimed that my speech earlier contained errors regarding climate and Dr. Mitchell Taylor from the Arctic Government of Nunavut, a territory of Canada, said recently: “Of the 13 populations of polar bears in Canada, 11 are stable or increasing in number. They are not going to disappear even appear to be affected at present.”

CNN’s O’Brien also ignores the fact that in the Arctic, temperatures were warmer in the 1930s than today.

O’Brien also claimed that the “Hockey Stick” temperature graph was supported by most climate scientists despite the fact that the National Academy of Sciences and many independent experts have made it clear that the Hockey Stick’s claim that the 1990s was the hottest decade of the last 100 years was unsupportable.

So it seems my speech struck a nerve with the mainstream media. Their only response was to cherry-pick the science in a failure of logic.

It seems that it is business as usual for many of them. Sadly, it looks like my challenge to the media to be objective and balanced has fallen on deaf ears.

Despite the traditional media’s failed attempt to dismiss the science I presented to counter global warming alarmism, the American people bypassed the tired old traditional media by watching CSPAN or clicking on the Drudge Report and reading the speech online.

From the flood of overwhelming positive feedback I received, I can tell you the American people responded enthusiastically to my message.

The central theme was not only one of thanks, but expressing frustration with the major media outlets because they knew in their guts that what they have been hearing in the news was false and misleading.

Here is a brief sampling:

Janet of Saugus, MA: “Thank you Senator Inhofe. Finally someone with the guts to stand up and call what it is—a sham. I think you have taken over Toby Keith’s place as my favorite Oklahoman.”

Al of Clinton, CT: “It’s about time someone with a loud microphone spoke up on the global warming scam. You have courage—if only this message could get into the schools where kids are being brow-beaten with the fear message almost daily.”

Kevin of Jacksonville, FL, writes: “I am thrilled that there is a Senator who is willing to stand up against the onslaught of liberal media, Hollywood and the foolish elected officials on this topic. Please keep up the fight.”

Wendy of Phoenix, AZ, writes: “As a scientist, I am extremely pleased to see that there is at least one Member of Congress who recognizes the global warming hysteria for what it is. I am extremely impressed by the Senator’s summary and wish he was running for President.”

Craig of Grand Rapids, MI, writes: “As a meteorologist, I strongly agree with everyone you said.”

My speech ignited an Internet firestorm; so much so, that my speech became the subject of a heated media controversy in New Zealand. Halfway across the globe, a top official from the New Zealand Climate Science Coalition challenging New Zealand’s television station to balance what he termed doomscary time-lapse images and criticized them for failing to report the views of scientists in their own country that I cited here in America.

As the controversy in New Zealand shows, global warming hysteria has captured more than just the American media.

I do have to give credit to one publication here in America, Congressional Quarterly, or CQ for short. On Tuesday, CQ’s Toni Johnson took the issues I raised seriously and followed up with phone calls to scientist-turned global warming pop star James Hansen’s office. CQ wanted to ask Hansen about his partisan financial ties to the left-wing Heinz Foundation, whose money originated from the Heinz family ketchup fortune. But he was unavailable to respond to their questions, which is highly unusual for a man who finds his way into the media on an almost daily basis. Mr. Hansen is always available when he is peddling his increasingly dire predictions of climate doom.

The reaction to my speech keeps coming in: Just this morning, the Pittsburgh Tribune-Review wrote an editorial calling my speech “an unusual display of reason” on the Senate floor.

I have been engaged in this debate for several years and believe there is a growing backlash of Americans rejecting what they see as climate scare tactics. And as a result, global warming alarmists are becoming increasingly desperate.

Perhaps that explains why the very next day after I spoke on the floor, ABC News’s Bill Blakemore on “Good Morning America” prominently featured James Hansen touting future scary climate scenarios that could, might, possibly happen.
The segment used all the well-worn tactics from the alarmist guidebook—warning of heat waves, wildfires, droughts, melting glaciers, mass extinctions unless mankind put itself on a starvation energy diet and taxed emissions.

But that is no surprise—Blakemore was already on the record that there was no scientific debate about man-made catastrophic global warming. You have to be a pretty poor investigator to believe that. Why would 60 prominent scientists this last spring have written Canadian Prime Minister Harper that “if, back in the mid-1990s, we knew what we know today about climate, Kyoto would almost certainly not exist, because we would have concluded it was not necessary.”

I believe it is these kinds of stories which explain why the American public is growing increasingly skeptical of the hype. Despite the enormous 2006 media campaign to instill fear into the public, the number of the people who believe that weather naturally changes is increasing.

A Los Angeles Times/Bloomberg poll in August found that most Americans do not attribute the cause of recent severe weather to global warming, and the portion of Americans who believe that climate change is due to natural variability has increased over 50 percent in the last 5 years. And that, my fellow Senators, is why the Hollywood elitists and the rest of the liberal climate alarmists are starting to panic. I hope my other colleagues will join me on the floor and start speaking out to debunk hysteria surrounding global warming. This issue is too important to our generation and future generations to allow distortions and media hype. Despite the enormous 2006 media campaign to instill fear into the public, the number of the people who believe that weather naturally changes is increasing.

Mr. INHOFE. Mr. President, I would like to discuss the urgent need for this legislation. The Nation’s wastewater treatment works—POTWs—provide a vital service to our Nation. They ensure that municipal and industrial waste is cleaned to a level safe enough to be released back into the Nation’s waterways.

After the tragic events of September 11, 2001, much more focus was placed on the Nation’s wastewater treatment plants and their security needs. POTWs not only release treated wastewater back into the Nation’s water and wastewater facilities. POTWs are not using or will soon stop using chloramine: According to the GAO report, an overwhelming majority of treatment plants are in the process of completing a vulnerability assessment. Further, the majority of treatment works have made significant improvements to the physical security of their facility. They did so after careful review of their individual communities’ needs. Most importantly, they have done so out of concern for their citizens, not in response to a Federal mandate.

My colleagues will also turn this discussion not into one about security but one about chlorine. Chlorine is by far the most effective disinfectant available and it is the least expensive. During these times of aging systems, growing Federal regulations and limited resources, cost is an important consideration. Washington, DC’s treatment works, Blue Plains, spent $12.5 million to change technologies. San Jose, CA, spent $5 million to switch from gaseous chlorine to sodium hypochlorite. The city of Wilmington, DE, spent $160,000 to switch. However, there is much more to their story than that cost figure. Wilmington already had in place a sodium hypochlorite system that was serving as backup to its gaseous chlorine system. Further, Wilmington will spend hundreds of thousands of dollars more each year in operations and maintenance costs.

There are other considerations that must be factored in as well, such as downstream effects of local alternatives. For example, the switch from chlorine to chloramines in Washington, DC’s drinking water system was found to cause lead to leach out of service pipes and into the faucets of homes and businesses. Thus, decisions about chlorine must be fully evaluated and must be site-specific. Many POTWs are already undergoing these evaluations. After careful review of cost, technical feasibility and safety considerations, and without the presence of a Federal mandate, 116 of the 206 largest POTWs do not use gaseous chlorine: According to the GAO report, another 20 plan to switch to a technology other than chlorine. To sum, nearly two-thirds of the Nation’s largest POTWs are not using or will soon stop using chlorine. Those who continue to use chlorine have taken steps to ensure the chlorine is secure. My bill would provide POTWs which decide for themselves to switch treatment technologies with grant money to make the switch and continue to trust in local officials who know best their water, the community and their security needs.
Let me be clear. This is an important security bill and I regret that for the second Congress in a row my colleagues on the other side of the aisle are obstructing it. Members of the minority have criticized the chemical security legislation, at the heart of containing these facilities. This legislation has basically passed the House of Representatives twice. The minority party in the Senate is blocking this important security bill.

TRIBUTE TO CONGRESSMAN JOEL T. BROYHILL

Mr. WARNER. Mr. President, I rise today to pay tribute to an outstanding Virginian, and dear friend, the former 10th District Congressman, Joel T. Broyhill, who died this past weekend.

Congressman Broyhill was an outstanding public servant. He had a certain “joie de vivre” that one does not often find—his presence, his spirit would fill up a whole room. His sense of civic responsibility—both through his service in the U.S. Army and as the Representative to Congress from Virginia’s 10th District—was second to none. And his devotion to his three daughters, grandchildren, and great-grandchildren was unmatched; they were the joys of his life.

A native of Hopewell, VA, Congressman Broyhill was born on November 14, 1919. He attended Fork Union Military Academy and George Washington University.

In 1942, he enlisted in the Army. He served as an officer in the European Theater in the 106th Infantry Division and was taken prisoner in the Battle of the Bulge. After 6 months in German prison camps, he escaped and rejoined the advancing American forces. On November 1, 1945, after 4 years of service, Congressman Broyhill was released from active duty as a captain.

In 1959, at the age of 30, Broyhill was elected as a Republican from Virginia’s newly created 10th District to the 83rd Congress, by 322 votes. Congressman Broyhill was reelected 10 times, serving 21 years in Congress, until December 1974.

Congressman Broyhill’s prime source of political success was his dedication to constituent service. At the time of Congressman Broyhill’s tenure in Congress, the 10th District contained more Federals than any other district in the United States. In 1972, Congressman Broyhill estimated that he had aided more than 100,000 district residents during his 20-plus years in office.

According to the 1974 Almanac of American Politics:

[there are few congressional offices in which the demand for services is so high, given the number of Federal employees in Broyhill’s district; and there are few indeed that he could meet constituents’ needs and complaints with more efficiency.]

The 10th District of Virginia was shaped and forever changed by Congressman Broyhill’s initiatives in Congress. He laid the foundation for major transportation projects, including the construction of Interstate 66, the Metrorail System, the Woodrow Wilson Bridge, and Washington Dulles International Airport.

The Almanac also describes Congressman Broyhill as one who “should be credited with voting his conscience.”

Even after he left Congress, Congressman Broyhill continued serving constituents by maintaining an office to assist those with problems relating to the federal government. In fact, my Senate office would receive a call about once a month from the “Broyhill Office” asking us to follow up on a constituent inquiry.

In 1978, I was honored and proud to have my longtime friend come out of retirement to serve as General Chair of the current U.S. Senate campaign. It was great to see him back on the political stage in Virginia. Congressman Broyhill’s knowledge of the Commonwealth and of campaign strategy were invaluable to me as he introduced a very interesting partner to the political scene. Congressman Broyhill helped me to convince my wife at the time, Elizabeth Taylor, that being a candidate’s spouse was the best role she could play. Many times he accompanied Elizabeth to campaign events when I was unable to attend. He was an exemplary ambassador for my 1978 campaign.

Congressman Broyhill’s “house by the side of the road” in Arlington was never without signs during an election. As one of the first Republicans elected in Virginia, he was a trailblazer and he helped every Republican member of the Virginia congressional delegation—including its two current U.S. Senators—survive.

Congressman Broyhill was instrumental in building his father’s real estate business, M.T. Broyhill & Sons. The company was started in Hopewell, VA, and had been a fixture in the business, southern Virginia when Congressman Broyhill was growing up. Congressman Broyhill and his wife Suzy were stalwarts of charitable giving and have given both their time and resources to many organizations across the Commonwealth, and notably, to the Wolf Trap Foundation for the Performing Arts.

It is with a great sense of humility that we offer our condolences to the family of our dear friend and dedicated public servant, Congressman Joel T. Broyhill. We offer our condolences to his three daughters, Nancy, Jeanne and Jane Anne, his stepdaughter, Kimi, and his wife, five generations to this day: four grandchildren: Meredith, Maureen, Lindsay, and Kathleen, and three great-grandchildren: Molly, Jack, and Kara.

THAILAND

Mr. FEINGOLD. Mr. President, I remain deeply troubled by the military coup that occurred in Thailand on September 19. The forceful removal of Thai Prime Minister Thaksin Shinawatra was an assault on the democratic institutions of that country and is a dangerous development for a key ally in an increasingly important relationship. Almost 2 weeks after the coup, it is apparent that the coup leaders had only a tentative plan for transitioning back to democratic rule and that their rhetoric about restoring democracy to Thailand may not be as serious as had hoped. As the military junta funbles through its next steps, it is critical that the United States show strong leadership in helping this critical ally reestablish a civilian democratic government and that it do so immediately.

Mr. President, this coup is particularly troubling because it is a step backward from almost a decade of relatively positive democratic developments. During Thailand’s last coup in February 1991, the military overthrew Prime Minister Chatichai Choonhavan and a bloody power transfer followed, culminating in what Thais call “Black May.” Those events kicked off a national dialogue that resulted in the establishment of a new constitution in 1997 that restored a civilian democratic institutions, ultimately ushering in democratic elections in 2001 and 2005. Thaksin’s party, Thai Rak Thai—“Thais love Thai”—won both of those elections in landslide victories.

This recent coup rolls back these developments. There is no doubt that Thailand was suffering from extreme political divisiveness during Thaksin’s tenure. When I met with him in Bangkok earlier this year, he was in the throes of a political battle against a growing opposition movement. He was also under fire for mishandling the insurgency in Thailand’s three southernmost provinces in which 1,700 people have been killed since January 2004. It was evident that his ability to effectively manage the Thai Government had been diminished.

But this hardly provides justification for a military junta to overthrow a popularly elected government and to discard the nation’s constitution. This new military junta, led by General Sonthi Boonyaratglin, and awkwardly self-titled the “Council for Democratic Reform Under Constitutional Monarchy“, is deeply troubling.

This coup is a significant setback for Thailand’s democracy. While the coup occurred in a matter of hours, it may take years before a new civilian and democratic government restores full authority and legitimacy in Bangkok. Unfortunately, this new military council has banned political gatherings and has put some restrictions on the media. It has disseminated a wide range of other decrees and rules, many of which have troubling consequences for freedom of expression and the democratic process. Given these early signs, we have no reason to believe that this council will be any different in nature.
than previous military junta. Additionally, this coup could have negative consequences for Thailand’s simmering human rights problems and the insurgency in the south. The coup leaders have already stated that they will focus on quelling a separatist insurgency throughout the region that are dealing with legacies of military coups. Secretary Rice has dismissed the notion that this could have a contagion effect throughout the region. While I hope this is true, we should not ignore the fact that a number of countries in Southeast Asia are still dealing with the legacies of military dictatorships. Indonesia is recovering from years of dictatorial military rule, and the Republic of the Philippines is still working to strengthen its democratic institutions and repair its recent history of military intervention. The coup is also, significantly, having a direct impact on Thailand’s ability to serve as a bridge between Burma and the rest of the world.

Finally, it will have an impact on U.S. interests in the region. Thailand is a critical strategic partner of the United States, and some may be tempted to question the ability of the United States to ensure the military council to schedule nationwide elections immediately. Geno must signal that it will not accept this coup a free pass. Instead, we must speak out about this coup in strong terms and press freedoms must be established.

Mr. President, I close by reiterating the concern I laid out at the beginning of this statement. The military’s end-run of the country’s democratic institutions will undermine Thailand’s important role throughout the region and the world and will therefore harm our own country’s national security interests in the region. Thailand is a critical partner in the region and in the broader fight against terrorist networks. We need a strong, democratic Thailand to serve as our partner. We can’t do this if this new military dictatorship derails a democratic government. The United States and international community must urge the Thai military to take the necessary actions to restore Thailand’s democracy.

NUCLEAR MEDICINE WEEK

Mr. WARNER. Mr. President, I rise again this year to remind my colleagues that October 1 to 7 is Nuclear Medicine Week. Nuclear Medicine Week is the first week in October every year and is an annual celebration initiated by the Society of Nuclear Medicine. Each year, Nuclear Medicine Week is celebrated internationally at hospitals, clinics, imaging centers, educational institutions, corporations, and more.

I am particularly proud to note that the Society of Nuclear Medicine is headquartered in Reston, VA. The Society of Nuclear Medicine is an international scientific and professional organization of more than 16,000 members dedicated to promoting the science, technology, and practical applications of nuclear medicine. I commend the Society staff and its professional members for their outstanding work in the field of nuclear medicine and for their dedication in caring for people with cancer and other serious and life-threatening illnesses.

Some of the more frequently performed nuclear medicine procedures include bone scans to examine orthopedic injuries, fractures, tumors or unexplained bone pain; heart scans to identify normal or abnormal blood flow to the heart muscle, to measure heart function or to determine the existence or extent of damage to the heart muscle after a heart attack; breast scans that are used in conjunction with mammograms to detect and locate cancerous tissue in the breasts; liver and gallbladder scans to evaluate liver and gallbladder function; cancer imaging to detect tumors; treatment of thyroid diseases and certain types of cancer; brain imaging to investigate problems within the brain itself or in blood circulation to the brain; and renal imaging in children to examine kidney function.

I thank all of those who serve in this very important medical field and join in celebrating Nuclear Medicine Week during the first week of October.

TRIBUTE TO PARK B. SMITH

Mr. LEAHY. Mr. President, I would like to recognize the exceptional generosity and work of Park B. Smith and his wife, Linda Johnson Smith.

Park and I met through our mutual involvement in The Marine Corps—Law Enforcement Foundation, an organization that believes in and supports the potential of our youth. They provide scholarship bonds for children of active-duty Marines and Federal law enforcement personnel who have lost their lives in the line of duty. Park has become a good friend and someone whom I admire.

Park, an alumnus of the College of the Holy Cross, and Linda have a strong belief in the value of education and have exemplified this dedication. Through their generosity, the College of the Holy Cross has been able to continue to grow and build its community. It is for this reason that I would like to ask unanimous consent to have an article from Park and Linda Smith from The Wall Street Journal printed in the RECORD.

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

(GIVING BACK—DONOR TO TURN WINE INTO BREAD)

(By Kolly Crow)

Park B. Smith has written his share of million-dollar checks to benefit his alma mater. Now, he has decided to donate by turning over part of his prized wine collection to a major auctioneer.
On Nov. 18, Sotheby’s in New York will auction the equivalent of 14,000 bottles from Mr. Smith’s private collection—including 50 cases of coveted 1982 Mouton Rothschild—in a sale estimated to bring in up to $10 million. His proceeds will go to build new athletic facilities at the College of the Holy Cross in Worcester, Mass. He’s also planning a $250,000 contribution to his alma mater, the Whitaker Center for Science and the Arts.

Mr. Smith, known in the home-furnishings industry for his namesake line of draperies and bedspreads, says he hopes to capitalize on the marketing muscle of Sotheby’s to raise money for Holy Cross but I’m also making more room,” he says.

Also included in the legislation are provisions aimed at encouraging workers to make contributions to retirement savings plans, including allowing companies to automatically enroll employees and to deferral percentages and so avoid penalties for failure of the trifecta bill, though a cynosure of chronic underfunding of pension plans.

The legislation as passed by the House and Senate, and now signed by the President, would require companies to fund 100 percent of their plan liabilities, up from 90 percent under current law. The legislative planning for 20 years in the Senate, and now signed by the President, would require companies to fund 100 percent of their plan liabilities, up from 90 percent under current law. The legislation provides specific relief for financially troubled airlines, giving up to 17 years to fully fund their plans. Some airlines were given more relief than others, so there may be an effort to pass a technical corrections bill to address this issue.

Also included in the legislation are provisions aimed at encouraging workers to make contributions to retirement savings plans, including allowing companies to automatically enroll employees and to deferral percentages. The legislation provides specific relief for financially troubled airlines, giving up to 17 years to fully fund their plans. Some airlines were given more relief than others, so there may be an effort to pass a technical corrections bill to address this issue.

Further, the bill includes tax incentives for charitable giving. Many of these incentives were in the CARE Act which I have sponsored in this as well as previous congresses.

TRIBUTE TO JUDGEE MORGAN WILLIAMS

Mr. ALLEN. Mr. President, I rise today to speak about a wonderful gentleman and a respected judge who has served our country with distinction and also helped start my legal career, which has ultimately led to where I stand today: Judge Glen Morgan Williams.

Mr. LIEBERMAN. Mr. President, in early August, I was unable to be in Washington for the cloture vote on the so-called trifecta bill, which so insistently holds hostage the necessary increase in the minimum wage and necessary extensions of tax credits important to American families and business to an excessive and unjustifiable reduction in the estate tax paid by the wealthiest sliver of the population—"a cynical ploy to attract votes for the estate tax rollback.

In my statement, I noted that the failure of the trifecta bill, though a victory for fiscal sanity, was no cause for rejoicing. An inappropriately low national minimum wage has been a big part of the problem of working-family poverty in America. In the State of Connecticut where the State minimum wage is higher, since a low national minimum wage creates pressure for companies to move Connecticut jobs to low wage States. The difference is almost 10 years. We need to act this year to pass a minimum wage increase—without trying it to an excessive cut in the estate tax. It is also essential that we pass the tax ‘‘extenders’’ which will encourage more hiring, and also help start my legal career, which has ultimately led to where I stand today: Judge Glen Morgan Williams.

Mr. ALLEN. Mr. President, I rise today to speak about a wonderful gentleman and a respected judge who has served our country with distinction and also helped start my legal career, which has ultimately led to where I stand today: Judge Glen Morgan Williams.

As a newly minted graduate fresh out of the University of Virginia Law School, I had the honor of serving as a clerk to Judges Williams, an experience that had a profound affect on me. I was privileged to see first hand how Judge Williams’ legal knowledge and fairness as a judge on the U.S. District Court for the Western District of Virginia—has served the people of Virginia and America. I also had the unique privilege of hearing his stories of life, his commonsense wisdom and special humor that have served as a wonderful testament to the life he led.

Prior to serving as a Federal judge, Glen Williams served with distinction in the U.S. Navy during World War II.
 Judge Williams served as a minesweeper in the Atlantic, Pacific and Mediterranean theaters and was decorated for his service with the Commander's Citation. Judge Williams participated in the invasion of Southern France and thereafter commanded the USS Seer on the Pacific until 1946.

Upon returning from the war, Judge Williams entered private law practice where he quickly became one of the leading trial lawyers in Virginia and one of the Nation's leading experts on Social Security. He testified before Congress on Social Security reform.

Judge Williams began his tenure on the U.S. District Court for the Western District of Virginia, serving as a magistrate from 1963 to 1975.

On September 8, 1976, Judge Williams was nominated by President Gerald R. Ford to serve as a judge on that distinguished court and ultimately won Senate confirmation on September 17, 1976.

During his tenure on the bench, Judge Williams has been instrumental in establishing the Big Stone Gap division of the court and the opening of the clerk's office down there in the far southwest part of Virginia.

During the many years of service on the bench, Judge Williams has written more than 300 published opinions in every area of Federal law. Judge Williams' opinions have been particularly influential in the coal mining industry weighing the rights of coal miners, operators and landowners and interpreting the constitutionality of the Surface Mining Control and Reclamation Act.

Judge Williams' 30 years of service have been instrumental in shaping jurisprudence in the Western District of Virginia and has been an admired, outstanding and loved mentor for scores of Virginia lawyers who have had the privilege of learning from his experience. Former clerks also include a member of the Virginia Supreme Court and many of the best lawyers in Virginia and throughout the country.

I have the ability to speak today about this magnificent gentleman, lawyer and judge who has been so positively influential in my life and career. On behalf of all his clerks and staff throughout the years, I thank Judge Williams for his 30 years of exemplary service to our country on the Federal bench.

Moreover, I thank God for sending into our world and my life a character of a man with truly unmatched wit and wisdom, the truly honorable Glen M. Williams of Lee County, VA.

Mr. WARNER. Mr. President, it is my privilege today to speak in honor of a longtime servant to the Federal judiciary, the Honorable Glen Morgan Williams, U.S. District Judge for the Western District of Virginia.

I have been in the Senate now for 28 years. During that time, I have participated in the Senate's advice and consent process more than 2,000 times with respect to Federal judges. In fact, of all active Federal judges on the district court bench in Virginia, I have had the distinct privilege of voting for every single one.

There are two judges whose chambers exist in my mind's eye whose service predates mine: Judge H. Emory Widener, Jr., and Judge Glen Morgan Williams. Judge Widener was confirmed to the district court in 1969, and then to the U.S. Court of Appeals for the Fourth Circuit in 1972. Judge Williams received his first judicial appointment, that of Magistrate Judge for the U.S. District Court for the Western District of Virginia, in 1963. Following 12 years as a magistrate, Judge Williams was nominated to be a district court judge by President Gerald R. Ford in 1976, and he was confirmed for this position by the Senate on September 17, 1976. Both judges are distinguished fixtures in the Virginia legal community, adored and respected by all who are fortunate enough to have known them.

Because this year marks the thirtieth year that Judge Williams has served as a Federal district judge in the Western District, I join with my colleague from Virginia, Senator Очень Williams, in commending this exceptional jurist for his efforts.

As a young man, Glen Williams answered his Nation's call to duty in World War II. Earning a commander's citation, Mr. Williams served with distinction from 1942 to 1946. Remarkably, his experience included the Atlantic, Pacific, and Mediterranean theaters and the Allies' invasion of southern France.

Mr. Williams and I followed similar paths to our respective careers after our naval tours in World War II: like me, he also received his training in law from the University of Virginia. Starting out as a sole practitioner after law school, Mr. Williams began his career in public service as a Commonwealth's Attorney, followed by a term in the Virginia State Senate. During his career in private practice, he established himself as a leading expert on Social Security law, and Mr. Williams' testimony on this subject was sought by the Congress.

During his career on the bench, Judge Williams has produced more than 300 published opinions on a number of matters of great importance for the Commonwealth and the Commonwealth of Virginia. In fact, the U.S. Supreme Court cited Judge Williams' opinions with respect to the funding of health care for beneficiaries of the United Mine Workers Health and Retirement Funds in its interpretation of the Coal Act.

While Judge Williams assumed senior status in the Western District in 1998, he remains active in both the Abingdon and Big Stone Gap divisions through the present day. In particular, he is to be commended for his diligence in reestablishing the Big Stone Gap division and for the reopening of both the clerk's office and the courthouse in this division.

Judge Williams remains an asset for our Federal judicial system, for his knowledge and insight as well as for his leadership and mentorship of judicial law clerks whom he has had the opportunity to work with, including Senator Allen. In honor of his 30 years of service to our Federal judiciary as a Federal district court judge, I simply say to Judge Glen Williams, "Well done." I say to Judge Williams, "Well done."

I have the opportunity today to speak in honor of this magnificent man, my colleague, Judge Glen Williams.

Mr. WYDEN. Today I honor Carole Gruberg for her years of service to me and to the Senate. Carole is retiring after serving as my legislative director for more than 10 years. In total, she has 16 years of Senate service along with more than a decade in the House. The many months she spent with this opportunity to talk about Carole and how much I appreciate everything she has done for the Nation, the State of Oregon, and me.

When it comes to legislative directorship, Carole has truly the gold standard. Her skills and ability to get things done were unsurpassed. She was a master at designing strategies to take a concept, develop it into legislation, and guide it through Congress to become law. And she pursued each of these efforts with passion and commitment until the legislation made it into the statute books.

Known by many as one of this Nation's top ranked squash players, Carole brought that same competitive passion to the Senate's competitive marketplace of ideas and legislation. Keeping the Internet free of discriminatory taxes, recognizing electronic signatures as legally valid, protecting Oregon's vote by mail, retraining service workers displaced by trade, and our ongoing effort to end secret holds are just a few examples of initiatives Carole made into her personal quests.

Carole also brought out the best in our entire legislative team, using an approach that was part den mother and part drill sergeant. She proudly described our legislative staff as the best on Capitol Hill and pushed them to meet that standard every day. But the same big, competitive heart that made Carole expect the best from herself and her staff also filled her with enormous compassion and a burning desire for justice.

Carole always viewed the entire Wyden staff, from the most senior to the newest intern, as part of one team—Team Wyden. And she successfully marshaled all our staff in efforts ranging from shutting down Admiral...
Poinsett's Total Information Awareness Program, which basically would have involved holding every American upside down and shaking them to see if anything bad fell out, to crafting my fair flat tax bill to simplify and reform the Tax Code.

Carole’s team-building efforts extended well beyond the office. She organized and served as captain for a Wyden Team that ran the 195-mile relay race from Mt. Hood to the Oregon coast. As Carole saw it, there is no better way to build camaraderie than to have a bunch of sweaty runners crammed into a van together for 20 hours.

For someone who is used to spending her spare time running marathons and winning national championship squash tournaments, I don’t see Carole’s retirement as a glissade to the rocking chair. She has got too much energy and too much passion to sit on the sidelines for long. I know that she and her longtime fellow Senate veteran—Kate Cudlipp, will be making certain that her skills and energy are put to good use. And in whatever she chooses to do, I know she will continue to shine.

Again I can’t thank Carole enough for all she has done for me, my staff, the State of Oregon, and the Nation. She will always be my dear friend and a member of our Team Wyden family. I wish her all the best for the next chapter of her life.

TRIBUTE TO CHARLIE BATTERY

Mr. THUNE. Mr. President, today I rise to thank Charlie Battery, 1st Battalion, 147th Field Artillery, and congratulate and welcome them home after a year spent proudly serving their country in Iraq. Charlie Battery, based in Yankton, SD, has certainly earned this homecoming and the gratitude of our state.

These brave soldiers have been away from their loved ones for over a year, and they have accomplished an enormous amount in that time. Charlie Battery served commendably in some of the most dangerous areas of Iraq. They performed transition team missions with Iraqi police and conducted joint patrols that included route security, reconnaissance, rescue and recovery, and personal security detachment missions all over Baghdad.

The soldiers of Charlie Battery were not immune to the violence that has plagued Iraq. On this day of celebration and reunion, let us remember those who were wounded and those who made the ultimate sacrifice protecting and serving our Nation, as well as the family members and friends they left behind. Those who gave their lives in Iraq include SSG Greg Wagner, SFC Richard Schild, SSG Daniel Cuka and SGT Allen Koke, Jr., etc.

But let us also remember that these sacrifices were not in vain. Charlie Battery, 1st Battalion, 147th Field Artillery, trained more than 1,000 Iraqi police and created stability in the southern and eastern districts of Baghdad. Charlie Battery’s efforts enabled a district in the center of Baghdad to become the first to transition responsibility of security to Iraqi police. While the mission is not over, Charlie Battery has done the Iraqi and the American people a great service by their accomplishments, and they have made their country proud. I thank them, I applaud their courage, and I welcome them home.

COSPONSORS OF S. 3709

Mr. LUGAR. Mr. President, on July 24 the majority leader placed in the Record a list of the Senators who had sought to be cosponsors of S. 3709, the United States-India Peaceful Atomic Energy Cooperation Act.

Mr. President, I ask unanimous consent that an updated list of those who wish to be listed as cosponsors be printed in the Record.

There being no objection, the list was ordered to be printed in the Record, as follows:

LUGAR, BIDEN, HAGEL, CHAFEE, ALLEN, COLEMAN, VINOVICH, ALEXANDER, SUNUNU, MURPHY, MARTINEZ, DODD, KERRY, NELSON (FL), OBAMA, CORDES, BAYE, HUTCHISON, and DEWINE.

ADDITIONAL STATEMENTS

TRUANCY COURT PROJECT

Mr. THUNE. Mr. President, today I recognize the students who participated in the Truancy Court Project for the Pennington County Juvenile Diversion Program.

The students who participated are Emanuel Martindel Campo, Christopher Eagle Bull, Randolph Two Bulls, Alan Shalberg, Corey Johnson, Alla Moon, Brian Dooley, Jennifer Martell, Adam Erickson, Eldon Leenknecht, Adam Erickson, Eldon Jennesse, Corey Johnson, and Lalita Isabel.

These students successfully participated in the Truancy Court Project and deserve the special recognition they are receiving today. After starting off the school year with a rocky beginning, each individual student took it upon themselves to volunteer for this project and to excel at it. Each of them has improved attendance, improved their relationships with their teachers, and most importantly learned the value of education.

It gives me great pleasure to rise with the citizens of Rapid City and Ellsworth in congratulating the Truancy Court Project students for their successful participation in the program.

TRIBUTE TO JAMES T. CASSIDY, MD

Mr. THUNE. Mr. President, today I wish to honor and recognize the immeasurable contributions T. Cassidy has made to pediatric medicine in Missouri and across the United States.

Born in 1930 in Oil City, PA, Dr. Cassidy received his both undergraduate and medical education at the University of Michigan. He completed 2 years of active duty in the U.S. Navy and 7 years in the Naval Reserve. He returned to the University of Michigan to complete his residency in internal medicine and a rheumatology fellowship in the Rackham Arthritis Research Unit under the mentorship of Dr. Roseman and Dr. Johnson. He went on to the faculty in 1963 and worked his way up the ranks becoming professor of internal medicine and pediatrics in 1974. In 1984, he was recruited as professor and chair of pediatrics at Creighton University School of Medicine in Omaha, NE. Four years later he came to the University of Missouri-Columbia as a professor in the Department of Child Health and Internal Medicine and chief of pediatric rheumatology. He became emeritus professor in 1996 and continued to staff his arthritis clinics until this year. In 1991, Dr. Cassidy published with Ross Petty, M.D., the first “Textbook of Pediatric Rheumatology,” a textbook now in its fifth edition which remains the foremost authority in the field both nationally and internationally. He has received many awards, including ACR Merit and the ACR Distinguished Clinical Scholar Award from the American College of Rheumatology.

I am particularly proud of his work in Missouri. As a professor in the Department of Child Health and Internal Medicine at the University of Missouri-Columbia, Dr. Cassidy has inspired cutting-edge research and shared his limitless expertise in pediatric...
Dr. Cassidy has done more than just teach, write, and research. Through his efforts, the Missouri Department of Health established the Juvenile Arthritis Care Coordination Program in 1993 to help families obtain family-centered, community-based, coordinated care for children diagnosed with juvenile arthritis. His efforts did not stop there.

Realizing that there were children in Southern Missouri who were too poor or too sick to come to Columbia to receive treatment, Dr. Cassidy and his wife Nan would get in their car every other week and drive to a small clinic in Springfield, MO, and see as many as 25 young children suffering from juvenile arthritis. It didn’t matter that they couldn’t pay, Dr. Cassidy insisted on finding a way to get the children the treatments they needed. As one doctor said, “Dr. Cassidy will go to any length to help a child.”

Dr. Cassidy’s support extended to his patients’ families as well. “He is an incredibly compassionate physician,” said one mother, “who ensures that each family understands how juvenile arthritis affects their child and what parents can do to help their child lead normal and healthy lives.” Dr. Cassidy was instrumental in building a community of support across Missouri and the United States for families living with juvenile arthritis. In 1980, it was through the encouragement and support of the parents of one of his patients and two other mothers from other states formed the American Juvenile Arthritis Organization, AJAJO, which eventually became a council of the Arthritis Foundation.

Dr. Cassidy was instrumental in organizing the first juvenile arthritis educational conference for parents, children, and health professionals held in 1983 which became an annual national conference. He felt education for families dealing with arthritis was critical to their care and helped coordinate many Missouri regional conferences in St. Joseph, Kansas City, St. Louis, and Columbia.

Perhaps the best measure of Dr. Cassidy’s legacy as a doctor comes from the praise and admiration of his patients. Twelve years ago, Dr. Cassidy began treating two young sisters who had arthritis. Throughout the years he persisted and supported them, to their chagrin, to wear braces and take their medicine. Recently, Dr. Cassidy received a letter from the girls. They are starting college as healthy, happy, young women—a circumstance virtually unthinkable when Dr. Cassidy began his career. They lived with arthritis and were told their lives would be shortened and they would never be able to support themselves.

Dr. Cassidy has led an extraordinary life in which he has practiced, researched, and guided aspiring doctors for almost 50 years. He has improved the understanding and awareness of pediatric rheumatology and changed the lives of thousands of children. On behalf of the children and families in Missouri and across the country, is my pleasure and honor to commemorate the distinguished career of Dr. Cassidy, a true pioneer in the field of pediatric rheumatology.

**HONORING CHARITIES FOR THE BLIND**

- **MRS. BOXER:** Mr. President, today I ask my colleagues to join me in recognizing Charities for the Blind, a nonprofit organization in southern California. This organization continues to make a positive impact on the lives of individuals who are blind or visually impaired.

Charities for the Blind was created by Craig Schneider in 2000 after he suffered a complete loss of his vision. Craig Schneider is a general building contractor who became blind after complications from radiation treatments and exposure to radon gas. He found it difficult to adapt to a visually impaired lifestyle. He took computer courses with the assistance of computer adaptive technology but found it difficult and frustrating. Other students were similarly frustrated, and when some began to drop out of classes, he knew that he was not alone. After seeking assistance from State rehabilitation authorities and blind charities, Craig Schneider recognized that there is an important need among the visually impaired that needed to be met.

According to the National Federation of the Blind, 70 percent of individuals who live with blindness or a visual impairment are unemployed. This overwhelming number of individuals have the potential to live highly productive and gain meaningful employment. Charities for the Blind recognizes this need and works to assist individuals with blindness and visual impairment, providing them with tools they need to overcome their disability.

In addition to providing training, course work, and computer adaptive equipment to the visually impaired and blind, Charities for the Blind also employs blind individuals directly. Craig Schneider has five employees who work with him who are also blind, who help make Charities for the Blind possible. Charities for the Blind also uses technology from his private business, which allows him to pay for computers and equipment, employees, and technicians, and travel to and from people’s homes to help train them in the use of adaptive equipment.

In its first year, Charities for the Blind gave away 12 computers. Today, the organization provides roughly 30 computers each month, with a short yet successful history of meeting needs in the blind and visually impaired community for individuals between the ages of 10 and 96. Those who have received counseling and equipment from Charities for the Blind have gained new levels of independence, becoming more blind and visually impaired individuals are being empowered and employed each day.

Today I salute the dedication and service of Charities for the Blind. This organization has recognized a tremendous need and works daily to help empower our Nation’s blind and visually impaired. I applaud the work and commitment Charities for the Blind has made in bettering the lives of many.

**TREIBENT OF EDGAR WAYBURN**

- **MRS. BOXER:** Mr. President, it is with great pleasure that today I ask my colleagues to join me in saluting the incomparable Dr. Edgar Wayburn on his 100th birthday. To Californians and others across the United States, Ed Wayburn is a living legacy and an environmental hero.

Ed Wayburn was born on September 17, 1906, in Dr. Macou, GA. He attended Harvard Medical School and moved to San Francisco in 1933 to start his medical practice. He found northern California’s natural beauty intoxicating and refers to the Sierra Nevada and Yosemite National Park as his “first wilderness love.”

Within 6 years of moving to California, Ed joined the Sierra Club. And over the next 50 years, his love and passion for nature and conservation grew. He served five terms as the Sierra Club’s elected president.

Ed shared this love of nature with his wife Peggy Wayburn. Together they traveled throughout Alaska and fought to protect natural areas in California and the West for over 50 years.

More than 100 million acres of natural beauty throughout California and Alaska have been protected today thanks to Ed’s hard work, including northern California’s Golden Gate National Recreation Area and Point Reyes National Seashore and Alaska’s Denali and Glacier Bay National Parks.

Dr. Wayburn is credited with saving more wilderness than any other person and for a day.

I always say that one of my proudest honors is the Edgar Wayburn Award presented to me by the Sierra Club. It is a frequent reminder of the work Ed and I have done together. It is also a reminder of the important work which still remains to protect and preserve our natural surroundings.

Without Ed’s efforts over the past decades, I would not want to imagine what the American landscape would look like today. Ed’s leadership and perseverance have ensured the preservation of precious open space and wild areas for generations to come. His work will continue to be an inspiration.
to countless environmental advocates and others working to effect change. His work is certainly an inspiration to me.

I extend my most heartfelt wishes to Ed Wayburn for a very happy 100th birthday. Thank you, Ed, for all you have done for the protection of our natural environment.

TRIBUTE TO NATIONAL WEATHER SERVICE

• Mr. BAUCUS. Mr. President, I wish to commend the National Weather Service and the Billings, MT office.

This year Billings, MT, hosted the 13th national signature event commemorating the Bicentennial of the Lewis and Clark Corps of Discovery Exploration. The event at Pompeys Pillar was one of the most successful signature events in the country, and I was proud to participate in the opening ceremonies.

A great deal of preparation and partnership went into the planning surrounding those 4 days in July and the thousands of visitors expected to attend. Federal agencies stepped up to the table, Federal partnerships were key to this success. Specific concerns centered on area wildfires already burning that had been started by lightning strikes from afternoon and evening storms. The National Weather Service took on major responsibility for these weather-related public safety issues.

On Saturday, July 22 and Sunday, July 23, late afternoon storms accompanied by upwards of 60-mph winds necessitated rapid evacuations of the public events at Pompeys Pillar. Efficient communication and clear direction from the National Weather Service, in coordination with the Bureau of Land Management, provided safe passage out of Pompeys Pillar in a swift and orderly fashion for the remaining public visitors, volunteers, and employees on those days.

It is apparent that the storm’s effect and damage could have easily become a larger story attributed to the Pompeys Pillar public visitors, volunteers, and employees on those days.

Her quick thinking saved the lives of numerous convoy members. When the conflict ended, 27 insurgents were dead, 6 were wounded, and 1 was captured.

Sgt Leigh Ann Hester was the first woman to receive the USO ‘Service Member of the Year’ Award and the first woman in over 60 years to receive the Silver Star—the Army’s third highest award for valor in combat. Sgt Hester intends to continue to serve our country by beginning a career in law enforcement.

On behalf of the people of Kentucky and the Senate, I thank Sgt Leigh Ann Hester for her commitment to her country. I commend her fellow soldiers. It is my honor to recognize her today for her bravery and her accomplishments. My thoughts and prayers are always with her and all the men and women who protect this Nation.

RECOGNIZING SOUTH CAROLINA ORGANIZATIONS

• Mr. GRAHAM. Mr. President, today I wish to call attention to the good work of the Columbia, SC, Urban League and the Department of Veterans Affairs, VA.

On September 11, 2006, the Columbia Urban League and the VA cohosted a training seminar for church leaders in South Carolina to help address the growing population of troubled military veterans returning from combat zones. This Veterans Ministry Workshop was led by a panel of 10 physicians from the Dorn VA Medical Center in Columbia. Panelists examined the various psychological challenges that face veterans returning from conflict. The panelists discussed methods for dealing with veterans’ children and spouses while offering practical tips for church members to follow. Around 100 church leaders attended the event.

I salute the VA, the Columbia Urban League, and in particular its president, Mr. James T. McLawhorn, for their initiative in organizing the Veterans Ministry Workshop. It was Mr. McLawhorn, a member of the VA Advisory Committee on Minority Affairs, who originally proposed the idea in response to studies reported in the Journal of the American Medical Association. JAMA. Without his leadership and the cooperation of VA officials on the ground in South Carolina, the Veterans Ministry Workshop may have never happened. I am confident that the workshop will have a tremendous impact on the veteran community in South Carolina, and I hope that the Columbia Urban League and VA will build on its success.

WHITE LAKE SCHOOL DISTRICT

• Mr. JOHNSON. Mr. President, it is with great pleasure that today I publicly honor and congratulate White Lake School District on achieving blue ribbon status under Title I of the No Child Left Behind Act. The prestigious blue ribbon designation is based on strong test scores and a myriad of other successes.

The White Lake School District is among only 250 entities to be recognized nationwide so far this year. For public schools like White Lake to qualify for blue ribbon status, they must meet State testing levels or have a student body comprised of a high percentage of economically disadvantaged students, yet demonstrate improvement. Achieving this goal is a wonderful accomplishment, and White Lake schools ought to be applauded.

This is not the first time White Lake schools have been honored. In both the 2003-2004 and 2004-2005 school years, the district was named a Distinguished District, due to high scores on the DakotaSTEP achievement test. The U.S. Department of Education has also named White Lake as a Title I Distinguished School. In order to apply to be a blue ribbon school, the White Lake School District submitted a 27-page application outlining its strategies and techniques for learning success.

Mr. President, I am proud to have this opportunity to honor White Lake School District. It is a privilege for me to share with my colleagues the exemplary leadership and tireless commitment to education that White Lake School District provides to its students. I strongly commend the hard work and dedication that the faculty, administrators, and staff devote to White Lake schools, and I am very pleased that their hard work and the students’ substantial efforts are being publicly honored and celebrated. On behalf of all South Dakotans, I would like to congratulate this extraordinary school system and wish them continued success.

TRIBUTE TO BETTY J. MARTIN

• Mr. LEVIN. Mr. President, I would like to take this opportunity to honor
the life of Betty J. Martin. Mrs. Martin passed away on August 30, 2006, at the age of 68. Throughout her life, Betty was a dedicated public servant who dedicated her life to serving less fortunate individuals in the Saginaw community. Her efforts over the years have brought aid and comfort to so many, and we should all be grateful for her work.

Betty made a meaningful impact in the city of Saginaw. Her life's work stands as a testament to her many successes. She has been a tireless advocate for rural America, and she can retire with the comfort that she has profoundly influenced an entire generation of rural citizens, serving as the president of Colorado 4-H Foundation, vice president of the Colorado Future Farmers of America, and as a board member of the Colorado State University Board of Agriculture. His leadership in these organizations emphasized the traits that have characterized him, that of perseverance, dedication, and moral fiber, will manifest themselves in future generations of agricultural leadership.

However, my deep respect for John Stencel comes from his involvement with these organizations; it is based on the common values that underlie those efforts and have driven his policies and agendas. My respect is based on his commitment to sustain and strengthen family farm and ranch agriculture, and to preserve the rural way of life we know and love. These values are embodied by John Stencel.

John has been an influential and indispensable guide, and though he is retiring, the YMCA will continue to work with multiple branches operating across the city. His commitment to service was also recognized when he was chosen to serve as the president of Lion’s Club International.

TRIBUTE TO 50TH ANNIVERSARY OF HOLT INTERNATIONAL

Mr. SMITH. Mr. President, in the mid 1950s, Harry and Bertha Holt of Eugene, OR, saw a film about children in Korean orphanages who were in desperate need of help. Touching by what
they saw, the Holts sent money and clothes to the orphanages, but they still felt the need to do more.

As they thought and prayed about what to do, it dawned on the Holts that what the children needed more than money and clothes were families. So Harry and Bertha decided to adopt eight Korean children. No matter what roadblocks were placed in the way of that decision—including the need to get Congress to pass a special law—the Holts persevered. Soon they were the parents of eight new sons and daughters.

The adoption was revolutionary. Previously, adoption was regarded as something to be kept secret. The Holts, however, proudly adopted children who were obviously not their birth children. In doing so, they showed that a family’s love is greater than barriers of race and nationality.

But the Holts story did not end with the adoption of their children. As word spread about what they had done, others sought their advice and asked how they could adopt. Just 5 months after bringing his new family home, Harry headed back to Korea to match other children with new families. In 1956, he financed almost entirely by Harry and Bertha’s personal funds, Holt International was born.

Fifty years have now passed since Holt International was officially incorporated. Harry and Bertha are no longer with us. But their dream lives on. Today, Holt is the Nation’s largest adoption agency, having united nearly 40,000 children with adoptive families in the United States. It is simply impossible to calculate how much happiness and joy have been brought into the life of those children and, in return, how much happiness and joy they have provided for their families.

As a U.S. Senator from Oregon, which contains no home county for the headquarters of Holt International, and as the father of three adopted children, I am privileged to rise today to extend my congratulations—and I know the congratulations of the entire Senate— to Holt on the occasion of their 50th anniversary. I stand ready to help them in any way possible as they continue their inspiring mission in the years ahead.

Mr. President, I will conclude with the eloquent words of Bertha Holt, who said, “All children are beautiful when they are loved.” May all children be as blessed as those adopted by the Holts.●

TRIBUTE TO BOYD “BUTCH” KITTERMAN
● Mr. THUNE. Mr. President, today I wish to honor Boyd “Butch” Kitterman of Wall, SD. Butch is being honored for his many years of volunteer service with the Wall Volunteer Fire Department.

Butch has been with the Wall Volunteer Fire Department for 50 years. He has served as fire chief, truck captain, and is currently treasurer for the department. South Dakota’s communities depend on volunteers like Butch to keep our citizens and homes safe during times of trouble. His initiative, expertise, and dedication to serving the city of Wall for 50 years is truly commendable.

Today I rise with Butch Kitterman’s friends and family in celebrating his 50 years of selfless dedication and service to the city of Wall.●

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 and treaties which were referred to the appropriate committees. (The nominations received today are printed at the end of the Senate proceedings.)
the Arapaho and Roosevelt National Forests in Colorado, and for other purposes.

H.R. 2134. An act to establish the Commission to Study the Potential Creation of a National American Latino Heritage Site to develop a plan of action for the establishment and maintenance of a National Museum of American Latino Heritage in Washington, D.C., and for other purposes.

H.R. 2322. An act to designate the Federal building located at 320 North Main Street in McAllen, Texas, as the “Kika de la Garza Federal Building.”

H.R. 3606. An act to modify a land grant patent issued by the Secretary of the Interior.

H.R. 3626. An act to authorize the Secretary of the Interior to study the feasibility of enlarging the Arthur V. Watkins Dam and Reservoir, Weber County, Utah, to provide additional water for the Weber Basin Project to fulfill the purposes for which that project was authorized.

H.R. 4756. An act to authorize the Secretary of the Interior to conduct a study to determine the feasibility of implementing a water supply and conservation project to improve water reliability, increase the capacity of water storage, and improve water management efficiency in the Republican River Basin between Harlan County Lake in Nebraska and Arriba County, State of New Mexico.

H.R. 4766. An act to amend the Native American Programs Act of 1974 to provide for the revitalization of Native American language immersion programs; and for other purposes.

H.R. 4789. An act to require the Secretary of the Interior to convey certain public land located wholly or partially within the boundaries of the Wels Hydroelectric Project of Public Utility District No. 1 of Douglas County, Washington, to the utility district.

H.R. 4876. An act to ratify a conveyance of a portion of the Jicarilla Apache Reservation to Rio Arriba County, State of New Mexico, pursuant to the settlement of litigation between the Jicarilla Apache Nation and Rio Arriba County, State of New Mexico, to authorize issuance of a patent for said lands, and to change the exterior boundary of the Jicarilla Apache Reservation accordingly, and for other purposes.


H.R. 5016. An act to provide for the exchange of certain Bureau of Land Management land in Pima County, Arizona, and for other purposes.

H.R. 5026. An act to designate the Investigations Building of the Food and Drug Administration located at 466 Fernandez Junco Avenue in San Juan, Puerto Rico, as the “Andres Toro Building”.

H.R. 5160. An act to establish the Long Island Sound Stewardship Initiative.

H.R. 5340. An act to promote Department of the Interior efforts to provide a scientific basis for the management of sediment and nutrients in the Upper Mississippi River Basin, and for other purposes.

H.R. 5483. An act to increase the disability earnings limitation under the Railroad Retirement Act and to index the amount of allowable earnings consistent with increases in the substantial gainful activity dollar amount under the Social Security Act.

H.R. 5503. An act to amend the National Housing Act to increase the mortgage amount limits applicable to FHA mortgage insurance for multifamily housing located in high-cost areas.

H.R. 5516. An act to allow for the renegotiation of the payment schedule of contracts between the Department of the Interior and the Redwood Valley County Water District, and for other purposes.

H.R. 5546. An act to designate the United States courthouse to be constructed in Greenville, South Carolina, as the “Carroll A. Campbell, Jr. United States Courthouse”.

H.R. 5564. An act to authorize the Secretary of the Interior to enter into a netting agreement for financial contracts, and for other purposes.

H.R. 5606. An act to designate the Federal building and United States courthouse located at 221 and 221 West Ferguson Street in Tyler, Texas, as the “William M. Steger Federal Building and United States Courthouse”.

H.R. 5637. An act to streamline the regulation of nonadmitted insurance and reinsur- ance, and for other purposes.

H.R. 5690. An act to adjust the boundaries of the Osage National Forest in the States of Oklahoma and Arkansas.

H.R. 5692. An act to direct the Secretary of the Interior to conduct a special resource study to determine the feasibility and suitability of establishing a memorial to the Space Shuttle Columbia in the State of Texas and for its inclusion as a unit of the National Park System.

H.R. 5842. An act to compromise and settle all claims of the State of South Carolina as a United States, to restore, improve, and develop the valuable on-reservation land and natural resources of the Pueblo, and for other purposes.

H.R. 5946. An act to amend the Magnuson-Stevens Fishery Conservation and Management Act to authorize activities to promote international cooperation and agreements for high seas fisheries, or fisheries governed by international fishery management agreements, and for other purposes.

H.R. 6013. An act to authorize the Secretary of the Interior, acting through the Bureau of Reclamation, to improve California’s Sacramento-San Joaquin Delta and water supply.

H.R. 6051. An act to designate the Federal building and United States courthouse located at 2 South Main Street in Akron, Ohio, as the “John F. Seiberling Federal Building and United States Courthouse”.

H.R. 6062. An act to enhance community development investments by financial institutions, and for other purposes.

H.R. 6072. An act to amend the Federal Deposit Insurance Act to provide further regulatory relief for depository institutions and shareholders in the event of failure of a company to such institutions, and for other purposes.

H.R. 6079. An act to require the President’s Working Group on Financial Markets to conduct a study of the industry.

H.R. 6106. An act to extend the waiver authority for the Secretary of Education under title IV, section 105, of Public Law 109-148.

H.R. 6115. An act to extend the authority of the Secretary of Housing and Urban Development to restructure mortgages and rental assistance for certain assisted multifamily housing.

H.R. 6138. An act to temporarily extend the programs under the Higher Education Act of 1965, and for other purposes.

H.R. 6198. An act to hold the current regime in Iran accountable for its threatening behavior and to support a transition to democracy in Iran.

The message further announced that the House has agreed to the following bill, in which it requests the concurrence of the Senate:

H.R. 5546. An act to designate the United States courthouse to be constructed in Greenville, South Carolina, as the “Carroll A. Campbell, Jr. United States Courthouse.”

The message further announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

S. 56. An act to establish the Rio Grande Natural Area in the State of Colorado, and for other purposes.

S. 213. An act to direct the Secretary of the Interior to convey certain Federal land to Rio Arriba County, New Mexico.

The message further announced that the House has passed the bill (S. 362) to establish a program within the National Oceanic and Atmospheric Administration and the United States Coast Guard to help identify, determine sources of, assess, reduce, and prevent marine debris and its adverse impacts on the marine environment and navigation safety, in coordination with non-Federal entities, and for other purposes, with an amendment.

The message also announced that the House has passed the bill (S. 2380) to amend the Great Lakes Fish and Wildlife Restoration Act of 1990 to provide for implementation of recommendations of the United States Fish and Wildlife Service contained in the Great Lakes Fishery Resources Restoration Study, with an amendment, in which it requests the concurrence of the Senate.

The message further announced that the House has passed the bill (S. 2856) to provide regulatory relief and improve productivity for insured depository institutions, and for other purposes, with an amendment, in which it requests the concurrence of the Senate.

At 5:55 p.m., a message from the House of Representatives, delivered by Fax, one of its reading clerks, announced that it has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 6197. An act to amend the Older Americans Act of 1965 to authorize appropriations for fiscal years 2007 through 2011, and for other purposes.

The message also announced that the House has passed the following bills, without amendment:

S. 2464. An act to revise a provision relating to repayment obligations of the Fort McDowell Yavapai Nation under the Fort McDowell Indian Community Water Rights Settlement Act of 1990, and for other purposes.

S. 2146. An act to extend relocation expenses test program for Federal employees.

The message further announced that the House has agreed to the following bill, in which it requests the concurrence of the Senate:

H.R. 5574 to the Public Health Service Act to reauthorize support for graduate medical education programs in children’s hospitals.

At 7:01 p.m., a message from the House of Representatives, delivered by Fax, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 5454. An act to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the Los Angeles County Water Supply Augmentation Demonstration Project, and for other purposes.

H.R. 4846. An act to authorize grants for contributions toward the establishment of the Woodrow Wilson Presidential Library.
H.R. 5108. An act to designate the facility of the United States Postal Service located at 1213 East Houston Street in Cleveland, Texas, as the "Lance Corporal Robert A. Martinez Office Building".


The message further announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:


H. Con. Res. 473. Concurrent resolution supporting the goals and ideals of Gynecologic Cancer Awareness Month.

At 8:13 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House disagrees to the amendment of the Senate to the bill (H.R. 4954) to improve maritime and cargo security through enhanced layered defenses, and for other purposes; at the conference asked by the Senate on the disagreeing votes of the of the two Houses thereon, and appoints from the Committee on Homeland Security, for consideration of the House bill and the Senate amendment, and modifications committed to conference: Mr. KING of New York, Mr. YOUNG of Alaska, Mr. DANIEL E. LUNCHEN of California, Mr. LINDER, Mr. SIMMONS, Mr. MCCaul of Texas, Mr. REICHERT, THOMPSON of Mississippi, Ms. Loretta Sanchez of California, Mr. MARKAY, Ms. HARMAN, and Mr. PASCHEN;

From the Committee on Energy and Commerce for consideration of title VI and X and section 1104 of the Senate amendment, and modifications committed to conference: Mr. Barron of Texas, Mr. UPTON, and Mr. DINGELL;

From the Committee on Science, for consideration of sections 201 and 401 of the House bill, and sections 111, 121, 302, 303, 305, 513, 607, 706, 801, 802, and 1107 of the Senate amendment, and modifications committed to conference: Mr. BOEHLENT, Mr. SODREL, and Mr. MELCONAN;

From the Committee on Transportation and Infrastructure, for consideration of sections 101–104, 107–109, and 204 of the House bill, and sections 101, 104, 106–108, 111, 202, 232, 234, 235, 503, 507–512, 514, 517–519, title VI, sections 703, 902, 905, 906, 1103, 1104, 1107–1110, 1114, and 1115 of the Senate amendment, and modifications committed to conference: Mr. LoBIONDO, Mr. SHUSTER, and Mr. OBERSTAR;

From the Committee on Ways and Means, for consideration of sections 102, 121, 201, 203 and 301 of the House bill, and sections 201, 203, 304, 401–404, 407, and 1105 of the Senate amendment, and modifications committed to conference: Mr. THOMAS, Mr. SHAW, and Mr. RANGLER, as managers of the conference on the part of the House.

MEASURES PLACED ON THE CALENDAR

The following bill was read the second time, and placed on the calendar:

H.R. 5132. An act to direct the Secretary of the Interior to conduct a special resource study to determine the suitability and feasibility of creating a National Park System certain sites in Monroe County, Michigan, relating to the Battles of the River Raisin during the War of 1812.

MEASURES READ THE FIRST TIME

The following bills were read the first time:

S. 3982. A bill to amend the Public Health Service Act to provide assured compensation for first responders injured by experimental vaccines and drugs.

S. 3983. A bill to amend the Public Health Service Act to provide assured compensation for first responders injured by experimental vaccines and drugs.

S. 3992. A bill to amend the Exchange Rates and International Economic Policy Coordination Act of 1998 to clarify the definition of manipulator with respect to currency, and for other purposes.

S. 3993. A bill to amend title 18, United States Code, to provide penalties for aiming laser pointers at airplanes, and for other purposes.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on Tuesday, September 26, 2006, she had presented to the President of the United States the following enrolled bills:

S. 176. An act to extend the deadline for commencement of construction of a hydroelectric project in the State of Alaska.

S. 241. A bill to direct the Secretary to conduct a study to determine the feasibility of construction of a hydroelectric project in the State of Wyoming.

S. 3850. An act to improve ratings quality for the protection of investors and in the public interest by fostering accountability, transparency, and competition in the credit rating agency industry.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were transmitted to law, a certification regarding the proposed transfer of major defense equipment valued (in terms of its original acquisition cost) at $14,000,000 or more to the United Kingdom to the Government of Chile; to the Committee on Foreign Relations.

EC–8466. A communication from the Assistant Secretary, Office of Legislative Affairs, Department of State, transmitting, pursuant to law, the certification of a proposed license for the export of defense articles or defense services sold commercially under contract in the amount of $50,000,000 or more to Israel; to the Committee on Foreign Relations.

EC–8467. A communication from the Assistant Secretary, Office of Legislative Affairs, Department of State, transmitting, pursuant to law, the certification of a proposed license for the export of defense articles or defense services sold commercially under contract in the amount of $50,000,000 or more to Israel; to the Committee on Foreign Relations.

EC–8468. A communication from the Assistant Secretary, Office of Legislative Affairs, Department of State, transmitting, pursuant to law, the certification of a proposed license for the export of defense articles or defense services sold commercially under contract in the amount of $50,000,000 or more to Israel; to the Committee on Foreign Relations.

EC–8469. A communication from the Assistant Secretary, Office of Legislative Affairs, Department of State, transmitting, pursuant to law, the certification of a proposed license for the export of defense articles or defense services sold commercially under contract in the amount of $50,000,000 or more to Israel; to the Committee on Foreign Relations.

EC–8470. A communication from the Assistant Secretary, Office of Legislative Affairs, Department of State, transmitting, pursuant to law, the report of the termination of the 15% Danger Pay Allowance for East Timor as of August 20, 2006; to the Committee on Foreign Relations.

EC–8471. A communication from the Assistant Secretary, Office of Legislative Affairs, Department of State, transmitting, pursuant to law, the report of the termination of the 15% Danger Pay Allowance for East Timor as of August 20, 2006; to the Committee on Foreign Relations.

EC–8472. A communication from the Assistant Secretary, Office of Legislative Affairs, Department of State, transmitting, pursuant to law, the report of the termination of the 15% Danger Pay Allowance for East Timor as of August 20, 2006; to the Committee on Foreign Relations.

EC–8473. A communication from the Assistant Secretary, Office of Legislative Affairs, Department of State, transmitting, pursuant to law, the certification of a proposed license for the export of defense articles or defense services sold commercially under contract in the amount of $14,000,000 or more to the Republic of Germany to the Republic of Korea; to the Committee on Foreign Relations.

EC–8474. A communication from the Assistant Secretary, Office of Legislative Affairs, Department of State, transmitting, pursuant to law, the report of the termination of the 15% Danger Pay Allowance for East Timor as of August 20, 2006; to the Committee on Foreign Relations.

EC–8475. A communication from the Assistant Secretary, Office of Legislative Affairs, Department of State, transmitting, pursuant to law, the certification of a proposed license for the export of defense articles or defense services sold commercially under contract in the amount of $14,000,000 or more to Italy; to the Committee on Foreign Relations.

EC–8476. A communication from the Staff Director, Commission on Civil Rights, transmitting, pursuant to law, the report of the appointment of members to the Connecticut Advisory Committee; to the Committee on the Judiciary.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. INHOFE, from the Committee on Environment and Public Works, without amendment:

H.R. 1463. A bill to designate a portion of the Federal building located at 2100 Avenue of the Stars, in the City of Los Angeles, California, as the "Justin W. Williams United States Attorney's Building".
INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. THOMAS (for himself and Mr. SPECTER):
S. 3965. A bill to amend title XVIII of the Social Security Act to provide for improved access to cost-effective, quality physical medicine and rehabilitation services under part D of the Medicare program, and for other purposes; to the Committee on Finance.

By Mr. LOTT:
S. 3967. A bill to provide for the issuance of a commemorative postage stamp in honor of Senator Blanche Kelso Bruce; to the Committee on Homeland Security and Governmental Affairs.

By Mrs. BOXER:
S. 3965. A bill to address the serious health care access barriers, and consequently higher incidences of disease, for low-income, uninsured populations; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. BOXER:
S. 3967. A bill to provide assistance to State and nongovernmental entities to initiate public awareness and outreach campaigns to reduce teenage pregnancies; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. CLINTON:
S. 3970. A bill to require the International Trade Commission to report on the specific impact of each free trade agreement in force with respect to the United States on a sector-by-sector basis, and for other purposes; to the Committee on Finance.

By Mr. AKAKA (for himself and Mr. LAUTENBERG):
S. 3970. A bill to amend the authority of the Comptroller General to audit and evaluate the programs, activities, and financial transactions of the intelligence community, and for other purposes; to the Select Committee on Intelligence.

By Mr. OBAMA (for himself and Mrs. CLINTON):
S. 3982. A bill to amend the Toxic Substances Control Act to assess and reduce the levels of lead found in child-occupied facilities in the United States, and for other purposes; to the Committee on Environment and Public Works.

By Mr. ALLEN:
S. 3971. A bill to amend the Energy Policy Act of 2005 to direct the President to establish an energy security working group; to the Committee on Energy and Natural Resources.

By Mr. SANTORUM (for himself, Mr. FRIST, Mr. CORYN, Mr. NELSON of Florida, Mr. CRAPO, Mr. LOTT, Mr. DEWINE, and Mr. COLEMAN):
S. 3971. A bill to require the current regime in Iran accountable for its threatening behavior and to support a transition to democracy in Iran; to the Committee on Foreign Relations.

By Mr. GRASSLEY (for himself, Mr. ISAKSON, Mr. CHAMBLISS, Mr. BURS, and Ms. MUKROWSKI):
S. 3972. A bill to amend title XXI of the Social Security Act to reduce funding shortfalls for the State Children’s Health Insurance Program (SCHIP) for fiscal year 2007; to the Committee on Finance.

By Mrs. HUTCHISON (for herself, Mr. SANTORUM, Mr. SPECTER, Mr. CORYN, Mrs. BOXER, Mr. KERRY, Mrs. DOLLE, and Mr. HANCOCK):
S. 3973. A bill to ensure local governments have the flexibility needed to enhance deci-

sion-making regarding certain mass transit projects; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. BUNNING (for himself and Mr. CONRAD):
S. 3974. A bill to amend the Internal Revenue Code to provide a tax deduction for intangible assets acquired after August 7, 1993; to provide a temporary amortization deduction for intangible assets acquired from eligible small businesses to take account of the long-term economic useful life of such assets and to encourage growth in industries for which intangible assets are an important source of revenue; to the Committee on Finance.

By Mr. BINGMAN:
S. 3975. A bill to amend the Social Security Act to provide grants to promote positive health behaviors in women and children; to the Committee on Health, Education, Labor, and Pensions.

By Mr. ALLEN (for himself and Mr. GRASSLEY):
S. 3976. A bill to provide a mechanism for the determination on the merits of the claims of claimants who met the class criteria in a civil action relating to racial discrimination by the Department of Agriculture who were denied that determination; to the Committee on the Judiciary.

By Mr. DURBIN (for himself and Mr. OBAMA):
S. 3977. A bill to provide a Federal income tax credit for Patriot employers, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. LEVIN:
S. 3978. A bill to amend the National Trails System Act to clarify Federal authority relating to land acquisition from willing sellers for the North Country National Scenic Trail; to the Committee on Energy and Natural Resources.

By Mr. DODD (for himself, Mr. FRIST, Mr. HARKIN, Mrs. CLINTON, Mr. REED, and Mr. DURBIN):
S. 3980. A bill to direct the Secretary of Health and Human Services, in consultation with the Secretary of Education, to develop a policy for managing the risk of food allergy and anaphylaxis in schools, to establish school-based food allergy management grants, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. KOHL (for himself and Mr. LEAHY):
S. 3981. A bill to amend the Federal Food, Drug, and Cosmetic Act to establish requirements for certain petitions submitted to the Food and Drug Administration, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. KENNEDY:
S. 3982. A bill to amend the Public Health Service Act to provide a mechanism for first responders injured by experimental vaccines and drugs; read the first time.

By Mr. KENNEDY:
S. 3983. A bill to amend the Public Health Service Act to provide assured compensation for first responders injured by experimental vaccines and drugs; read the first time.

By Mr. KENNEDY:
S. 3984. A bill to provide grants to the Department of Veterans Affairs; to the Committee on Veterans’ Affairs.

By Ms. LANDRIEU:
S. 3985. A bill to promote the recovery of oil and gas revenues on the Outer Continental Shelf, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. ALLARD:
S. 3986. A bill to designate as wilderness certain land within the Rocky Mountain National Park, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. ISAKSON:
S. 3987. A bill to amend the Longshore and Harbor Workers’ Compensation Act to improve the compensation system, and for other purposes; to the Committee on Veterans’ Affairs.

By Mr. BIDEN:
S. 3988. A bill to establish a Homeland Security and Neighborhood Safety Trust Fund and reauthorize Federal programs aimed at securing the homeland, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

By Mr. COLEMAN (for himself and Mr. DAYTON):
S. 3990. A bill to designate the facility of the United States Postal Service located at 216 Oak Street in Farmington, Minnesota, as the “Clifton H. Judson Post Office”; to the Committee on Homeland Security and Governmental Affairs.

By Mr. CONRAD (for himself, Mr. NELSON of Nebraska, Mr. HAGEL, Mr. DORGAN, Mr. SALAZAR, Mr. COLEMAN, Mr. BAUCUS, Mr. JOHNSON, Mr. BURNS, Mr. HARKIN, Mrs. CANTWELL, Mrs. CLINTON, Mr. SCHUMER, Mr. BAYH, Mr. THUNE, Mr. DURBIN, Mr. OBAMA, and Mr. REID):
S. 3991. A bill to provide emergency agricultural disaster assistance, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. BUNNING:
S. 3992. A bill to amend the Exchange Rates and International Economic Policy Coordination Act of 1998 to clarify the definition of manipulation with respect to currency, and for other purposes; read the first time.

By Mr. MARTINEZ:
S. 3993. A bill to amend title 18, United States Code, to provide penalties for aiming laser pointers at airplanes, and for other purposes; read the first time.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. SCHUMER:
S. Res. 589. A resolution commending New York State Senator John J. Marchi on his 50 years in the New York State Senate and on becoming the longest-serving state legislator in the United States; to the Committee on the Judiciary.
By Mr. VITTER:  
S. Res. 590. A resolution designating the second Sunday in December 2006 as "National Children's Memorial Day" in conjunction with the Compassionate Friends Worldwide Candle Lighting; to the Committee on the Judiciary.

ADDITIONAL COSPONSORS

At the request of Mr. WARNER, the name of the Senator from Illinois (Mr. OBAMA) was added as a cosponsor of S. 481, a bill to amend the Internal Revenue Code of 1986 to allow Federal civilian and military retirees to pay health insurance premiums on a pretax basis and to allow a deduction for TRICARE supplemental premiums.

At the request of Mr. MCCONNELL, the name of the Senator from North Carolina (Mrs. DOLE) was added as a cosponsor of S. 908, a bill to allow Congress to set guidelines, regulations, and regulatory agencies to determine appropriate laws, rules, and regulations to address the problems of weight gain, obesity, and health conditions associated with weight gain or obesity.

At the request of Mr. CONRAD, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 911, a bill to amend title XVIII of the Social Security Act to provide for reimbursement of certified midwife services and to provide for more equitable reimbursement rates for certified nurse-midwife services.

At the request of Mrs. HUTCHISON, the name of the Senator from Arizona (Mr. MCCAIN) was added as a cosponsor of S. 1082, a bill to restore Second Amendment rights in the District of Columbia.

At the request of Mr. SPECTER, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 1172, a bill to provide for programs to increase the awareness and knowledge of women and health care providers with respect to gynecologic cancers.

At the request of Mr. MENENDEZ, the name of the Senator from Oklahoma (Mr. INHOFE) was added as a cosponsor of S. 1173, a bill to amend the National Labor Relations Act to ensure the right of employees to a secret-ballot election conducted by the National Labor Relations Board.

At the request of Ms. MIKULSKI, the name of the Senator from Indiana (Mr. LUGAR) and the Senator from Massachusetts (Mr. KERRY) were added as cosponsors of S. 1687, a bill to amend the Public Health Service Act to provide waivers relating to grants for preventive health measures with respect to breast and cervical cancers.

At the request of Mr. MENENDEZ, his name was added as a cosponsor of S. 1687, supra.

At the request of Mr. PYORI, his name was added as a cosponsor of S. 1911, a bill to provide for the protection of the flag of the United States, and for other purposes.

At the request of Mr. ENSIGN, the name of the Senator from Florida (Mr. MARTINEZ) was added as a cosponsor of S. 1915, a bill to amend the Horse Protection Act to prohibit the shipping, transporting, moving, delivering, receiving, possessing, purchasing, selling, or donating of other equines to be slaughtered for human consumption, and for other purposes.

At the request of Mr. HATCH, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor 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.

At the request of Mr. ALLARD, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 2123, a bill to modernize the manufactured housing loan insurance program under title I of the National Housing Act.

At the request of Mr. GRASSLEY, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 2395, a bill to amend title 39, United States Code, to require that air carriers accept as mail shipments certain live animals.

At the request of Mr. MENENDEZ, his name was added as a cosponsor of S. 2506, a bill to require Federal agencies to support health impact assessments and take other actions to improve health and the environmental quality of communities, and for other purposes.

At the request of Mr. DE MINT, the name of the Senator from Oklahoma (Mr. COBREY) was added as a cosponsor of S. 2824, a bill to reduce the burdens of the implementation of section 404 of the Sarbanes-Oxley Act of 2002.

At the request of Mr. BURRE, the name of the Senator from South Carolina (Mr. BURRI) was added as a cosponsor of S. 3001, a bill to amend the Comprehensive Environmental Response Compensation and Liability Act of 1980 to provide that manure shall not be considered to be a hazardous substance, pollutant, or contaminant.

At the request of Mr. BROWNBACK, the names of the Senator from Kentucky (Mr. BUNNING) and the Senator from South Carolina (Mr. BURRI) were added as cosponsors of S. 3516, a bill to amend the Revised Statutes of the United States to prevent the use of the legal system in a manner that supports money from State and local governments, and the Federal Government, and inhibits such governments' constitutional actions under the first, tenth, and fourteenth amendments.

At the request of Mr. MENENDEZ, his name was added as a cosponsor of S. 3705, a bill to amend title XIX of the Social Security Act to improve requirements under the Medicaid program for items and services furnished in or through an educational program for children with developmental, physical, or mental health needs, and for other purposes.

public housing agencies to improve the effectiveness of Federal housing assistance, and for other purposes.

At the request of Mr. BINGAMAN, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 3516, a bill to amend title XVIII of the Social Security Act to permit States to extend the floor on the Medicare work geography adjustment under the fee schedule for physicians' services.

At the request of Mrs. FEINSTEIN, the name of the Senator from Texas (Mr. CONRAD) was added as a cosponsor of S. 3523, a bill to amend the Internal Revenue Code of 1986 to provide that the Tax Court may review claims for equitable innocent spouse relief and to suspend the running of the period of limitations while such claims are pending.

At the request of Mr. BINGAMAN, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 3677, a bill to amend title XVIII of the Social Security Act to eliminate the in the home restriction for Medicare coverage of mobility devices for individuals with expected long-term needs.

At the request of Mr. BURR, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 3678, a bill to amend the Public Health Service Act with respect to public health security and all-hazards preparedness and response, and for other purposes.

At the request of Mr. DOMENICI, the name of the Senator from Kentucky (Mr. BUNNING) was added as a cosponsor of S. 3681, a bill to amend the Comprehensive Environmental Response Compensation and Liability Act of 1980 to provide that manure shall not be considered to be a hazardous substance, pollutant, or contaminant.

At the request of Ms. FEINSTEIN, the names of the Senator from Missouri (Mr. McCASKILL) and the Senator from Massachusetts (Mr. KERRY) were added as cosponsors of S. 3705, a bill to amend the Revised Statutes of the United States to prevent the use of the legal system in a manner that supports money from State and local governments, and the Federal Government, and inhibits such governments’ constitutional actions under the first, tenth, and fourteenth amendments.

At the request of Mr. MENENDEZ, his name was added as a cosponsor of S. 3705, a bill to amend title XIX of the Social Security Act to improve requirements under the Medicaid program for items and services furnished in or through an educational program for children with developmental, physical, or mental health needs, and for other purposes.

Supra.
At the request of Mr. LOTT, the name of the Senator from Louisiana (Mr. VITTER) was added as a cosponsor of S. 3707, a bill to improve consumer access to passenger vehicle loss data held by insurers.

At the request of Mr. CARPER, his name was added as a cosponsor of S. 3737, a bill to amend the National Trails System Act to designate the Washington-Rochambeau Route National Historic Trail.

At the request of Mr. DURBIN, the name of the Senator from Iowa (Mr. GRASSLEY) was added as a cosponsor of S. 3744, a bill to establish the Abraham Lincoln Study Abroad Program.

At the request of Mrs. HUTCHISON, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S. 3791, a bill to require the provision of information to parents and adults concerning bacterial meningitis and the availability of a vaccination with respect to such disease.

At the request of Mr. ROCKEFELLER, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 3795, a bill to amend title XVIII of the Social Security Act to provide for a two-year moratorium on certain Medicare physician payment reductions for imaging services.

At the request of Mr. SMITH, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. 3795, supra.

At the request of Mrs. FEINSTEIN, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 3802, a bill to amend the Consolidated Omnibus Budget Reconciliation Act of 1985 to expand the county-organized health insurance organizations authorized to enroll Medicaid beneficiaries.

At the request of Mr. BINGAMAN, the name of the Senator from Colorado (Mr. SALAZAR) was added as a cosponsor of S. 3819, a bill to amend title XIX of the Social Security Act to provide for redistribution and extended availability of unexpended Medicaid DSH allotments, and for other purposes.

At the request of Mrs. CLINTON, the name of the Senator from New York (Mr. SALAZAR) was added as a cosponsor of S. 3847, a bill to designate the facility of the United States Postal Service located at 110 Cooper Street in Babylon, New York, as the "Jacob Samuel Fletcher Post Office Building".

At the request of Mr. SCHUMER, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 3853, a bill to designate the facility of the United States Postal Service located at 39–25 61st Street in Woodside, New York, as the "Thomas J. Manton Post Office Building".

At the request of Mr. TALENT, the name of the Senator from Virginia (Mr. ALLEN) was added as a cosponsor of S. 3862, a bill to amend the Animal Health Protection Act to prohibit the Secretary of Agriculture from implementing or carrying out a National Animal Identification System or similar requirement, to prohibit the use of Federal funds to carry out such a requirement, to require the Secretary to protect information obtained as part of any voluntary animal identification system.

At the request of Mr. LUGAR, the names of the Senator from Georgia (Mr. ISAKSON) and the Senator from Mississippi (Mr. COCHRAN) were added as cosponsors of S. 3884, a bill to impose sanctions against individuals responsible for genocide, war crimes, and crimes against humanity, to support measures for the protection of civilians and humanitarian operations, and to support peace efforts in the Darfur region of Sudan, and for other purposes.

At the request of Mr. ROCKEFELLER, the names of the Senator from Maine (Ms. COLLINS) and the Senator from Illinois (Mr. OBAMA) were added as cosponsors of S. 3913, a bill to amend title XXI of the Social Security Act to eliminate funding shortfalls for the State Children’s Health Insurance Program (SCHIP) for fiscal year 2007.

At the request of Mr. MENENDEZ, his name was added as a cosponsor of S. 3918, a bill to establish a grant program for individuals still suffering health effects as a result of the September 11, 2001, attacks in New York City and at the Pentagon.

At the request of Mr. SPECTER, his name and the name of the Senator from Ohio (Mr. DeWINE) were added as cosponsors of S. 3931, a bill to establish procedures for the review of electronic surveillance programs.

At the request of Mr. FRIST, the names of the Senator from Delaware (Mr. CARPER) and the Senator from Florida (Mr. MARTINEZ) were added as cosponsors of S. 3936, a bill to invest in innovation and education to improve the competitiveness of the United States in the global economy.

At the request of Mrs. BOXER, the name of the Senator from New Jersey (Mr. MENENDEZ) was added as a cosponsor of S. 3943, a bill to amend the Help America Vote Act of 2002 to reimburse jurisdictions for amounts paid or incurred in preparing, producing, and delivering contingency paper ballots in the November 7, 2006, Federal general election.

At the request of Mr. BINGAMAN, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 3952, a bill to amend the Internal Revenue Code of 1986 to allow employees not covered by qualified retirement plans to save for retirement through automatic payroll deposit IRAs, to facilitate similar savings by the self-employed, and for other purposes.

At the request of Mr. DURBIN, the name of the Senator from Nebraska (Mr. HAGEL) was added as a cosponsor of amendment No. 5029 intended to be proposed to H.R. 6061, a bill to establish operational control over the international land and maritime borders of the United States.

At the request of Mrs. HUTCHISON, the name of the Senator from Texas (Mr. CORNYN) was added as a cosponsor of amendment No. 5066 intended to be proposed to H.R. 6061, a bill to establish operational control over the international land and maritime borders of the United States.

At the request of Mr. SPECTER, the name of the Senator from Illinois (Mr. OBAMA) was added as a cosponsor of amendment No. 5097 proposed to S. 3960, a bill to authorize trial by military commission for violations of the law of war, and for other purposes.

STATEMENT ON INTRODUCED BILLS AND JOINT RESOLUTIONS
By Mr. THOMAS (for himself and Mr. SPECTER):
S. 3963. A bill to amend title XVIII of the Social Security Act to provide for improved access to cost-effective, high-quality physical medicine and rehabilitation service under part B of the Medicare program, and for other purposes; to the Committee on Finance.

Mr. THOMAS. Mr. President, I am pleased to rise today to introduce the Access to Physical Medicine and Rehabilitation Services Improvement Act of 2006. This bill would improve patient access to physical medicine and rehabilitation services while also reducing Medicare costs. A bill to improve access to physical medicine and rehabilitation services has become increasingly specialized, the types of health professionals physicians employ to assist them in delivering high quality, cost-
effective healthcare has changed dramatically. While States have typically kept up with these developments by creating regulatory mechanisms to ensure that these health professionals are properly educated and trained, the Medicare program has kept pace. In fact, as the Medicare program has actually turned back the clock on these innovative ways of delivering care and this is having a negative affect on not only the availability of services, but what Medicare pays for these services.

We are all well aware of the struggles the Medicare program has had trying to control spending for therapy services. In fact, we have had to impose a cap on beneficiary spending because it has gotten so out of control. Unfortunately, in the midst of our efforts to control aggregate spending on therapy services, the Centers for Medicare and Medicaid Services, CMS, has adopted policies that will lead to higher per beneficiary expenditures and make it even more difficult for seniors to get the care they need.

Since late in 2005, CMS has been enforcing a policy, sometimes referred to as the "therapy incident-to" rule, that prevents doctors from employing anyone other than a physical therapist to provide physical medicine and rehabilitation services in their offices. Frankly, this policy ignores the fact that there are many State licensed or certified health professionals who are qualified to offer identical services at a lower cost to Medicare.

Many of us are familiar with the devastating affects breast cancer has on millions of women and men each year. One of the consequences of breast cancer treatment is a condition called lymphedema. This is a debilitating and disfiguring swelling of the extremities that occurs from damage to the lymph nodes located in the arm pit. The only treatment for this condition is a specialized type of massage that should only be delivered by a certified lymphedema therapist. Due to CMS' policy, over ½ of the nationally certified lymphedema therapists can no longer provide this service to Medicare beneficiaries. Failure to treat lymphedema often results in long hospital stays due to infection and can lead to amputation in the most extreme cases.

Prior to the adoption of the CMS rule, physicians had the freedom to choose the State licensed or authorized health professional they thought most appropriate to help their Medicare patients recover from injuries or debilitating conditions. I believe we should allow physicians, not government bureaucrats, to decide which State licensed healthcare professionals have the necessary education and training to provide the most high quality, cost-effective physical medicine and rehabilitation services to their patients. Additionally, the health professionals often approved to perform services are not readily available in many rural communities. This means patients must go without care or have to travel long distances to get services that were previously available in their home towns. As Republican Co-Chair of the Senate Rural Health Caucus, I have consistently supported policies and initiatives that help rural Medicare beneficiaries get and maintain access to services in their own communities in a more effective and efficient way.

Finally, it is important to note that access to state licensed, certified professionals will help the Medicare program—money—not increase costs. The CMS rule implemented last year will result in higher Medicare expenditures than if the old policy had remained in place. In fact, a recent Medicare Payment Advisory Commission, MedPAC, report based on 2002 data showed that the most cost-effective place for Medicare beneficiaries to obtain physical therapy was in the physician's office. After reviewing the legislation, I hope the多层次s that are to be furnished by a physician (as so defined) as the 'therapy incident-to' rule, that physicians had the freedom to choose the State licensed or authorized health professional in the State in which the services were furnished.

Mr. President, I ask unanimous consent that the text of the bill be printed in the Record.

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

8, 1963

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 "Access to Physical Medicine and Rehabilitation Services Improvement Act of 2006".

SEC. 2. ACCESS TO PHYSICAL MEDICINE AND REHABILITATION SERVICES PROVIDED INCIDENT TO A PHYSICIAN.

Section 1832(a)(20) of the Social Security Act (42 U.S.C. 1395l(a)(20)) is amended by striking "other than any licensing, education or credentialing requirements specified by the Secretary" and inserting "other than any licensing, education, or credentialing requirements specified by the Secretary".

SEC. 3. COVERAGE OF CERTIFIED ATHLETIC TRAINER SERVICES AND CERTIFIED LYMPHEDEMA THERAPIST SERVICES UNDER PART B OF THE MEDICARE PROGRAM.

(a) COVERAGE OF SERVICES.—Section 1861 of the Social Security Act (42 U.S.C. 1395l(a)(20)) is amended—

(1) in subsection (a)(2)—

(A) in subparagraph (Z), by striking "and" and adding "and" at the end; and

(B) in subparagraph (AA), by adding "and" at the end; and

(C) by adding at the end the following new subparagraph:

"(BB) certified athletic trainer services (as defined in subsection (c)(1) and lymphedema therapist services (as defined in subsection (c)(3));"; and

(2) by adding at the end the following new subsection:

"Athletic Trainer Services and Lymphedema Therapist Services

"(c)(1) The term 'athletic trainer services' means services performed by a certified athletic trainer (as defined in paragraph (2)) under the supervision of a physician (as defined in section 1861(r)), which the athletic trainer is legally authorized to perform under State law (or the State regulatory mechanism provided by State law) of the State in which such services are performed, and which is otherwise furnished by a physician (as so defined) or an incident to a physician's professional service, to an individual who is under the care of a physician (as so defined); and

"(B) with respect to whom a plan prescribing the type, amount, and duration of services that are to be furnished to such individual has been established by a physician (as so defined).

Such term does not include any services for which a facility or other provider charges or is paid any amounts with respect to the furnishing of such services.

"(2) The term 'certified athletic trainer' means an individual who—

"(A) possesses a bachelor's, master's, or doctoral degree which qualifies for licensure or certification as an athletic trainer; and

"(B) in the case of an individual performing services in a State that provides for licensure or certification of athletic trainers, is licensed or certified as an athletic trainer in such State.

"(3) The term 'certified lymphedema therapist services' means services performed by a certified lymphedema therapist (as defined in paragraph (4) under the supervision of a physician (as so defined) or as incident to a physician's professional service, to an individual who—

"(A) is under the care of a physician (as so defined); and

"(B) with respect to whom a plan prescribing the type, amount, and duration of services that are to be furnished to such individual has been established by a physician (as so defined).

Such term does not include any services for which a facility or other provider charges or is paid any amounts with respect to the furnishing of such services.

"(4) The term 'certified lymphedema therapist' means an individual who—

"(A) possesses a current unrestricted license as a health professional in the State in which he or she practices; and

"(B) after obtaining such a license, has successfully completed 135 hours of Complete Decongestive Therapy coursework which consists of theoretical instruction and practical laboratory work utilizing teaching methods directly aimed at the treatment of lymphatic and vascular disease from a lymphedema training program recognized by the Secretary for purposes of certifying lymphedema therapists; and

"(C) in the case of an individual performing services in a State that provides for licensure or certification of lymphedema therapists, is licensed or certified as a lymphedema therapist in such State.

(b) PAYMENT.—

(1) IN GENERAL.—Section 1832(a)(2)(B) of the Social Security Act (42 U.S.C. 1395l(a)(2)(B)) is amended by adding at the end the following new clause:

"(v) athletic trainer services and lymphedema therapist services; and"

(2) AMOUNT.—Section 1833(a)(1) of the Social Security Act (42 U.S.C. 1395l(a)(1)) is amended by adding at the end the following new clause:

"(v) athletic trainer services and lymphedema therapist services; and"

"(A) by striking "and (V)" and inserting "(V)"; and
By Mr. LOTT:
S. 3964. A bill to provide for the issuance of a commemorative postage stamp in honor of Senator Blanche Kelso Bruce; to the Committee on Homeland Security and Governmental Affairs.

Mr. LOTT. Mr. President, the first African American to serve a full term in the United States Senate represented my great State of Mississippi. Blanche Kelso Bruce was elected to the Senate in 1874 by the Mississippi State Legislature where he served from 1875 until 1881.

On February 14, 1879, he broke a second barrier by becoming the first African American to preside over a Senate session. He was a leader in the nationwide fight for African American rights, fighting for desegregation of the Army and protection of voting rights.

Blanche Kelso Bruce was born into slavery near Farmville, Va., on March 1, 1842. His early years in Virginia and Missouri. He was 20 years old when the Civil War broke out. He tried to enlist in the Union Army but was rejected because of his race.

He then turned his attention to teaching and in 1871 he was admitted to the bar in Mississippi. In 1875 he was elected to the Mississippi House of Representatives. In 1879 he was elected to the Mississippi Senate, where he served until 1881.

In 1881, he moved to Mississippi to become a planter on a cotton plantation, and the Magnolia State is where he became active in Republican politics. He rose in Mississippi politics from membership on the Mississippi Levee Board, as the sheriff and tax collector for Bolivar County surrounding Cleveland, Mississippi, and as the Sergeant-at-Arms of the Senate.

It was Blanche Kelso Bruce's perseverance, selfless public service and commitment to Mississippi that led to the Mississippi State Legislature's election of him to serve in the U.S. Senate.

In the Senate, he served on the Pension, Manufacturers, Education and Labor committees. He chaired the Committee on River Improvements and the Select Committee to Investigate the Freedman's Savings and Trust Company.

Senator Bruce left the Senate in 1881 and was appointed Registrar of the Treasury by President James Garfield, a position he also held in 1897. He subsequently received appointments from President Benjamin Harrison and William McKinley.

For four years ago, on September 17, 2002, in my position as Senate Majority Leader, I joined with Senator Chris Dodd in honoring this revered adopted son of Mississippi by unveiling the portrait of Blanche Kelso Bruce in the U.S. Capitol.

Today I rise to further honor this great statesman and pioneer by introducing legislation to issue the Senator Blanche Kelso Bruce commemorative postage stamp. Mississippi takes great pride in our leaders who often quietly, with little fanfare, blaze paths for the rest of the Nation to follow. Senator Blanche Kelso Bruce is one such great pioneer, and I call on my colleagues to join me in honoring him.

By Mrs. BOXER:
S. 3965. A bill to address the serious health care access barriers, and consequently higher incidences of disease, for low-income, uninsured populations; to the Committee on Health, Education, Labor, and Pensions.

Mrs. BOXER. Mr. President, today I rise to introduce the Latina Health Access Act. This important legislation addresses the serious health care access barriers, and consequently higher incidences of disease and poorer health outcomes, for the Latina population in the United States.

The United States has witnessed a tremendous increase in the Latina population across the Nation. There are now 35 million Latinas residing in the U.S., and Latinas are more than half of the total Latino population—for a total of 18 million Latinas in the United States. In my home State of California, 29 percent of the female population is Latina—this is approximately 5 million women. The number of Latinas is expected to continue to grow, and it is estimated that by 2050, one out of every four women in the U.S. will be a Latina. Despite their growing numbers, Latinas continue to disproportionately face serious health concerns, including sexually transmitted diseases, diabetes, and cancer, which are otherwise preventable, with adequate health access.

Latinas are particularly at risk for being uninsured. It is estimated that 37 percent of Latinas are uninsured, almost double the rate of the national average. This lack of adequate health care results in health problems that could otherwise be prevented. For example, 1 in 12 Latinas will develop breast cancer nationwide. White women have the highest rates of breast cancer; however, Latinas have among the lowest rates of breast cancer screening, diagnosis and treatment. As a result, Latinas are more likely to die from breast cancer than white women.

Also, the prevalence of diabetes is at least two to four times higher among Latinas than among white women. More than 25 percent of Latinas aged 65 to 74 have Type II diabetes. All of these health problems would be more effectively treated or prevented with adequate health care coverage.

To address these health concerns, the Latina Health Access Act provides a two-fold approach to dealing with this problem. First, the bill would provide greater health access to Latinas. Second, the bill would provide educational outreach programs targeted at Latinas in regards to health care access.

The bill would create a program at the Department of Health and Human Services (HHS) that provides funding for high-performing hospitals and community health centers targeted at serving the growing Latina population of the United States. The bill would mandate that HHS provide grants to various nonprofits, state or local governments that serve Latino communities, and lastly to women of color who seek to create diversity in the health care community. The bill would direct HHS to provide $18 million for grants to fund research institutions so that they may conduct research on the health status of Latinas.

The Latina Health Access Act also focuses on educational outreach to the Latina population. The bill would fund health education programs targeted specifically to Latinas through community-centered informational forums, public service announcements and media campaigns.

Adequate health access is the key to diagnosing and treating diseases before they become deadly and rampant. We need to strengthen our efforts to bring greater health access to the Latina population. I urge my colleagues to join me in supporting this effort.

I ask unanimous consent that the text of my bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:
S. 3965

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 “Latina Health Access Act”.

SEC. 2. FINDINGS.

Congress finds the following:

(1) The United States has the highest rate of teen pregnancy in the Western industrialized world, and the U.S. teen-pregnancy rate is nearly twice that of Canada and Great Britain. Although overall teen pregnancy rates have decreased in recent years, the teen pregnancy rates for Hispanics and other ethnic and racial minority teens in the United States are significantly higher than the national average. For example, 51 percent of Latina girls in the U.S. will become pregnant once before the age of 20.

The Latina population in the United States has grown tremendously. Currently, there are approximately 18 million Latinas that reside in the U.S. In my home State of California, 29 percent of all women are Latinas, this is approximately five million women. The number of Latinas is expected to continue to grow. It is estimated that by 2050, one out of every four women in the U.S. will be a Latina. Despite their growing numbers, Latinas continue to face serious health care access barriers and consequently higher incidence of teenage pregnancy.

To address the growing risk for many reproductive and other health concerns that are otherwise preventable, the HOPE Youth Pregnancy Prevention Act would provide a comprehensive solution and the resources to help prevent teen pregnancy among at-risk and minority youth.

Specifically, the bill would provide grants to States, localities, and non-governmental organizations for teen pregnancy prevention activities targeted to areas with large ethnic minorities and other at-risk youth. These grants could be used for a number of activities, including, youth development, work-related interventions and other educational activities, parental involvement, teenage outreach and clinical services. The bill would authorize $30 million a year for five years for such grants.

The bill would also provide grants to States and non-governmental organizations to establish multimedia public awareness campaigns to combat teen pregnancy. These campaigns would aim to prevent teen pregnancy through TV, radio and print ads, billboards, posters, and the Internet. Priority would be given to those activities that target ethnic minorities and other at-risk youth.

Over the past 10 years, we have made progress in reducing teen pregnancy, but our work is not done. We need to strengthen our efforts, especially among Latinas and other minority

an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

(2) AUTHORIZED ACTIVITIES.—An eligible entity desiring a grant under this section shall use grant funds to carry out programs and activities that provide access to care for a full spectrum of preventable and treatable health care problems and illnesses, and to educate the public in a linguistically appropriate manner, including—

(a) family planning services and information;

(b) prenatal and postnatal care; and

(c) services and assistance with respect to abortion, cancer, HIV disease and AIDS, sexually transmitted diseases, mental health, diabetes, and heart disease.

SEC. 2902. FOCUS ON UNINSURED AND LOW-INCOME POPULATIONS.

(a) PRIORITIZATION OF HEALTH GRANTS TO INCREASE FUNDING EQUITY.—In order to create a more diverse movement, cultivate new leaders, and address health issues within medically underserved areas, the Secretary shall, in awarding grants and other assistance under this Act, reserve a portion of the grants and assistance for entities that—

(A) represent medically underserved areas or populations with a large number of uninsured and low-income individuals; and

(B) otherwise meet all requirements for the grant or assistance.

(b) TARGETED HEALTH EDUCATION PROGRAMS.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $18,000,000 for fiscal year 2007 and each succeeding fiscal year.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $18,000,000 for fiscal year 2007 and each succeeding fiscal year. The bill would also provide grants to States and nongovernmental entities to initiate public awareness and outreach campaigns to reduce teenage pregnancies; to the Committee on Health, Education, and Pensions.

By Mrs. BOXER:

S. 3966. A bill to provide assistance to State and nongovernmental entities to initiate public awareness and outreach campaigns to reduce teenage pregnancies; to the Committee on Health, Education, and Pensions.

Mr. BOXER. Mr. President, today I rise to reintroduce the HOPE (Hispanics Organized for Political Equality) Youth Pregnancy Prevention Act.

The United States has the highest rate of teen pregnancy in the Western industrialized world, and the U.S. teen-pregnancy rate is nearly twice that of Canada and Great Britain. Although overall teen pregnancy rates have decreased in recent years, the teen pregnancy rates for Hispanics and other ethnic and racial minority teens in the United States are significantly higher than the national average. For example, 51 percent of Latina girls in the U.S. will become pregnant once before the age of 20.

The Latina population in the United States has grown tremendously. Currently, there are approximately 18 million Latinas that reside in the U.S. In my home State of California, 29 percent of all women are Latinas, this is approximately five million women. The number of Latinas is expected to continue to grow. It is estimated that by 2050, one out of every four women in the U.S. will be a Latina. Despite their growing numbers, Latinas continue to face serious health care access barriers and consequently higher incidence of teenage pregnancy.

To address the growing risk for many reproductive and other health concerns that are otherwise preventable, the HOPE Youth Pregnancy Prevention Act would provide a comprehensive solution and the resources to help prevent teen pregnancy among at-risk and minority youth.

Specifically, the bill would provide grants to States, localities, and non-governmental organizations for teen pregnancy prevention activities targeted to areas with large ethnic minorities and other at-risk youth. These grants could be used for a number of activities, including, youth development, work-related interventions and other educational activities, parental involvement, teenage outreach and clinical services. The bill would authorize $30 million a year for five years for such grants.

The bill would also provide grants to States and non-governmental organizations to establish multimedia public awareness campaigns to combat teen pregnancy. These campaigns would aim to prevent teen pregnancy through TV, radio and print ads, billboards, posters, and the Internet. Priority would be given to those activities that target ethnic minorities and other at-risk youth.

Over the past 10 years, we have made progress in reducing teen pregnancy, but our work is not done. We need to strengthen our efforts, especially among Latinas and other minority

The United States has the highest rate of teen pregnancy in the Western industrialized world, and the U.S. teen-pregnancy rate is nearly twice that of Canada and Great Britain. Although overall teen pregnancy rates have decreased in recent years, the teen pregnancy rates for Hispanics and other ethnic and racial minority teens in the United States are significantly higher than the national average. For example, 51 percent of Latina girls in the U.S. will become pregnant once before the age of 20.

The Latina population in the United States has grown tremendously. Currently, there are approximately 18 million Latinas that reside in the U.S. In my home State of California, 29 percent of all women are Latinas, this is approximately five million women. The number of Latinas is expected to continue to grow. It is estimated that by 2050, one out of every four women in the U.S. will be a Latina. Despite their growing numbers, Latinas continue to face serious health care access barriers and consequently higher incidence of teenage pregnancy.

To address the growing risk for many reproductive and other health concerns that are otherwise preventable, the HOPE Youth Pregnancy Prevention Act would provide a comprehensive solution and the resources to help prevent teen pregnancy among at-risk and minority youth.

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The bill would also provide grants to States and non-governmental organizations to establish multimedia public awareness campaigns to combat teen pregnancy. These campaigns would aim to prevent teen pregnancy through TV, radio and print ads, billboards, posters, and the Internet. Priority would be given to those activities that target ethnic minorities and other at-risk youth.

Over the past 10 years, we have made progress in reducing teen pregnancy, but our work is not done. We need to strengthen our efforts, especially among Latinas and other minority
youth. I urge my colleagues to join me in supporting this effort.

I ask unanimous consent that the text of my bill be printed in the RECORD.

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

S. 3966

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 1. PUBLIC PURPOSE.

This Act may be cited as the ‘‘HOPE Youth Pregnancy Prevention Act’’.

SEC. 2. AMENDMENT TO THE PUBLIC HEALTH SERVICE ACT.

Part P of title III of the Public Health Service Act (42 U.S.C. 280g et seq.) is amended by adding at the end the following:

‘‘SEC. 1996Q. YOUTH PREGNANCY PREVENTION.
‘‘(a) AT-RISK YOUTH PREGNANCY PREVENTION GRANTS.

‘‘(1) IN GENERAL.—The Secretary shall award grants to eligible entities to enable such entities to establish multimedia public awareness campaigns to combat teenage pregnancy.

‘‘(2) ELIGIBILITY.—To be eligible to receive a grant under paragraph (1), an entity shall—

‘‘(A) be a State government or a private nonprofit entity; and

‘‘(B) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

‘‘(B) ELIGIBLE ACTIVITIES.—Activities carried out under a grant under this subsection may include—

‘‘(A) youth development for adolescents;

‘‘(B) work-related interventions and other educational activities;

‘‘(C) parental involvement;

‘‘(D) teenage outreach; and

‘‘(E) clinical services.

‘‘(c) MULTIMEDIA PUBLIC AWARENESS AND OUTREACH GRANTS.—

‘‘(1) IN GENERAL.—The Secretary shall award grants to eligible entities to enable such entities to establish multimedia public awareness campaigns to combat teenage pregnancy.

‘‘(2) ELIGIBILITY.—To be eligible to receive a grant under paragraph (1), an entity shall—

‘‘(A) be a State government or a private nonprofit entity; and

‘‘(B) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

‘‘(3) ELIGIBLE ACTIVITIES.—Activities carried out under a grant under this subsection may include—

‘‘(A) youth development for adolescents;

‘‘(B) work-related interventions and other educational activities;

‘‘(C) parental involvement;

‘‘(D) teenage outreach; and

‘‘(E) clinical services.

‘‘(4) PRIORITY.—In awarding grants under this subsection, the Secretary shall give priority to applicants that express an intention to carry out activities that target ethnic minorities and other at-risk youth.

‘‘(c) AUTHORIZATION OF APPROPRIATIONS.—

There are authorized to be appropriated—

‘‘(1) to carry out subsection (a), $30,000,000 for each of fiscal years 2007 through 2011; and

‘‘(2) to carry out subsection (b), $30,000,000 for each of fiscal years 2007 through 2011.’’.

By Mrs. CLINTON:

S. 3967. A bill to require the International Trade Commission to report on the specific impact of each free trade agreement in force with respect to the United States on a sector-by-sector basis, and for other purposes; to the Committee on Finance.

Mrs. CLINTON. Mr. President, I am pleased today to introduce a bill that will help inform the Congress and the American people about our Nation’s trade agreements.

The trade policy debate here in Washington is heated and polarized. Supporters of ‘‘free trade’’ often view trade agreements uncritically and assume while other are suspicious of any agreement that makes it easier to trade with other countries. I believe that trade policy decisions should be based on an understanding of the concrete results of these agreements and the impact that they have on our economy and the American people, rather than on preconceived notions.

My bill, the Trade Agreement Accountability Act, will inject factual analysis into this debate. The bill requires the International Trade Commission to report on the effects of every trade agreement we sign. These reports will examine the good and the bad of every trade agreement after two years, after five years and then five years after it goes into effect. They will study the effect of each trade agreement on a sector-by-sector basis, and conduct an assessment and quantitative analysis of how each agreement is fostering economic growth, improving living standards and helping to create jobs.

In short, this bill will help educate policymakers and the American people about this important debate. I hope that by evaluating the results of past agreements, we will be able to better understand the consequences of future ones.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 3967

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 ‘‘Trade Agreement Accountability Act’’.

SEC. 2. ITC REPORT.

(a) IN GENERAL.—Not later than 2 years after the date of the enactment of this Act, 5 years after the date of the enactment of this Act, and every 5 years thereafter, the International Trade Commission shall submit a report to Congress on each free trade agreement that is in force with respect to the United States.

(b) CONTENTS OF REPORT.—Each report required by subsection (a) shall contain the following:

(1) With respect to the United States and each country that is a party to a free trade agreement, an assessment and quantitative analysis of how each agreement—

(A) is fostering economic growth;

(B) is improving living standards;

(C) is helping create jobs;

(D) is reducing or eliminating barriers to trade and investment.

(2) An assessment and quantitative analysis of how each agreement is meeting the goals and objectives for the agreement on a sector by-sector basis, including—

(A) trade in goods;

(B) customs matters, rules or origin, and enforcement cooperation;

(C) sanitary and phytosanitary measures;

(D) intellectual property rights;

(E) trade in services;

(F) electronic commerce;

(G) government procurement;

(H) transparency, anti-corruption; and regulatory reform; and

(1) any other issues with respect to which the International Trade Commission submitted a report under section 2104(f) of the Bipartisan Trade Promotion Authority Act of 2002.

(3) A summary of how each country that is a party to an agreement has changed its labor and environmental laws since entry into force of the agreement.

(4) An analysis of whether the agreement is making progress in achieving the applicable purposes, policies, priorities, and objectives of the Bipartisan Trade Promotion Authority Act of 2002.

By Mr. AKAKA (for himself and Mr. LAUTENBERG):

S. 3968. A bill to affirm the authority of the Comptroller General to audit and evaluate the programs, activities, and financial transactions of the intelligence community, and for other purposes; to the Select Committee on Intelligence.

Mr. AKAKA. Mr. President, I rise to introduce ‘‘The Intelligence Community Audit Act of 2006,’’ with Senator LAUTENBERG which would reaffirm the authority of the Comptroller General of the United States and head of the Government Accountability Office’s, GAO, authority to audit the financial transactions and evaluate the programs and activities of the intelligence community (IC). Representative BENNIE THOMPSON, ranking member of the House Homeland Security Committee, is introducing similar legislation.

The bill Senator LAUTENBERG and I offer today is in keeping with legislation introduced in 1967 by Senator John Glenn, the former chairman of the Governmental Affairs Committee, to ensure more effective oversight of the Central Intelligence Agency (CIA) in the wake of the Iran-Contra scandal.
The need for greater oversight and availability of information to appropriate congressional committees is not new. What is new is that Congress does not have the luxury of failure in this era of terrorism. Failure brings terrible consequences for national security.

Since 9/11, effective oversight is needed now more than ever for two very basic reasons: First, intelligence reforms have spawned new agencies with new intelligence functions demanding even more inter-agency cooperation. The Congress needs to ensure that these agencies have the assets, resources, and capability to do their job in protecting our national security. However, now the Congress cannot do its job properly, in part, because its key investigative arm, the Government Accountability Office, is not given adequate access to the intelligence community, led by the Director of National Intelligence (DNI).

Moreover, intelligence oversight is no longer the sole purview of the Senate and House intelligence committees. Other committees have jurisdiction over such departments as Homeland Security, State, Defense, Justice, Energy, and even Treasury and Commerce. Each of these war on terrorism agencies have intelligence collection and sharing responsibilities. Nor is the information necessary for these committees to exercise their oversight responsibilities restricted to the two intelligence committees as their organizing resolutions make clear. Unfortunately, the intelligence community stonewalls the GAO when committees of jurisdiction request that GAO investigate problems despite the clear responsibility of Congress to ensure that these agencies are operating effectively to protect America.

This is not always the case. Some agencies recognize the valuable contribution that GAO makes in improving the quality of the intelligence. Lieutenant General Lew Allen, Jr., then Director of the National Security Agency (NSA), observed in testimony before the Senate Select Committee to Study Governmental Operations With Respect To Intelligence Activities, on October 29, 1975: “Another feature of congressional review is that since 1955 resident auditors of the General Accounting Office have been assigned at the Agency to perform on-site audits. Additionally, Central Intelligence Agency (CIA) auditors were assigned for access in 1973, and GAO, in addition to this audit, is initiating a classified review of our automatic data processing functions.” Not surprisingly, this outpost of the GAO still exists at the NSA.

Secondly, equally important, is the inability of Congress to ensure that unfettered intelligence collection does not trample civil liberties. New technologies and new personal information data streams threaten our individual right to a secure private life, free from unlawful government invasion. The Congress must ensure that private information being collected by the intelligence community is not misused and is secure.

Over 30 years ago, Senator Charles Percy urged Congress to “act now to gain control over the Government’s dangerously proliferating police, investigative, and intelligence activities.” He noted that “we find ourselves threatened by the specter of a ‘watch-dog’ Government, breeding a nation of snoopers.”

The privacy concerns expressed by our former colleague have become vastly more complicated. As I have noted, the institutional landscape has become littered with new intelligence agencies with ever-increasing demands and responsibilities on law enforcement at every level of government since the establishment of the Department of Homeland Security and the passage of the Intelligence Reform and Terrorism Prevention Act of 2004. They have the legitimate mission to protect the country against potential threats.

Congress must ensure that their mission remains legitimate.

The intelligence community today consists of 19 different agencies or components: the Office of the Director of National Intelligence; Central Intelligence Agency; Defense Intelligence Agency; National Security Agency; Departments of the Army, Navy, Marine Corps, and Air Force; Department of State; Department of Treasury; Department of Energy; Department of Justice; Federal Bureau of Investigation; National Reconnaissance Office; National Geospatial-Intelligence Agency; Coast Guard; Department of Homeland Security, and the Drug Enforcement Administration.

I ask unanimous consent that a memorandum prepared by the Congressional Research Service, entitled “Congressional Intelligence Oversight,” be included in the RECORD. As both House Resolution 48 and Senate Resolution 400 establishing the intelligence oversight committees state, “Nothing in this [charter] shall be construed as amending, limiting, or otherwise changing the authority of any standing committee of the [House/Senate] to obtain full and prompt access to the product of the intelligence activities of any department or agency of the Government relevant to a matter otherwise within the jurisdiction of such committee.”

Despite this clear and unambiguous statement, the ability of non-intelligence committees to obtain information, no matter how vital to improving the security of our Nation, has been restricted by the various elements of the intelligence community.

Two recent incidents have made this situation disturbingly clear. At a hearing entitled “Access Delayed: Fixing the Security Clearance Process, Part II,” I submitted a subcommittee on oversight of Government Management, the Federal Workforce, and the District of Columbia on which I serve as Ranking Member, on November 9, 2005, GAO was asked about steps it would take to ensure that the Office of Personnel Management (OPM), the Office of Management and Budget, and the intelligence community met the goals and objectives outlined in the OPM security clearance strategic plan. Fixing the security clearance process on GAO’s high-risk list, is essential to our national security. But as GAO observed in a written response to a question raised by Senator VOINOVICH, “while we have the authority to do such work, we lack the cooperation that our job done in that area.” The intelligence community is blocking GAO’s work in this essential area.

A similar case arose in response to a GAO investigation for the Senate Homeland Security Committee and the House Government Reform Committee on how agencies are sharing terrorism-related and sensitive but unclassified information. The report, entitled “Information Sharing, the Federal Government Needs to Establish Policies and Processes for Sharing Terrorism-Related and Sensitive but Unclassified Information” (GAO–06–385), was released in March 2006.

At a time when Congress is criticized by many members of the 9-11 Commission for failing to implement its recommendations, we should remember that improving terrorism information sharing among agencies was one of the critical recommendations of the 9-11 Commission. The Government Reform and Terrorism Prevention Act of 2004 mandated the sharing of terrorism information through the creation of an Information Sharing Environment. Yet, when asked by GAO for comments on the GAO report, the Office of the Director of National Intelligence refused, stating that “the review of intelligence activities is beyond GAO’s purview.”

However, as a Congressional Research Service memorandum entitled “Information Sharing, the Federal Government Needs to Establish Policies and Processes for Sharing Terrorism-Related and Sensitive but Unclassified Information,” concludes, “it appears that pseudo-classification markings have, in some instances, had the effect of deterring information sharing for homeland security.” I ask unanimous consent that the memo be printed in the RECORD following my remarks.

Unfortunately I have more examples, that predate the post 9-11 reforms. Indeed, in July 2001, in testimony entitled “Documentation of the Need To Establish Policies and Procedures for Sharing Terrorism-Related and Sensitive but Unclassified Information,” the GAO noted, as a practical matter, “our access is generally limited to obtaining information on threat assessments when the CIA does not perceive [sic] our audits as oversight of its activities.” I ask consent that this testimony also be printed following my remarks.

It is inconceivable that the GAO—the audit arm of the U.S. Congress—has been unable to conduct evaluations of the CIA for over 40 years.
If the GAO had been able to conduct basic auditing functions of the CIA, perhaps some of the problems that were so clearly exposed following the terrorist attacks in September 2001 would have been resolved. And yet, it is extraordinary that five years after 9–11 the threat remains.

Once more I refer to Senator Glenn’s bill S. 1458, the “General Accounting Office-Central Intelligence Agency Audit Act of 1987.” On its introduction he stated: “It has been a long run, I believe carefully controlled GAO audits of CIA will lower the probability of future abuses of power, boost the credibility of CIA management, increase the essential public support the Agency’s mission deserves, assist the Congress in conducting meaningful oversight, and in no way compromise the CIA mission.” Unfortunately, S. 1458 did not become law, and nearly 20 years later, the CIA’s apparent management challenges led to the creation of the Director of National Intelligence with the Intelligence Reform Act of 2004. If Senator Glenn’s proposal made in 1987 had been accepted, perhaps, again, some of the problems that became apparent with our intelligence agencies following September 11 might never have occurred.

I want to be clear that my legislation does not detract from the authority of the intelligence committees. In fact, the language makes explicit that the Comptroller General may conduct an audit or investigation of intelligence sources or methods or covert actions only upon the request of the intelligence committees or at the request of the congressional majority or minority leaders. The measure also prescribes for the security of the information collected by the Comptroller General.

However, my bill reaffirms the authority of the Comptroller General to conduct audits and investigations—other than those relating to sources and methods—relating to the management and administration of elements of the intelligence community in areas such as strategic planning, financial management, information technology, human capital, knowledge management, information sharing, and change management for other relevant committees of the Congress.

Attached is a detailed description of the legislation. I urge my colleagues to join me in supporting this legislation. I ask their consent that the text of the bill be printed in the RECORD.

There being no objection the materials were ordered to be printed in the RECORD, as follows:

Subject: Congressional Oversight of Intelligence

From: Alfred Cumming, Specialist in Intelligence and National Security Foreign Affairs, Defense, and Trade Division.

This memorandum examines the intelligence oversight structure established by Congress including the role of the congressional select intelligence committees by the U.S. House of Representatives and the Senate, respectively. It also looks at the intelligence oversight role that Congress reserved for congressional committees other than the intelligence committees; examines certain committees that are empowered to govern how the executive branch is to keep the congressional intelligence committees informed of intelligence activities; and finally, looks at the circumstances under which the two intelligence committees are expected to keep congressional standing committees, as well as select committee members, informed of intelligence activities.

If I can be of further assistance, please call at 701–7739.

BACKGROUND

In the wake of congressional investigations into Intelligence Community activities in the mid-1970s, the U.S. Senate in 1976 created a select committee on intelligence to conduct more effective oversight on a continuing basis. The U.S. House of Representatives established its own intelligence oversight committee the following year.

Until the two intelligence committees were created, other congressional standing committees—principally the Senate and House Armed Services and Appropriations committees—shared responsibility for overseeing the intelligence community. Although they had jurisdiction over the Central Intelligence Agency (CIA) to the two new select intelligence committees, these congressional standing committees were without knowledge of the intelligence activities of the other departments and agencies they oversaw. According to one observer, the standing committees assumed their jurisdictional prerogatives for two reasons—to protect “ turf,” but also to provide “a hedge against the possibility that the newly launched experiment in oversight might go astray.”

INTELLIGENCE COMMITTEES’ STATUTORY OBLIGATIONS

Under current statute, the President is required to ensure that the congressional intelligence committees are kept “fully and currently informed” of U.S. intelligence activities, including any “significant anticipated intelligence activity, and the President and the intelligence committees are to establish any procedures as may be necessary to carry out these provisions.

The statute mandates that the intelligence committees in turn are responsible for alerting the respective chambers or congressional standing committees of any intelligence activities that require further attention. The intelligence committees are to carry out this responsibility in accordance with procedures established by the House of Representatives and the Senate, in consultation with the Director of National Intelligence, in order to protect against unauthorized disclosure of classified information, and all information relating to sources and methods.

The statute stipulates that “each of the congressional intelligence committees shall promptly call to the attention of the respective House, or to any appropriate committee or committees of its respective House, any activities with substantial national security implications requiring the attention of such House or such committee or committees.”

This provision was included in statute after being specifically requested in a letter from then Senate Foreign Relations Chairman Frank Church and Ranking Minority Member Barry Goldwater to then-intelligence committee chairman Birch Bayh and Vice Chairman Barry Goldwater.

INTELLIGENCE COMMITTEE OBLIGATIONS UNDER RESOLUTION

In an apparent effort to address various concerns relating to committee jurisdiction, the House of Representatives and the Senate, in the resolutions establishing each of the intelligence committees, included language preserving oversight roles for those standing committees with jurisdiction over matters affected by intelligence activities.

Specifically, each intelligence committee’s resolution states that the [Charter] shall be construed as prohibiting or otherwise restricting the authority of any other committee to study and review any intelligence activity to the extent that such activity directly affects a matter otherwise within the jurisdiction of such committee.”

Both resolutions also stipulate that: Nothing in this [charter] shall be construed as amending, limiting, or otherwise changing the authority of any standing committee of the [House/Senate] to fully and promptly access to the product of the intelligence activities of any department or agency of the Government relevant to a matter otherwise within the jurisdiction of such committee.

Finally, both charters direct that each intelligence committee alert the appropriate standing committees, or the respective chambers, of any matter requiring attention.

The charters state:

CROSS-OVER MEMBERSHIP

Both resolutions also direct that the membership of each intelligence committee include members who serve on the four standing committees that historically have been involved in intelligence oversight. The respective resolutions designate the following committees as falling in this category: Appropriations, Armed Services, Judiciary, and the Senate Foreign Relations Committee and the House International Relations Committee.

Although each resolution directs that such cross-over members be designated, neither specifies whether cross-over members are to play any additional role beyond serving on the intelligence committees. For example, neither resolution outlines whether cross-over members are to serve on standing committees that they represent. Rather, each resolution directs only that the “intelligence committee” shall promptly call such matters to the attention of standing committees and the respective chambers if the committees determine that they require further attention by those entities.

SUMMARY CONCLUSIONS

Although the President is statutorily obligated to keep the congressional intelligence committees fully and currently informed of intelligence activities, the statutes designates the intelligence committees to inform the respective chambers, or standing committees, of such activities, if either of the two committees determine that further oversight attention is required.

Further, resolutions establishing the two intelligence committees make clear that the intelligence committees share all intelligence oversight responsibilities with other standing committees, to the extent that certain intelligence activities fall under the jurisdiction of a committee other than the intelligence committees.

Finally, the resolutions establishing the intelligence committees create the designation of “cross-over” members representing certain standing committees that
played a role in intelligence oversight prior to the establishment of the intelligence committees in the 1970s. The resolutions, however, do not specify what role, if any, these “cross-over” members play in keeping standing committees on which they serve informed of certain intelligence activities. Rather, each resolution states that the reformed of certain intelligence activities.

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A few years after the conclusion of World War II, President Harry S. Truman, in February 1948, issued E.O. 8802, which superseded E.O. 8381. It redefined the term “confidential information” to mean “information that, if disclosed, would reasonably be expected to cause substantial injury to the national security.”

E.O. 10501, issued in September 1951, introduced three new classification categories: Top Secret, Confidential, and Secret. These categories were classified on the basis of the time sensitivity of the information or the need to protect it from unauthorized disclosure.

One of the most significant developments in the history of security classification was the issuance of E.O. 5072, which established the National Security Council as the principal agency for setting policy and overseeing the classification program.

Most recently, in March 2003, President George W. Bush issued E.O. 13232, amending E.O. 12958. Among the changes made by this order was the removal of the “firewall” between the Intelligence Community and the Office of the Director of National Intelligence, which had been established in 1976.

The changes made by E.O. 13232 were intended to improve the efficiency and effectiveness of the classification system and to streamline the process of handling classified information.

SECURITY CLASSIFIED INFORMATION

Current security classification arrangements, prescribed by an executive order of the President, trace their origins to a March 1940 presidential directive by President Franklin D. Roosevelt as E.O. 8381. This development was probably prompted somewhat by desires to clarify the authority of civilian personnel in the national security field to classify information.

The first systematic procedures for the protection of national defense information, defined as “intelligence, military, or government information of a nature to cause serious injury to the national defense if disclosed but that does not fall within the category of secret or top secret,” were prescribed in 1947 by President Harry S. Truman in E.O. 10501. These procedures were based on the recommendations of a presidential commission that had been established to study the problems of national security classification.

In 1973, President Richard Nixon issued E.O. 11652, which established the Central Intelligence Agency as the principal agency for setting policy and overseeing the classification program. The order also strengthened the authority of the president to declassify information.

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and mandatory declassification reviews are subject to review by the Interagency Security Classification Appeals Panel. General restrictions on access to classified information and record dissemination are distributed controls for classified information. The Information Security Oversight Office (ISOO) within the National Archives and Records Administration administers a centralized security classification program and oversees the security classification process. The director of the agency is responsible for the proper classification of information. The Department of Energy Office of Intelligence, Information Security, and Technology oversees the classification process for energy information. The Department of Defense has waived its need for a classification program for national security information.

In 1954, the Department of Defense created the National Security Archive, a private sector organization. The Department of Defense is responsible for the security classification of national security information. The National Security Archive offers that, of 37 agencies surveyed, 24 used 28 control markings based on internal policies, procedures, or practices, and eight used 10 markings based on E.O. 11652, issued in 1954, and intelligence sources and methods in the National Security Act of 1947—which has been recognized by the Supreme Court. Congress, however, has established protections for certain kinds of information—such as Restricted Data in the Atomic Energy Acts of 1946 and 1954, and intelligence sources and methods in the National Security Act of 1947—which have been recognized by the courts as have high security classification arrangements. It has acknowledged properly applied security classification as a basis for withholding records sought pursuant to the Freedom of Information Act (FOIA). Enacted in 1966, FOIA had become operative in July 1967. In the early months of 1972, the Nixon Administration was developing new security classification procedures, which would be prescribed in E.O. 11652, issued in early March. Preparatory to this hearing, the panel had surveyed the departments and agencies in September 1971, asking, among other questions, "Why in the name of God is the President trying to identify records which are not classifiable under Executive Order 10501 (the operational date) but which are not to be made available outside the government?" Of 58 information control markings identified in response to this question, the majority of them are administratively, not statutorily, prescribed; and that many of them have an inadequate management basis, particularly when compared with the detailed arrangements which govern the management of classified information. A recent press account illustrating this problem, the online, electronic news service of Government Computer News, reported that "dozens of agencies, including those that deal with classified documents" had been accidentally made available on a public Internet site for several days due to an apparent security glitch at the Department of Energy. Describing the contents of the compromised materials and reactions to the breach, the account stated that the "documents were marked for official use only, the lowest secret-level classification." The documents, of course, were not security classified, because the marking cited is not authorized by E.O. 12958. Interestingly, however, in discussing this consistent dereliction appeared in a story to which three reporters contributed, perhaps it reflects, to some extent, the current confusion of these information control markings with security classification designations.

Broadly considering the contemporary situation regarding information control markings, a preliminary report by the JANSS Program Office of the MITRE Corporation professed the following assessment:

The status of sensitive information outside of the present classification system is murkier than ever. "Sensitive but unclassified" data is increasingly defined by the eye of the beholder. It is, correspondingly, lacking in policies and procedures for protecting (or not protecting) it, and regarding how and by whom it is generated and used.

A contemporaneous Heritage Foundation report appeared to agree with this appraisal, saying:

The process for classifying secret information in the federal government is so confusing and explicit. The same cannot be said for unclassified data but the same policies for which there is no usable definition, no common understanding about how to control it, no agreement on what significance it has for the classification of information, and no criteria for adjudicating concerns regarding appropriate levels of protection.

Concerning the current Sensitive but Unclassified (SBU) marking, a 2004 report by the Federal Research Division of the Library of Congress commented that guidelines for its use are needed, and noted that "a uniform legal definition or set of procedures applicable to all Federal government agencies does not now exist." Indeed, the report indicated that the different uses of the markings mean different interpretations. Some agencies have no procedures for SBU information, while others have procedures for it. Congress, however, has required the President to prescribe the procedures for SBU information. The President issued a December 16, 2005 memorandum recognizing the need for standardized procedures for SBU information and directing department and agency officials to take certain actions relative to that objective. In May 2006, the newly appointed manager of the ISE agreed with a March GAO report that the lack of a uniform definition, designated as such with some marking, was not being shared due to concerns about the ability to adequately protect it. In brief, it appears that pseudo-classification markings have, in some instances, had the effect of deterring information sharing for homeland security purposes. Congressional overseers have probed executive and management use of information and management capabilities of the United States regarding Weapons of Mass Destruction. Congress again responded by mandating the creation of an Information Sharing Environment (ISE) when legislating the Intelligence Reform and Terrorism Protection Act of 2004. Preparatory to implementing the ISE provisions, the President issued a December 16, 2005 memorandum recognizing the need for standardized procedures for SBU information and directing department and agency officials to take certain actions relative to that objective. In May 2006, the newly appointed manager of the ISE agreed with a March GAO report that the lack of a uniform definition, designated as such with some marking, was not being shared due to concerns about the ability to adequately protect it. In brief, it appears that pseudo-classification markings have, in some instances, had the effect of deterring information sharing for homeland security purposes. Congressional overseers have probed executive and management use of information and management capabilities of the United States regarding Weapons of Mass Destruction. 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control markings other than those prescribed for the classification of national security information, and the extent to which they result in “pseudo-classification” or a form of self-imposed restrictions. Relevant legislation proposed during the 109th Congress includes two bills (H.R. 2331 and H.R. 3112) containing sections which would require the Department of Homeland Security to prepare a detailed report regarding the number, use, and management of these information control markings and submit it to specified committees, and to promulgate regulations banning the use of these markings and otherwise establish standards for information control designations established in executive order or otherwise relating to the classification of national security information. A section in the Department of Homeland Security appropriations legislation (H.R. 2441), as approved by the House, would require the Secretary of Homeland Security to revise DHS MD (Management Directive) 1106 to include (1) provision that information that is three years old and not incorporated in a current, active transportation security directive or security plan shall be determined automatically to be releasable; (2) specific criteria relating specifically to the classification of SSI materials in the U.S. government’s databases, the Secretary makes a written determination that identifies a compelling reason why the information must remain Sensitive Security Information (SSI); (2) common and extensive examples of the individual categories of SSI cited in order to minimize and standardize judgment in the application of SSI marking; and (3) provision that, in all judicial or administrative proceedings where the judge overseeing the proceedings has adjudicated that a party needs to have access to SSI, the party shall be deemed a certified person for purposes of access to the SSI at issue in the case unless TSA or DHS demonstrates a compelling reason why the specific individual presents a risk of revelation. A May 25, 2006, statement of administration policy on the bill strongly opposed the section, saying it “would jeopardize an important program that protects Sensitive Security Information (SSI) from public release by deeming it automatically releasable in three years, potentially conflict with requirements of the Privacy and Freedom of Information Acts, and negate statutory provisions providing original jurisdiction for lawsuits challenging the design and publication of SSI in U.S. Courts of Appeals.” The statement further indicated that the section would create a “burdensome review process” for the Secretary of Homeland Security and “would result in extraordinary requests being applied to SSI programs administered by the Departments of Homeland Security and Transportation.” It is not anticipated that this memorandum will be updated for reissuance.

TESTIMONY BEFORE THE SUBCOMMITTEE ON GOVERNMENT EFFICIENCY, FINANCIAL MANAGEMENT, AND INTERGOVERNMENTAL RELATIONS, AND THE SUBCOMMITTEE ON NATIONAL SECURITY, ARMED FORCES, AND FOREIGN RELATIONS, COMMITTEE ON GOVERNMENTAL REFORM, HOUSE OF REPRESENTATIVES

United States General Accounting Office

CENTRAL INTELLIGENCE AGENCY

OVERSIGHT OF CIA ACTIVITIES

Currently, two congressional select committees and the CIA’s Inspector General oversee the CIA’s activities. The Senate Select Committee to review CIA programs, and the House Intelligence Committee, established on May 19, 1976, to oversee the activities of the Intelligence Community. Its counterpart in the House of Representatives is the Permanent Select Committee on Intelligence, established on July 14, 1977. The CIA’s Inspector General is nominated by the President and confirmed by the Senate. The President’s Foreign Intelligence Advisory Board is established by statute in 1989 and conducts inspections, investigations, and audits at headquarters and in the field. The Inspector General reports to the Director of National Intelligence, and the President’s Foreign Intelligence Advisory Board informs the President and confirms the Director of National Intelligence’s selection of the Inspector General.

SUMMARY

Overview of the CIA generally comes from two select committees of Congress and the CIA’s Inspector General. We have broad authority to conduct oversight of the CIA and work with other intelligence agencies. Our comments are based upon our review of historic files, our legal analysis, and our experiences dealing with the CIA over the years.

BACKGROUND

The CIA is a federal agency that conducts national security-related intelligence activities on behalf of the President and, in coordination with other agencies of the Intelligence Community. The Intelligence Community is an interagency body created to conduct and coordinate national security intelligence activities. The CIA is responsible for conducting, producing, and disseminating foreign intelligence information as a member of the Intelligence Community. The CIA is also responsible for counterintelligence and covert action activities. The CIA is organized into five major components: Operations, Analysis, Intelligence and Counterintelligence, Technical Services, and the Office of Management and Evaluation. As the executive agent of the President and the national security establishment, the CIA is charged with researching, developing, and procuring technical systems and devices.

As you know, the General Accounting Office is the investigative arm of the United States Congress. The General Accounting Office (GAO) is a federal agency under the aegis of the General Accounting Office Act of 1921. The General Accounting Office Act of 1921 established the General Accounting Office of the Congress of the United States as an independent body of the Congress. The General Accounting Office of the Congress of the United States is granted the authority to conduct investigations and make recommendations to the Congress for the purpose of improving the efficiency and economy of the operations of the United States government.

The General Accounting Office is an independent body of the Congress of the United States and is a part of the executive branch of the government. The General Accounting Office is constituted of a Congressionally appointed board of directors, headed by a congressionally appointed board chairperson, and is not subject to the direction or control of any other executive branch agency or department. The General Accounting Office is directed by the congressionally appointed board chairperson, who is responsible for the overall management of the General Accounting Office and its staff. The General Accounting Office is also directed by a chief counsel, who is responsible for the legal affairs of the General Accounting Office.

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GAO’S ACCESS TO THE CIA HAS VARIED THROUGH THE YEARS

After the enactment of the National Security Act of 1947, we began conducting financial transaction audits of vouchered expenditures of the CIA. This effort continued into the early 1950s, when we broadened its work at the CIA to include an examination of the efficiency, economy, and effectiveness of CIA programs. Although the CIA Director agreed to our proposal to expand the scope of our work, he placed a number of conditions on our access to information. Nonetheless, in October 1959, we agreed to conduct program review work with CIA-imposed restrictions on access.

Our attempt to conduct comprehensive program reviews continued until July 1961, when the Comptroller General concluded that the CIA was not providing us with sufficient access to the information necessary to conduct comprehensive reviews of the CIA’s programs and announced plans to discontinue audit work there. After much discussion and several exchanges of correspondence between GAO, the CIA, and the cognizant congressional committees, the Chairman of the House Armed Services Committee wrote to the Comptroller General in July 1962 asking that, absent sufficient GAO access to CIA information, GAO should withdraw from further audit activities at the CIA. Thus, in 1962, we withdrew from all audits of the CIA.

The issue of our access has arisen periodically in the intervening years as our work has required some level of access to CIA programs and activities. In July 1975, Comptroller General Elmer Staats testified on our relationship with the intelligence community and cited several cases where CIA had not provided the requested information. In July 1987, Senator John Glenn introduced a bill (S. 1438) in the 100th Congress to clarify our audit authority to audit CIA programs. In 1994, the Comptroller General sought to further limit our audit work of intelligence programs, including those at the Department of Defense. We responded by writing to members of Congress, citing our concerns and seeking assistance. As a result, we and the CIA began negotiations on a written agreement to clarify our audit relationship. Unfortunately, we were unable to reach any agreement with CIA on this matter. Since then, GAO has limited its pursuit of greater access because of its priority to conduct this work from Congress, particularly from the intelligence committees. Given a lack of Congressional recognition of our limitations, we have made a conscious decision to deal with the CIA on a case-by-case basis.

CURRENT ACCESS FALLS INTO THREE CATEGORIES

Currently, the CIA responds to our requests for information in three ways: it provides the information, it provides the information or a part of it with some restriction, or it does not provide the information.

Examples of each of these three situations, based on the experiences of our audit staff in selected reviews in recent years, are listed below:

Sometimes the CIA straightforwardly fulfills our requests for briefings or reports relating to threat assessments. This is especially true when we ask for threat briefings or the CIA’s assessments or opinions on an issue not involving CIA operations.

For our evaluation of the Department of Defense’s Anthrax Vaccination Program for the Senate Foreign Relations and House International Relations Committees, we requested a meeting to consider the CIA’s recent threat assessment of chemical and biological threats to U.S. interests overseas. The CIA agreed with our request, provided a meeting within 2 weeks, and followed up with a written statement.

While we were reviewing U.S. assistance to the Haitian military, the CIA provided us with information on their threat assessments on chemical and biological weapons. The CIA cooperated and gave us access to documents and analysts.

On several occasions when CIA refused to provide one of our staff members with appropriate clearances for a subcommittee of the House Government Reform Committee, we asked to review CIA classified intelligence information, done for the House Armed Services Committee, provided us with limited access to information on international activities. The CIA has provided us with detailed briefings on drug cultivation, production, and trafficking activities in advance of our field work.

During our reviews of drug cultivation, production, and trafficking activities in advance of our field work, we were given appropriate clearances by the CIA with a written statement.

On our review of the Balkan security issues and the Dayton Peace Accords for the House Armed Services Committee and the Senate Foreign Relations Committee, we asked the CIA for threat assessments relevant to our review objectives. The CIA provided us with appropriate briefings and agreed to provide one of our staff members with access to regular intelligence reports.

In some instances, the CIA provides information with certain access restrictions or discusses an issue with us without providing detailed data or documentation.

During our evaluation of the Joint Counterdrug Coordinating Center, we provided the CIA with limited access to information. CIA officials reviewed their personnel regulations and take notes, but they did not allow us to review personnel folders on individual disciplinary actions.

This was in contrast to the National Security Agency and Defense Intelligence Agency, which gave us full access to personnel folders on individual terminations and disciplinary actions.

For our review of the Department of Defense’s efforts to address the growing risk to the United States from the use of high powered radio frequency weapons for the Joint Economic Committee, the CIA limited our access to one meeting. Although the technique associated with such systems was discussed at the meeting, the CIA did not provide any documentation on research being conducted by foreign nations.

On some occasions, related to national security issues, the CIA provides us with limited access to its written threat assessments and analyses, such as National Intelligence Estimates and the CIA reports. The CIA restricts our access to reading the documents and taking notes at the CIA or other locations. Examples include our readings of National Intelligence Estimates and access to ongoing work evaluating federal programs to combat terrorism.

In other cases, the CIA simply denies us access to the information we requested. The CIA’s refusals are not related to the classification level of the material. Many of our requests have been denied for the high level of access needed to review intelligence information. But the CIA considers our requests as having some implication of oversight, which denies us access.

For our evaluation of national intelligence estimates regarding missile threats for the House Armed Services Committee and a subcommittee of the House Government Reform Committee, the CIA refused to meet with us to discuss the general process and criteria for producing such estimates or the specific estimates we were reviewing. In addition, when we met with the Department of Defense, State, and Energy and told us that CIA had asked them not to cooperate with us, they did not allow us to review personnel folders on those estimates.

During our examination of overseas arrests of terrorists for the House Armed Services Committee and a subcommittee of the House Government Reform Committee, the CIA refused to meet with us to discuss intelligence issues related to such arrests. The CIA’s actions were in contrast to those of two other departments that provided us full access to their staff and files.

On our review of classified computer systems in the federal government for a subcommittee of the Energy and Commerce Committee, we requested basic information on the number and nature of such systems. The CIA did not provide us with the information but informed us that it was not able to participate in the review because the type of information is under the purview of congressional entities charged with overseeing the Intelligence Community.

For our review of the policies and procedures used by the Executive Office of the President that authorized the collection of intelligence information, done for the House Rules Committee, we asked to review CIA forms documenting that personnel had been granted appropriate clearances. The CIA declined our request, advising us that type of information we were seeking came under the purview of congressional entities charged with overseeing the Intelligence Community.

CONCLUSION

Our access to CIA information and programs has been limited by both legal and practical factors. Throughout the years, access has varied and we have not done detailed audit work at CIA since the early 1960s. Today, our access is generally limited to intelligence reports and assessments when the CIA does not perceive our audits as oversight of its activities. We foresee no major change in our current access to CIA information or the security clearances— the requestor of the vast majority of our work. Congressional impetus for change would have to include the support of the intelligence committees, who have generally not requested GAO reviews or evaluations of CIA activities. With such support, we could evaluate some of the basic management and operational practices at CIA and evaluate throughout the federal government.

This concludes our testimony. We would be happy to answer any questions you may have.

GAO Contacts and Staff Acknowledgment

For future questions about this testimony, please contact Henry L. Huntington, Jr., Managing Director, Defense Capabilities and Management at (202) 512-4300. Individuals making key contributions to this statement include Stephen L. Caldwell, James Reid, and David Hancock.

APPENDIX I: LEGAL FRAMEWORK FOR GAO AND CIA

GAO’S AUDIT AUTHORITY

The following statutory provisions give GAO broad authority to review agency programs and activities:
31 U.S.C. 712: GAO has the responsibility and authority for investigating matters relating to the receipt, disbursement, and use of public money, and for investigating programs of the Government or any appropriate congressional committees.

1 U.S.C. 717: GAO is authorized to evaluate the programs, operations, and activities of Federal agencies. Reviews are based upon the initiative of the Comptroller General, an order from either House of Congress, or a request from a committee with jurisdiction over several agencies. Reviews are limited by the Comptroller General's discretion, and that disclosure of the information obtained from the agency from which it is obtained.

31 U.S.C. 3523: This provision authorizes GAO to audit financial transactions of each agency, except as specifically provided by law.

31 U.S.C. 3524: This section authorizes GAO to audit unvouched accounts (e.g., those accounts credited for solely on the certification of an executive branch official). The President may exempt sensitive foreign intelligence and counterintelligence transactions, CIA expeditions on objects of a confidential, extraordinary, or emergency nature under 50 U.S.C. 403(b) are also exempt. Transactions in these categories may be reviewed by the intelligence committees.

GOA'S ACCESS-TO-RECORDS AUTHORITY

31 U.S.C. 716: GAO has a broad right of access to agency records. Section 716(a) requires agencies to give GAO information it requests, including records, personnel data, summaries, balances, organization, and financial transactions of the agency. This provision gives GAO a generally unrestricted right of access to agency records in turn is required to maintain the same level of confidentiality for the information as is required of the agency from which it is obtained. Therefore, GAO can authorize for the authority to enforce its requests for records by filing a civil action in federal district court. Under the provisions in 31 U.S.C. 716(d)(1), GAO is precluded from bringing a civil action to compel the production of a record if:

1. The record relates to activities the President designates as foreign intelligence or counterintelligence (see Executive Order No. 12333, defining these terms);
2. The record is specifically exempted from disclosure to GAO by statute; or
3. The President or the Director of the Office of Management and Budget certifies to the Comptroller General and Congress that a record could be withheld under the Freedom of Information Act exemptions in 5 U.S.C. 552(b)(3) (communications or records created in the fiscal year information on a foreign intelligence service or law enforcement information, respectively), and that disclosure of the information reasonably could be expected to impair substantially the operations of the government.

Although these exceptions do not restrict GAO’s basic rights of access under 31 U.S.C. 716(a), they do limit GAO’s authority to compel the production of particular records through a court action.

RELEVANT CIA LEGISLATION

The CIA has broad authority to protect intelligence sources and methods which are considered essential for national security. The CIA is an intelligence organization that operates under Section 716 of the act. The CIA is required to maintain the confidentiality of the information obtained from elements of the intelligence community relating to intelligence sources and methods. The CIA is responsible for protecting these sources and methods and for ensuring that the results of its audits or evaluations are not disclosed to unauthorized persons.

Section 3523a(c) of the act provides that the Comptroller General may only provide information obtained in the course of an audit or evaluation to the original requestor and, if in the possession and control of the element of the intelligence community, the Comptroller General may only disclose information obtained in the course of an audit or evaluation to the original requestor and, if in the possession and control of the element of the intelligence community that requested the audit or evaluation under the authority of the Senate, the House of Representatives, or the Permanent Select Committee on Intelligence.

Section 3523a(c)(2) provides that the results of such audits or evaluations under Section 3523a(c) may be disclosed only to the original requestor, the Director of National Intelligence, the Comptroller General, or the minority leader of the House or the Senate. This section is intended to restrict the dissemination of GAO’s findings under Section 3523a(c), whether through testimony, oral briefings, or written reports, to, or are in the possession and control of, the element of the intelligence community that requested the audit or evaluation under the authority of the Senate, the House of Representatives, or the Permanent Select Committee on Intelligence.

Section 3523a(c)(3)(A) provides that at the request of the congressional intelligence committees or any committee of the Senate or the House of Representatives, or at the request of any committee of the House of Representatives with jurisdiction over intelligence matters, prior to initiating an audit or evaluation under Section 3523a(c), the Comptroller General shall consult with the Director of National Intelligence and the head of the relevant element of the intelligence community. The Comptroller General may only disclose information obtained in the course of an audit or evaluation to the original requestor or the Director of National Intelligence or the head of the relevant element of the intelligence community. The Comptroller General may only disclose information obtained in the course of an audit or evaluation to the original requestor or the Director of National Intelligence or the head of the relevant element of the intelligence community.

Section 3523a(c)(3)(B) provides that the results of such audits or evaluations under Section 3523a(c) may be disclosed only to the original requestor, the Director of National Intelligence, the Comptroller General, or the minority leader of the House or the Senate. This section is intended to restrict the dissemination of GAO’s findings under Section 3523a(c), whether through testimony, oral briefings, or written reports, to, or are in the possession and control of, the element of the intelligence community that requested the audit or evaluation under the authority of the Senate, the House of Representatives, or the Permanent Select Committee on Intelligence.
The new Section 3523a(d) provides that elements of the intelligence community shall cooperate fully with the Comptroller General and provide timely responses to Comptroller General requests for documentation and information.

The new Section 3523a(e) makes clear that nothing in this or any other provision of law shall be construed as restricting or limiting the Comptroller General’s authority to audit and evaluate, or obtain access to the records of, elements of the intelligence community absent a statutory language restricting or limiting such audits, evaluations, or access to records.

S. 3968

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

The Act may be cited as the “Intelligence Community Audit Act of 2006”.

SEC. 2. COMPTROLLER GENERAL AUDITS AND EVALUATIONS OF ACTIVITIES OF ELEMENTS OF THE INTELLIGENCE COMMUNITY.

(a) REAFFIRMATION OF AUTHORITY; AUDITS OF INTELLIGENCE COMMUNITY ACTIVITIES.—

Chapter 35 of title 31, United States Code, is amended by inserting after section 3523 the following:

"3523a. Audits of intelligence community; audit requesters

"(a) In this section, the term ‘element of the intelligence community’ means an element of the intelligence community specified in or designated under section 3(4) or the National Security Act of 1947 (50 U.S.C. 401a(4)).

"(b) Congress finds that—

"(1) the Comptroller General may conduct audits and evaluations of financial transactions, programs, and activities of elements of the intelligence community without the reports of the Senate Select Committee on Intelligence or the House Permanent Select Committee on Intelligence furnished to the Comptroller General in accordance with section 716, the Comptroller General shall consult with the Select Committee on Intelligence of the Senate or the Permanent Select Committee on Intelligence relating to intelligence or military affairs of the Senate, and with the Select Committee on Intelligence or the Permanent Select Committee on Intelligence of the House of Representatives, the Comptroller General shall establish procedures to protect from unauthorized disclosure or use as officers or employees of the intelligence community elements of the intelligence community that provided the Comptroller General suitable and secure offices and furniture, telephones, and access to copying facilities, for purposes of audits and evaluations under paragraph (1).

"(2) After consultation with the Select Committee on Intelligence of the Senate and the House Permanent Select Committee on Intelligence of the House of Representatives, the Comptroller General may conduct an audit or evaluation under paragraph (1) without the reports of the Senate Select Committee on Intelligence or the House Permanent Select Committee on Intelligence furnished to the Comptroller General in accordance with section 716.

"(3) The Comptroller General may consult with the Select Committee on Intelligence of the Senate or the Permanent Select Committee on Intelligence before conducting an audit or evaluation under paragraph (1).

"(b) CLERICAL AMENDMENT.—The table of sections for chapter 35 of title 31, United States Code, is amended by inserting after the item relating to section 3523 the following:

"3523a. Audits of intelligence community; audit requesters."

By Mrs. OBAMA (for himself and Mrs. CLINTON):

S. 3969. A bill to amend the Toxic Substances Control Act to assess and reduce the levels of lead found in child-occupied facilities in the United States, and for other purposes; to the Committee on Environment and Public Works.

Mr. OBAMA. Mr. President, I rise today to introduce the Lead Poisoning Reduction Act of 2006. I am pleased that Senator CLINTON is joining me in this effort.

Lead is a poison we have known about for a long time. Studies have long linked lead exposure to learning disabilities, behavioral problems, and, at very high levels, seizures, coma, and even death. Lead is particularly damaging to children because their developing brains are more susceptible to harm.

A study released last week found that children with even very low levels of lead exposure have four times the risk of attention-deficit hyperactivity disorder (ADHD) than normal and that childhood lead exposure leads to 290,000 cases of ADHD.

The major source of lead exposure among U.S. children is lead-based paint. In 1978, the Consumer Product Safety Commission recognized this hazard and banned lead paints. But today, 30 years later, about 24 million older homes, and millions of other buildings, have deteriorating lead paint and elevated levels of lead-contaminated dust.

We know how children are typically exposed. We know what the health effects from exposure are. And we know how to fix the source of the exposure. The one thing we don’t know how to do is reverse the brain damage once it has occurred. So, otherwise healthy children wind up facing a lifetime of disadvantage because we have failed to eradicate this insidious problem.

Every day, millions of American parents drop their children off at child care facilities on their way to work. Nearly 12 million children under age 5 spend 40 hours a week in child care. And every day, many of those children in older buildings may be exposed to lead poisoning.

While many child care facilities have taken steps to ensure sources of potential lead exposure are eliminated, too many operate in older buildings that need repair or remodeling to ensure their sources are contained. These facilities may be in wealthy communities, but more often than not, they are in poor communities where parents have few choices for child care. I’m sure many of these facilities would fix the problem if they only had the resources.

The Lead Poisoning Reduction Act protects our children in two ways.

First, the bill establishes a five-year, $12.6 million grant program to help communities reduce lead exposure in facilities such as day care centers, Head Start centers, and kindergarten classrooms where young children spend a great deal of time. Communities
could use the funds for testing, abatement, and communicating the risks of lead to children and parents.

Second, the bill requires the Environmental Protection Agency to establish regulations to eliminate sources of lead in child care facilities, starting with new facilities in 18 months and all facilities in five years. It's a straightforward fix to a straightforward problem. I hope my colleagues join me in helping to create lead-safe environments in all child care facilities.

Mrs. CLINTON. Mr. President, I join my colleague, Senator OBAMA, in support of the Lead Poisoning Reduction Act of 2006. This legislation would close an important gap in primary prevention strategies by providing critical resources to make all nonhome-based childcare facilities and Head Start Programs lead-safe within 5 years.

Lead is highly toxic and continues to be a serious, and entirely preventable threat to the health and well-being of our children. Lead poisoning continues to pose an unacceptable environmental health risk to infants, children, and pregnant women in the United States, particularly in minority and low-income communities. A CDC survey conducted between 1999 and 2002, estimated that 310,000 American children under 6 were at risk for exposure to harmful lead levels in United States childhood lead poisoning has been linked to impaired growth and function of vital organs and problems with intellectual and behavioral development. A study from the New England Journal of Medicine also found that children suffered up to a 7.4-percent decrease in IQ at lead levels that CDC considers safe. At very high levels, lead poisoning can cause seizures, coma, and even death.

It is critical that we remove lead hazards that children live, learn, and play. We especially need to eliminate these risks and hazards that continue to persist in childcare facilities and schools. Nearly 12 million children under age 5 spend 40 hours a week in childcare. Lead paint in older buildings under age 5 spend 40 hours a week in childcare. Lead paint in older buildings and 200,000 children in New York have had documented lead poisoning between 1992 to 2004. Exposure to lead results in increased expenses each year for New York in the form of special educational and other educational expenses, medical care for lead-poisoned children, and expenditures for delinquent youth and others needing special supervision. It is estimated that these increased expenses, which exceed $4 billion annually, New York City and Rochester have been at the forefront of grassroots efforts to combat lead poisoning, and this bill would provide important resources and incentives to implement their model programs nationwide.

By Mr. GRASSLEY (for himself, Mr. ISAKSON, Mr. CHAMBLISS, Mr. BURZI, and Ms. MUKOWSKI): S. 3972. A bill to amend title XXI of the Social Security Act to reduce funding shortfalls for the State Children's Health Insurance Program (SCHIP) for fiscal year 2007, to the Committee on Finance.

Mr. GRASSLEY. Mr. President, I am pleased to introduce the "Fiscal Accountability, Integrity, and Responsibility in SCHIP" or FAIR–SCHIP Act. I am pleased to be joined in this effort by Senator JOHNNY ISAKSON, R-GA, Senator JIMMIE CHAMBLISS, R-TN, Senator RICHARD BURR, R-NC, and Senator LISA MUKOWSKI, R-AK. This legislation is a targeted one year approach to addressing a looming problem in the State Children's Health Insurance Program (SCHIP). According to estimates prepared by the Congressional Research Service, as many as 17 States will run out of SCHIP funds in 2007. Several States will run shortfalls in the hundreds of millions of dollars. The absence of no shortage will result in States having to limit the coverage available to low-income children. These shortfalls are deep and they will get deeper.

One of my principal objectives in the 110th Congress will be to authorize the SCHIP program. There are a number of compelling issues associated with the SCHIP program that will require thoughtful review and discussion by Members of Congress.

Reauthorization will not be easy. Legislative history is a complex and sensitive as children’s health care is never easy. However, if the Congress does not act to address some of these policies as well as the SCHIP formula, one thing is certain: The current State entitlement is not sufficient, in the long term, to cover the costs of maintaining the current level of coverage provided by the States.

I hope my colleagues support the approach introduced in the Senate and the House that would simply appropriate additional funds to cover the SCHIP shortfalls. This is not a viable option.

If the Congress perpetuates a scenario where the SCHIP funding formula is not improved, and other programmatic changes are not enacted, yet State SCHIP shortfalls covered year after year, there will be no practical difference between SCHIP, which is a capped allotment, and Medicaid, which is an open ended entitlement.

I do not believe there is majority support for turning the SCHIP program into an entitlement program. I am concerned what going down a path that essentially does treat SCHIP as a de facto entitlement program means for the long standing viability of SCHIP. Therefore, the approach envisioned in FAIR–SCHIP takes a balanced, moderate approach to addressing this issue.

FAIR–SCHIP recognizes that additional resources will be needed if States are to be able to continue to provide the current level of coverage for children.

FAIR–SCHIP also recognizes that funding under the SCHIP programs can be more equitably distributed.

FAIR–SCHIP takes a moderate, balanced approach by appropriating approximately half of the estimated Fiscal Year 07 shortfall.

FAIR–SCHIP also includes a modest redistribution scenario that would occur in the second half of the fiscal year and only affect the 05 allotments of States which have a 200 percent surplus of SCHIP funds, relative to their projected 07 spending.

FAIR–SCHIP is a fiscally sound, responsible approach to the issue of SCHIP shortfalls that will position the Congress to achieve important programmatic improvements in the 110th Congress, when the SCHIP program will need to be reauthorized.

I ask unanimous consent that the text of the bill be printed in the RECORD.

I hope my colleagues will support the approach envisioned by FAIR–SCHIP. If the bill is not approved, the text of the bill was ordered to be printed in the RECORD, as follows:

SEC. 2. FUNDING OF THE SCHIP ALLOTMENT SHORTFALLS FOR FISCAL YEAR 2007. (a)(1) In general.—Section 2104 of the Social Security Act (42 U.S.C. 1397d(a)) is amended by adding at the end the following new sub-section:
Lack of access to adequate health care and health education is a significant problem on the southern New Mexico border. While the access problem is in part due to a lack of insurance, it is also attributable to non-availability of barriers to care include a shortage of physicians and other health professionals, and hospitals; inadequate transportation; a shortage of bilingual health information and health providers; and culturally insensitive systems of care.

This legislation would help to address the issue of access by providing $15 million per year for a three-year period in grants to State, local, and tribal organizations, including community health centers and public health departments, for the purpose of hiring community health workers to provide health education, outreach, and referrals to women and families who otherwise would have little or no contact with health care services.

Recognizing factors such as poverty and language and cultural differences that often serve as barriers to health care access in medically underserved populations, community health workers are in a unique position to improve access to health services for populations that have traditionally lacked access to adequate services. They often serve as “community specialists” and are members of the communities in which they work. As such they can effectively serve hard-to-reach populations.

A shining example of how community health workers serve their communities, a group of so-called “promotoras” in Dona Ana County were quickly mobilized during a recent flood emergency in rural New Mexico. These community health workers assisted in the disaster recovery efforts by partnering with FEMA to find, inform and register flood victims for Federal disaster assistance. They established personal networks and knowledge of the local culture, language, needs, assets, and barriers greatly enhanced FEMA’s community outreach efforts. The promotoras of Dona Ana County demonstrated the important role community health workers could play in communities across the nation, including increasing the effectiveness of new initiatives in homeland security and emergency preparedness, and in implementing risk communication strategies.

The positive benefits of the community health worker model also have been documented in research studies. Research has shown that community health workers have been effective in increasing the utilization of health preventive services such as cancer screenings and medical follow up for elevated blood pressure and improving enrollment in publicly funded health insurance programs. In the case of uninsured children, Dr. Glenn Flores, “Community-Based Case Management in Insuring Uninsured Latino Children,” published in the December

"(b) Special Rules to Address Fiscal Year 2007 Shortfalls.—

(1) Initial Down Payment on Shortfall for Fiscal Year 2007.—The provisions of subsection (b) with respect to the fiscal year 2007 in the same manner as they apply to fiscal year 2006, except that, for purposes of this paragraph—


(B) there shall be substituted for the dollar amount specified in subparagraph (d)(1), and shall be treated as the amount appropriated under such subsection, $450,000,000;

(C) paragraphs (3)(B) and (4) of subsection (d) shall be amended by substituting ‘fiscal year 2007’ for ‘fiscal year 2006’ and ‘2006’ for ‘2005’;

(D) if the dollar amount specified in subparagraph (d)(2) is not at least equal to the total of the shortfalls described in subsection (d)(1), the amounts under subsection (d)(3) shall be ratably reduced.

(2) Funding Remainder of Shortfall for Fiscal Year 2006 and Fiscal Year 2007 through Redistribution of Certain Unused Fiscal Year 2005 Allotments.—

(A) IN GENERAL.—Subject to subparagraph (C), the Secretary shall provide for a redistribution under section 1941(b)(2) (as applied under this paragraph) for each shortfall State described in subsection (d)(1) for such fiscal year that will exceed the sum of—

(i) the amount of the State’s allotments for each such fiscal year that will not be expended by such date, and

(ii) of the amount described in subparagraph (d)(1) for such fiscal year that will not be expended by such date;

(B) Shortfall State Described.—For purposes of this paragraph, a shortfall State described in this subparagraph is a State with a State child health plan approved under this title for which the Secretary determines, on the basis of the most recent data available to the Secretary as of March 31, 2007, that the projected expenditures under such plan for such State for fiscal year 2007 will exceed the sum of—

(i) the amount of the State’s allotments for each such fiscal year that will not be expended by such date, and

(ii) of the amount described in subparagraph (d)(1) for such fiscal year that will not be expended by such date;

(C) Redistribution and Limitation on Availability.—

(i) Application to Portion of Unused Allotments for Certain States.—In the case of a State identified under subparagraph (d)(1) and (ii) below, the proportion specified in subparagraph (e) of such State’s allotment (A)(II)(I) shall not be available for expenditure on or after April 1, 2007.

(ii) Percentage Specified.—The Secretary shall specify a percentage which—

(I) does not exceed 75 percent; and

(II) when applied under clause (i) results in the total of the amounts under such clause equaling the total of the amounts under paragraph (2)(A).

(iii) Use of Additional Allotment.—Additional allotments provided under this subsection are only available for amounts expended under a State plan approved under this title for child health assistance for targeted low-income children or child health assistance to women and families for which—

(A) IDENTIFICATION OF STATES.—The Secretary shall identify those States that received an allotment for fiscal year 2005 under subsection (b) which have not expended all of such allotment by March 31, 2007; and

(B) STATES WITH FUNDS IN EXCESS OF 200 PERCENT OF NEED.—A State described in this subparagraph is a State for which the Secretary determines, as of March 31, 2007, the total of all available allotments under this title as of such date, is at least equal to 200 percent of the amount shown by the Secretary to be needed to provide assistance or other health benefits coverage for pregnant women.

(iv) Retrospective Adjustment.—The Secretary may adjust the determinations made under paragraphs (2) and (3) when applicable under such paragraph (2)(A) with respect to the amounts computed under section 1941(b)(2) (as applied under this paragraph). However, no amount may be adjusted under such subsection (e) for such fiscal year that will be subject to redistribution under subsection (f).

(v) Reversion Upon Termination of Retrospective Adjustment Period.—Any amounts not redistributed or distributed that remain unexpended as of September 30, 2007, shall be reversioned to the Treasury on October 1, 2007.

(2) 1-Year Availability; No Redistribution of Unexpended Additional Allotments.—

(A) In General.—Notwithstanding subsections (e) and (f), amounts allotted or redistributed to a State pursuant to this subsection for fiscal year 2007 shall remain only available for expenditure by the State through September 30, 2007, and any amounts of such allotments or redistributions that remain unexpended as of such date, shall not be subject to redistribution under subsection (f). Nothing in this subsection shall be construed as limiting the ability of the Secretary to adjust the determinations made under paragraphs (2) and (3) in accordance with paragraph (5).

(B) Extent of Priority for Qualifying States to Use Certain Funds for Medicaid Expenditures.—Section 2106(c)(1)(A) of such Act (42 U.S.C. 1397ee(g)(1)(A)) is amended by striking ‘‘or 2005’’ and inserting ‘‘—2005, 2006, or 2007’’.

By Mr. BINGAMAN:

S. 3975. A bill to amend the Public Health Service Act to provide grants to promote positive health behaviors in women and children; to the Committee on Health, Education, Labor, and Pension.

Mr. BINGAMAN. Mr. President, the legislation I am introducing today, entitled the “Community Health Workers Act of 2006,” would improve access to health services for women in medically underserved areas, including the U.S. border region along New Mexico.
2005 issue of Pediatrics found that uninsured children who received community-based case management were eight times more likely to obtain health insurance coverage than other children involved in the study because case workers were employed to address typical barriers to access, including insufficient knowledge about application processes and eligibility criteria, language barriers and family mobility issues, among others. This study confirms that community health workers could be highly effective in increasing the numbers of uninsured children, especially those who are at greatest risk for being uninsured. Preliminary investigation of a community health workers project in New Mexico similarly suggests that community health workers could be useful in improving enrollment in Medicaid and the Children’s Health Insurance Program, SCHIP.

According to a 2003 Institute of Medicine, IOM, report entitled, “Unequal Treatment: Confronting Racial and Ethnic Disparities in Health Care,” community health workers offer promise as a community-based resource to increase racial and ethnic minorities’ access to health care and to serve as a liaison between healthcare providers and the communities they serve.

Although the community health worker model is valued in the New Mexico border region as well as other parts of the country that encounter challenges of meeting the health care needs of medically underserved populations, these programs often have difficulty securing adequate financial resources to maintain and expand upon their services. As a result, many of these programs are significantly limited in their ability to meet the ongoing and emerging health demands of their communities.

The IOM report also noted that “programs to support the use of community health workers . . . especially among medically underserved and racial and ethnic minority populations, should be expanded, evaluated, and replicated.” I am introducing this legislation to increase resources for a model that has shown significant promise for increasing access to quality health care and health education for families in medically underserved communities. I ask unanimous consent that the text of the bill and Dr. Flores’ study on community-based case management be printed in the RECORD.

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

S. 3975
Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled:

SEC. 1. SHORT TITLE.
This Act may be cited as the “Community Health Workers Act of 2006”.

SEC. 2. FINDINGS.
Congress makes the following findings:

(1) Defined as any condition that requires regular medical attention or medication, are the leading cause of death and disability for women in the United States across racial and ethnic groups.

(2) According to the National Vital Statistics Report of 2001, the 5 leading causes of death among Asian, American Indian, and African-American women are heart disease, cancer, diabetes, cerebrovascular disease, and unintentional injuries.

(3) Unhealthy behaviors alone lead to more than 50 percent of premature deaths in the United States.

(4) Poor diet, physical inactivity, tobacco use, and alcohol and drug abuse are the health risk behaviors that most often lead to disease, premature death, and disability, and are particularly prevalent among many groups of minority women.

(5) Over 60 percent of Hispanic and African-American women are classified as overweight and obesity classified as obese. Over 60 percent of American Indian women are classified as obese.

(6) American Indian women have the highest mortality rates related to alcohol and drug use of all women in the United States.

(7) High poverty rates coupled with barriers to health preventive services and medical care contribute to health disparities in health factors, including premature death, life expectancy, risk factors associated with major diseases, and the extent and severity of chronic and communicable diseases.

(8) There is increasing evidence that early life experiences are associated with adult chronic disease and that prevention and intervention efforts within the community and the home may lessen the impact of chronic outcomes, while strengthening families and communities.

(9) Community health workers who are primarily women, can be a critical component in conducting health promotion and disease prevention efforts in medically underserved communities.

(10) Recognizing the difficult barriers confronting medically underserved communities (poverty, geographic isolation, language and cultural differences, lack of transportation, low literacy, and lack of access to services), community health workers are in a unique position to reduce preventable morbidity and mortality, improve the quality of life, and increase the utilization of available preventive health services for community members.

(11) Research has shown that community health workers have been effective in significantly increasing health insurance coverage, screening and medical follow-up visits among residents accessing or underutilizing of health care services.

(12) States on the United States-Mexico border have high percentages of impoverished and ethnic minority populations: border States accommodate 60 percent of the total Hispanic population and 23 percent of the total population below 200 percent poverty in the United States.

SEC. 3. GRANTS TO PROMOTE POSITIVE HEALTH BEHAVIORS IN WOMEN.
Part P of title III of the Public Health Service Act (42 U.S.C. 280g et seq.) is amended by adding at the end the following:

"SEC. 399P. GRANTS TO PROMOTE POSITIVE HEALTH BEHAVIORS IN WOMEN.
"(a) Grants Authorized.—The Secretary, in collaboration with the Director of the Centers for Disease Control and Prevention and other Federal programs determined appropriate by the Secretary, is authorized to award grants to States or local or tribal units, to promote positive health behaviors among women in communities, especially racial and ethnic minority women in medically underserved communities.

"(b) Use of Funds.—A grant awarded pursuant to subsection (a) may be used to support community health workers—

"(1) to educate, guide, and provide outreach in a community setting regarding health problems prevalent among women and especially among racial and ethnic minority women;

"(2) to educate, guide, and provide experi- mental learning opportunities that target behavioral risk factors including—

"(A) poor nutrition;

"(B) physical inactivity;

"(C) being overweight or obese;

"(D) tobacco use;

"(E) alcohol and substance use;

"(F) injury and violence;

"(G) risky sexual behavior; and

"(H) mental health problems; to reduce substance use, and alcohol and drug abuse; to educate and guide regarding effective strategies to promote positive health behaviors within the family;

"(3) to educate and provide outreach regarding enrollment in health insurance including the State Children’s Health Insurance Program under title XXI of the Social Security Act, Medicare under title XVIII of such Act, and Medicaid under title XIX of such Act;

"(4) to promote community wellness and awareness; and

"(5) to educate and refer target populations to appropriate health care agencies and community-based programs and organizations in order to increase access to quality health care services, including preventive health services.

"(c) Application.—

"(1) In General.—Each State or local or tribal unit (including federally recognized tribes and Alaska native villages) that desires to receive a grant under subsection (a) shall submit an application to the Secretary, at such time, in such manner, and accompanied by such additional information as the Secretary may require.

"(2) Contents.—Each application submitted pursuant to paragraph (1) shall—

"(A) describe the activities for which assistance under this section is sought;

"(B) contain an assurance that with respect to each community health worker program receiving funds under the grant awarded, such program provides training and supervision to community health workers to enable such workers to provide authorized program services;

"(C) contain an assurance that the applicant will evaluate the effectiveness of community health worker programs receiving funds under the grant;

"(D) contain an assurance that each community health worker program receiving funds under the grant will provide services in the cultural context most appropriate for the individuals served by the program;

"(E) contain a plan to document and disseminate project description and results to other States and organizations as identified by the Secretary; and

"(F) describe plans to enhance the capacity of individuals to utilize health services and health-related social services under Federal, State, and local programs by—

"(i) assisting individuals in establishing eligibility under the programs and in receiving the services or other benefits of the programs; and

"(ii) providing other services as the Secretary determines to be appropriate, that may include transportation and translation services;

"(d) Priority.—In awarding grants under subsection (a), the Secretary shall give priority to those applicants—

"(1) who propose to target geographic areas where a high percentage of residents who are eligible for health insurance but are uninsured or underinsured;
“(B) with a high percentage of families for whom English is not their primary language; and

“(C) that encompasses the United States-Mexico border region;

“(2) with experience in providing health or health-related social services to individuals who are underserved with respect to such services;

“(3) with documented community activity and experience with community health workers;

“(4) with the ability to effectively communicate with community residents; and

“(5) that has a substantial number of individuals who are members of a medically underserved population, as defined by section 330(b)(3); and

“(B) a significant portion of which is a health professional shortage area as designated under section 332.

“(4) SUPPORT.—The term ‘support’ means the provision of assistance to community health workers to perform such activities as identifying potential community health workers; furthering community health worker programs; identifying and describing the community health needs of individuals served; and materials needed to effectively deliver the services described in subsection (b), reimbursement for services, and other benefits.

“(B) TARGET.—The term ‘target population’ means women of reproductive age, regardless of their current childbearing status.

“(F) QUALITY ASSURANCE AND COST-EFFECTIVENESS.—The Secretary shall be construed to require such programs to determine whether such programs are in compliance with the guidelines established under subsection (f).

“(I) REPORT TO CONGRESS.—

“(a) In General.—Not later than 4 years after the date on which the Secretary first awards grants under subsection (a), the Secretary shall submit to Congress a report on the grant program.

“(b) The report required under paragraph (1) shall include the following:

“(A) A description of the programs for which grant funds were used;

“(B) The number of individuals served;

“(C) An evaluation of—

“(i) the effectiveness of these programs; and

“(ii) the cost of these programs; and

“(III) the impact of the project on the health outcomes of the community residents;

“(D) Recommendations for sustaining the community health worker programs developed or assisted under this section;

“(E) Recommendations training regarding establishing of opportunities for community health workers;

“(F) Definitions.—In this section:

“(1) COMMUNITY HEALTH WORKER.—The term ‘community health worker’ means an individual who promotes health or nutrition within the community in which the individual resides,

“(A) by serving as a liaison between communities and health care agencies;

“(B) by providing guidance and social assistance to community residents;

“(C) by enhancing community residents’ ability to effectively communicate with health care providers;

“(D) by providing culturally and linguistically appropriate health or nutrition education;

“(E) by advocating for individual and community health and social services; and

“(F) by providing referral and followup services.

“(2) COMMUNITY SETTING.—The term ‘community setting’ means a home or a community organization located in the neighborhood in which a participant resides.

“(3) MEDICALLY UNDERSERVED COMMUNITY.—The term ‘medically underserved community’ means a community identified by a State—

“A RANDOMIZED, CONTROLLED TRIAL OF THE EFFECTIVENESS OF COMMUNITY-BASED CASE MANAGEMENT IN INSURING UNINSURED LATINO CHILDREN

(By Flores, MD; Milagros Abreu, MD; Christian E. Chaisson, MPH; Alan Meyers, MD, MPH; Ph.D; MBA; Harriet Hernandez, Bachelor, Patricia Francisco, BA; Beatriz Diaz, BA; Ana Milena Diaz, BA; and Iris Santos-Guerrero, BA)

Abstract. Background. Lack of health insurance adversely affects children’s health. Eight million U.S. children are uninsured, with Latinos being the racial/ethnic group at greatest risk for being uninsured. A randomized, controlled trial comparing the effectiveness of various public insurance strategies for uninsured children has never been conducted.

Objectives. To evaluate whether community health workers are more effective than traditional methods in insuring uninsured Latino children.

Design. Randomized, controlled trial conducted from May 2002 to August 2004.

Setting and Participants. A total of 275 uninsured Latino children and their parents were recruited from urban community sites in Boston.

Intervention. Uninsured children were assigned randomly to an intervention group with trained case managers or a control group. Medicaid and SCHIP were matched block grant programs that allocate more than $39 billion in federal funds over 10 years. It provides for states to increase coverage of uninsured children by raising the income limits of the Medicaid program so that more children are eligible, by creating a new state insurance program separate from Medicaid, or by implementing both measures. Multiple studies have documented that previously uninsured children experience significant increases in both access to health care and more appropriate use of health care services after enrollment in SCHIP and Medicaid.

Conclusions. Community-based case managers as an acceptable and helpful intervention for families seeking to insure their uninsured children, especially from noninsured child and noncitizen status of the parent and child.

To expand insurance coverage for uninsured children, Congress enacted the State Children’s Health Insurance Program (SCHIP) in 1997. This program provides for uninsured children <19 years old with family incomes <200% of the federal poverty level who are ineligible for Medicaid and are not covered by private insurance to be enrolled in a matched block program that allocates more than $39 billion in federal funds over 10 years. It provides for states to increase coverage of uninsured children by raising the income limits of the Medicaid program so that more children are eligible, by creating a new state insurance program separate from Medicaid, or by implementing both measures. Multiple studies have documented that previously uninsured children experience significant increases in both access to health care and more appropriate use of health care services after enrollment in SCHIP and Medicaid.

Since the inception of SCHIP enrollment in January 1998, SCHIP has provided coverage to millions of uninsured children. The proportion of uninsured US children has decreased from 15.4% to 11.4% in the past 14 years, however, the numbers and proportions of uninsured children essentially have not changed, wavering between 8.4 and 8.6 million and 11.4% to 11.9% percent, respectively. It has been estimated that well over half of uninsured children (∼5 million) are eligible for Medicaid or SCHIP, which suggests that more-effective outreach and enrollment strategies are needed. Indeed, recent research indicates that SCHIP may be falling to reach the “hardest-to-reach” subpopulations of uninsured children, especially children and those who have never been insured.

A randomized, controlled trial has never been performed comparing traditional case management and outreach enrollment versus alternative strategies in terms of their effectiveness in insuring uninsured children. Recent research revealed that the role of uninsured children who are reviewed by community-based case managers as an acceptable and helpful intervention for families seeking to insure their uninsured children, especially those who have not been insured.

A randomized, controlled trial has never been performed comparing traditional case management and outreach enrollment versus alternative strategies in terms of their effectiveness in insuring uninsured children. Recent research revealed that the role of uninsured children who are reviewed by community-based case managers as an acceptable and helpful intervention for families seeking to insure their uninsured children, especially those who have not been insured.
with traditional SCHIP and Medicaid outreach and enrollment with respect to their effectiveness in insuring uninsured Latino children.

**METHODS**

**Study Participants**

Enrollment occurred from May 14, 2002, to September 30, 2003. Study participants were uninsured Latino children and their parents from 2 communities in the greater Boston area in Massachusetts, including noncitizens); (5) the parent was willing to be contacted monthly by telephone or through a home visit by research personnel (if no functional telephone was present in the household). The focus of the intervention was Latino children because they are the racial/ethnic group of US children at greatest risk for uninsurance. When >1 child lived in a family, the youngest child was enrolled in the study as the “index child (to ensure consistency), and data were collected only for that child.

Study participants were recruited primarily from the following community sites in East Boston and Jamaica Plain, which were identified based on prior studies to have many eligible potential participants willing to take part in research: supermarkets, bodegas, self-service laundries, beauty salons, and churches. The remaining participants were recruited through referral by other participants and in response to notices posted at consulates and schools. Community sites for recruitment were selected to obtain samples of parents consisting of both documented and undocumented families in proportions reflecting the population in each community. Sampling methods were chosen because traditional census block methods fail to take into account undocumented children and their families, given the rapidity with which deportation can occur. A stranger appears at the front door of a dwelling. The primary caretaker (herein referred to as the parent) of each uninsured child enrolled in the study received a $50 participatio-n honorarium at enrollment and a $5 honorarium after each monthly follow-up contact.

Written informed parental consent (in English or Spanish, depending on parental preference) was obtained for all children enrolled. To avoid selection bias against parents with low literacy levels, parents could request that the written informed consent form be read to them by research personnel, in English or Spanish, before they signed the form. The study was approved by the institutional review boards of Boston Medical Center and the Children’s Hospital of Wisconsin.

**Baseline Assessments**

Parents of eligible children completed a brief, 2-page, self-administered screening questionnaire (in English or Spanish, depending on parental preference) to confirm eligibility, determine relevant baseline characteristics, and provide contact information. Data were collected on the ages of the child and parent, the self-identified Latino subgroup, the number of years the parent had lived in the United States, parental English proficiency, the highest level of parental education, the employment status of the parent, and whether the parent was living in the same household). The annual combined family income, and the citizenship status of the parent. Additional information collected included the relationship of the parent and child, whether there was a functioning telephone in the household, the telephone number, the preferred language, telephone number of the parent, whether there was no or functioning telephone in the household, and the family’s address.

**Randomization**

Subjects were allocated to the case management intervention group or the control group with a computer-generated, stratified, randomization process. Stratified randomization ensures that compared maneuvers in a randomized trial are distributed suitably among pertinent subgroups. Randomization was stratified by community site, with separate allocation schedules prepared for participants from East Boston and Jamaica Plain. The randomization schedule was prepared with the RANUNI function of SAS software. Random numbers were placed in opaque, sealed envelopes produced for each community site, to ensure adequate allocation concealment. Potential participants were informed that, depending on the randomization, some parents would get a case manager free of charge, who would help families obtain health insurance for their child, whereas other parents would get no case manager and would just be contacted monthly. Bilingual Latina research assistants who did not participate in any aspect of data collection prepared and numbered the envelopes in the presence of enrolled participants, to inform them of their group assignment. Parents of uninsured children who were randomized to the intervention group immediately were assigned a bilingual, Latina, community-based, case manager (the research assistant who opened the randomization envelope with the parent became the case manager for children assigned to the intervention group).

**Study Intervention**

Case managers performed the following functions for intervention group children and their families: (1) providing information on the types of insurance programs available and the application processes; (2) providing information and assistance on program eligibility requirements; (3) completing the child’s insurance application with the parent and submitting the application for the family; (4) expediting final coverage decisions with early frequent contact with the Division of Medical Assistance (DMA) (the state agency administering MassHealth in Massachusetts, including noncitizens); (5) acting as a family advocate by being the liaison between the family and DMA or DPH; and (6) rectifying with DMA and DPH situations in which a child was inappropriately deemed ineligible for insurance or had coverage inappropriately discontinued.

All case managers received a 1-day intensive training session on major obstacles to insuring uninsured children reported by Latino parents in 6 focus groups, parents’ perspectives on how a case manager would be most useful in assisting with the process of insuring uninsured children, completing the Medical Benefit Request (the single application for MassHealth, Medicaid in Massachusetts) and CMSF, following up on submitted applications, obtaining final coverage decisions, disputing applications that were rejected or deemed ineligible, and the study protocol for subject recruitment, enrollment, consent, and follow-up. These interviews were held in collaboration with representatives from DMA and DPH. Case managers also received the following training: a 1-week seminar on MassHealth enrollment conducted by DMA, a 4-hour session on insurance eligibility rules conducted by a DPH coordinator, a 2-hour session on MassHealth managed-care enrollment rules, a 1-day session on CMSF conducted by a DPH representative, a 1-day seminar on implementing broad-based outreach for impoverished families conducted by Health Care All (a nonprofit organization dedicated to improving access to health care for all people in the state of Massachusetts), and a monthly DMA technical forums on MassHealth, and 1 week of supervised case manager training in the community.

**Control Group**

Control group subjects received no intervention, whether than the SCHIP standard-of-care outreach and enrollment efforts administered by the Massachusetts Children’s Medical Security Plan (CMSF) and by the MassHealth administration and implementation of the children’s eligibility requirements. Specialists conducted telephone searches to determine whether the study participants had obtained health insurance coverage in the Commonwealth for obtaining health insurance coverage. These efforts include the use of (1) direct mailings, press releases, newspaper inserts, health fairs, and door-to-door canvassing of target neighborhoods; (2) special attempts to reach Latino communities, such as radio advertising and Spanish-language programs and bilingual flyers; (3) mini-grants to community organizations to provide outreach and assistance with applications; and (4) a toll-free telephone number for applying for health benefits.

**Outcome Measures**

Using standardized telephone interview methods, a trained bilingual Latina research assistant who was blinded to participant group assignment obtained outcome data from the parents monthly for 11 months, beginning 1 month after the date of study enrollment. The research assistant also made home visits to families that lacked telephones in the household and to those that did but did not answer the telephone. To ensure ongoing rigorous blinding, we asked parents not to reveal their group assignment at any time to the outcome research assistant (and the blinded research assistant reported that no parents revealed their child’s group assignment during the study).

An important outcome measure was the child obtaining health insurance coverage, as determined in an interview with the parent and confirmed, when possible, through insurance records. Outcome measures included the receipt of a discrete action or letter received by the family. Three secondary outcomes also were assessed. The number of days from study enrollment to obtaining final coverage decisions, the interval between the date of the participant’s study enrollment and the date on which the
parent reported being notified officially that the child had obtained coverage. Episodic coverage was defined as obtaining but then losing insurance coverage at any time during the 12-month follow-up period and was determined through parental report and inspection of written notification. Parental satisfaction with the process of obtaining coverage was determined by asking the parent, “How satisfied were you with the process of trying to obtain health insurance coverage for your child?” Parents responded by using a Likert scale (1 = very satisfied, 2 = satisfied, 3 = uncertain, 4 = dissatisfied, and 5 = very dissatisfied). Overall parental satisfaction (regardless of whether insurance was obtained) was determined during the final (11th month) follow-up contact. In addition, for the subset of children who obtained insurance, we assessed parental satisfaction during the first month- long follow-up contact after the child obtained coverage. All survey instruments were translated into Spanish and then back-translated by a separate observer, to ensure reliability and validity.

**Statistical Analyses**

All data analyses were performed as intention-to-treat analyses with SAS software, version 8.2. Prestudy calculations with the generalized estimating equations implemented in PROC GENMOD in the SAS software. An adjusted cumulative incidence model was then plotted. Parental satisfaction with the process of trying to obtain insurance was analyzed using a Likert scale and was used as a continuous variable (using the χ² test) and as a categorical variable (using the t test).

**Participants**

A total of 275 uninsured Latino children (and their families) who met all enrollment criteria were identified at the 2 study sites; 159 were assigned randomly to receive the community-based case management (intervention group) and 116 were assigned to the control group. Figure 1 summarizes the enrollment, randomization, follow-up, and data analysis for all eligible participants. At least 1 month of follow-up contact was made for 97% (n = 135) of the intervention group and 90% (n = 122) of the control group, and follow-up contact 1 year after randomization was successful for 72% (n = 97) of the intervention group and 62% (n = 76) of the control group. The 18 subjects who were randomized but then were lost to follow-up monitoring or withdrew before any follow-up contacts were more likely than other subjects to have been allocated to the control group (75% in the control group vs 48% in the control group for subjects with 21 follow-up contact; P < .04), but there were no significant differences in any other characteristic, including the children’s age, number of children in the family, annual combined family income, or parental citizenship status.

There were no baseline differences between the 2 groups in the mean ages of the children or parents; annual combined family income; number of children in the family; parental ethnicity, citizenship, English proficiency, marital status, or education; mean number of subject follow-up contacts; or recruitment site (Table 1). Case management group families, however, were more likely to have ≥1 parent employed full-time, and there was a statistically significant but minor intergroup difference in the proportions of subjects recruited before, during, and after the policy change in state coverage of uninsured children (Table 3). The adjusted incidence curve (Fig 2) shows that the marked difference between the groups in obtaining insurance coverage remained through 30 days and was sustained. Multivariate analyses also revealed that older children and adolescents and parents enrolled during the state freeze on CMSP had lower adjusted odds of obtaining insurance coverage (Table 3).

**Time to Obtaining Insurance Coverage**

Among the children who obtained health insurance, case management group children were insured substantially more quickly than control children (Table 2), with a mean of just under 3 months to obtain coverage, compared with a mean of >4.5 months for control children (87.5 ± 68 days for the intervention group vs 134.8 ± 102 days for the control group; P < .0001).

**Parental Satisfaction With the Process of Obtaining Insurance**

Parents of children in the intervention group were substantially more likely than parents of control group children to report being very satisfied with the process of obtaining health insurance for their children (80% vs 28%; P < .0001) (Table 2). Conversely, control group parents were more likely than intervention group parents to report being very dissatisfied (14% vs 1%; P < .0001) or either dissatisfied or very dissatisfied (27% vs 3%; P < .0001) with the process of obtaining the child’s insurance. Similar intergroup differences were observed when parental satisfaction was examined with Likert scale scores (where 1 = very satisfied and 5 = very dissatisfied); the mean satisfaction score for intervention group parents was significantly better than that for control group parents (1.3 vs 2.4; P < .0001). The significant intergroup satisfaction differences persisted when the analysis was restricted to subjects who had obtained insurance; at the first follow-up contact with parents of uninsured children who obtained insurance, 74% of intervention group parents but only 24% of control group parents reported being very satisfied with the process of obtaining insurance coverage for their children (P < .0001), and the respective Likert scale satisfaction scores (mean ± SD) were 1.19 ± 0.46 vs 1.56 ± 0.72 (P < .0001).

**Discussion**

Community-based case managers were found to be substantially more effective in obtaining health insurance for uninsured children being recruited while the restrictive policy change was in effect and after reestablishment of most of the prior policy. There also was a slight but statistically significant drop in the percentage of control group parents who obtained insurance and who were insured substantially more quickly than control group children to be insured continuously throughout the 1-year follow-up period (78% vs 30%; P = .04) and significantly less likely to be insured sporadically (18% vs 27%; P < .0001) or uninsured continuously (4% vs 43%; P < .0001) during the 1-year follow-up period.

The case management group was almost 8 times more likely than the control group to obtain insurance (odds ratio, 7.78; 95% confidence interval: 5.20-11.64), after multivariate adjustment for potential confounders (the child’s age, family income, parent’s employment status, and the period of policy change in state coverage of uninsured children) (Table 3). The adjusted incidence curve (Fig 2) shows that the marked difference between the groups in obtaining insurance coverage remained through 30 days and was sustained. Multivariate analyses also revealed that older children and adolescents and parents enrolled during the state freeze on CMSP had lower adjusted odds of obtaining insurance coverage (Table 3).
Table 1.—Baseline Characteristics of Study Participants

<table>
<thead>
<tr>
<th>Characteristic</th>
<th>Case management (n=139)</th>
<th>Control (n=136)</th>
<th>p</th>
</tr>
</thead>
<tbody>
<tr>
<td>Child's age, y, mean ± SD</td>
<td>5.0 ± 0.9</td>
<td>8.9 ± 4.9</td>
<td>.56</td>
</tr>
<tr>
<td>Parent's age, y, mean ± SD</td>
<td>35 ± 3</td>
<td>43 ± 5</td>
<td>.001</td>
</tr>
<tr>
<td>Annual combined family income, median (range)</td>
<td>$12,700 ($0–$21,000)</td>
<td>$12,945 ($0–$21,000)</td>
<td>.41</td>
</tr>
<tr>
<td>Annual combined family income, %</td>
<td>100%</td>
<td>100%</td>
<td>1.0</td>
</tr>
<tr>
<td>Number of children in family, no. (%)</td>
<td>2 (45)</td>
<td>2 (37)</td>
<td>.97</td>
</tr>
<tr>
<td>At least 1 parent employed full-time, no. (%)</td>
<td>52 (37)</td>
<td>54 (40)</td>
<td>.64</td>
</tr>
<tr>
<td>Parental citizenship, no. (%)</td>
<td>52 (37)</td>
<td>54 (40)</td>
<td>.64</td>
</tr>
<tr>
<td>Salvadoran</td>
<td>21 (15)</td>
<td>24 (18)</td>
<td>.51</td>
</tr>
<tr>
<td>Guatemalan</td>
<td>19 (14)</td>
<td>21 (15)</td>
<td>.51</td>
</tr>
<tr>
<td>Mexican</td>
<td>119 (86)</td>
<td>99 (73)</td>
<td>.03</td>
</tr>
<tr>
<td>LS observer</td>
<td>14 (10)</td>
<td>15 (11)</td>
<td>.74</td>
</tr>
<tr>
<td>Parent limited in English proficiency, no. (%)</td>
<td>58 (42)</td>
<td>72 (53)</td>
<td>.03</td>
</tr>
</tbody>
</table>

CONCLUSIONS

This randomized, controlled trial indicates that community-based case managers are significantly more effective than traditional SCHIP/Medicaid outreach and enrollment in insuring uninsured Latino children. Community case management seems to be a useful mechanism for reducing the number of uninsured children, especially among children most at risk for being uninsured.
By Mr. DURBIN (for himself and Mr. OBAMA):

2. 3977. A bill to provide a Federal income tax credit for Patriot employers, and for other purposes; to the Committee on Finance.

Mr. DURBIN. Mr. President, when companies make headlines today it is often for all the wrong reasons: fraud, tax evasion, price-fixing, etc. Yet many of the companies that are currently providing jobs across America are conscientious corporate citizens that strive to treat their workers fairly even as they seek to create good products that consumers want and to maximize profits for their shareholders. I believe that we should reward such companies for providing good jobs to American workers, and create incentives that encourage more companies to do likewise. The Patriot Employers bill does just that.

This legislation, which I am introducing today along with Senator OBAMA, would provide a tax credit to reward the companies that treat American workers best. Companies that provide American jobs, pay decent wages, provide good benefits, and support their employees when they are called to active duty should enjoy more favorable tax treatment than companies that are unwilling to make the same commitment to American workers. The Patriot Employers tax credit would put the tax code on the side of those deserving companies by acknowledging their commitments.

The Patriot Employers legislation would provide a tax credit equal to 1 percent of taxable income to employers that meet the following criteria:

First, invest in American jobs, by maintaining or increasing the number of full-time workers in America relative to the number of full-time workers outside of America and also by maintaining their corporate headquarters in America if the company has ever been headquartered in America.

Second, pay decent wages, by paying each worker an hourly wage that would ensure that a full-time worker would earn enough to keep a family of three out of poverty, at least $8.00 per hour.

Third, prepare workers for retirement, either by providing either a defined benefit plan or by providing a defined contribution plan that fully matches at least 5 percent of worker contributions for every employee.

Fourth, provide health insurance, by paying at least 60 percent of each worker’s health care premiums.

Fifth, support our troops, by paying the difference between the regular salary and the military salary of all National Guard and Reserve employees who are called for active duty, and also by continuing their health insurance coverage.

In recognition of the different business circumstances that small employers face, companies with fewer than 50 employees could achieve Patriot Employer status by fulfilling a smaller number of these criteria.

There is more to the story of corporate American than the widely-publicized wrong-doing. Patriot Employers should be publicly recognized for doing right by their workers even while they do well for their customers and shareholders. I urge my colleagues to join Senator OBAMA and me in supporting this effort. Our best companies, and our American workers, deserve nothing less.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

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TABLE 1.—BASELINE CHARACTERISTICS OF STUDY PARTICIPANTS—Continued

<table>
<thead>
<tr>
<th>Characteristic</th>
<th>Case management</th>
<th>Control</th>
<th>P</th>
</tr>
</thead>
<tbody>
<tr>
<td>(n=119)</td>
<td>(n=136)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Parental marital status, no. (%):</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Married</td>
<td>63 (55)</td>
<td>59 (43)</td>
<td>.82</td>
</tr>
<tr>
<td>Separated</td>
<td>19 (16)</td>
<td>19 (14)</td>
<td>&lt;.0001</td>
</tr>
<tr>
<td>Divorced</td>
<td>9 (8)</td>
<td>9 (7)</td>
<td>&lt;.0001</td>
</tr>
<tr>
<td>Single</td>
<td>29 (25)</td>
<td>30 (22)</td>
<td>&lt;.0001</td>
</tr>
<tr>
<td>Common law widow/wife</td>
<td>10 (9)</td>
<td>12 (9)</td>
<td>&lt;.0001</td>
</tr>
<tr>
<td>Widowed/Divorced</td>
<td>3 (3)</td>
<td>2 (1)</td>
<td>&lt;.0001</td>
</tr>
<tr>
<td>Parental education attainment, no. (%):</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Never graduate school</td>
<td>43 (37)</td>
<td>39 (29)</td>
<td>&lt;.0001</td>
</tr>
<tr>
<td>6th to 11th grade</td>
<td>29 (25)</td>
<td>20 (15)</td>
<td>&lt;.0001</td>
</tr>
<tr>
<td>High school graduate</td>
<td>38 (33)</td>
<td>44 (32)</td>
<td>&lt;.0001</td>
</tr>
<tr>
<td>Some college</td>
<td>11 (10)</td>
<td>15 (11)</td>
<td>&lt;.0001</td>
</tr>
<tr>
<td>College degree</td>
<td>22 (19)</td>
<td>19 (14)</td>
<td>&lt;.0001</td>
</tr>
<tr>
<td>Lost health care before any follow-up contact, no. (n=136)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Follow-up contacts, no. ±SD 4</td>
<td>8.3 ±2.2</td>
<td>7.9 ±2.3</td>
<td>&lt;.0001</td>
</tr>
<tr>
<td>Recruitment site, no. (%):</td>
<td>East Boston</td>
<td>101 (73)</td>
<td>98 (72)</td>
</tr>
<tr>
<td>Jamaica Plain</td>
<td>38 (27)</td>
<td>38 (28)</td>
<td>&lt;.0001</td>
</tr>
<tr>
<td>Participant recruitment in relation to policy change in state coverage of uninsured children, no. (%):</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Before policy change</td>
<td>38 (27)</td>
<td>20 (15)</td>
<td>&lt;.0001</td>
</tr>
<tr>
<td>Restrictive change in effect</td>
<td>14 (10)</td>
<td>22 (17)</td>
<td>&lt;.0001</td>
</tr>
<tr>
<td>Reestablishment of most of prior policy</td>
<td>87 (63)</td>
<td>94 (70)</td>
<td>&lt;.0001</td>
</tr>
</tbody>
</table>

1 Three parents in the intervention group and 18 in the control group chose not to answer questions on family income.
2 U.S. Census definition of self-reported English-speaking ability of less than very well (ie, not, not very well, or not at all).
3 Associate, bachelors, or postgraduate degree.
4 Among participants with any follow-up contacts.

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TABLE 2.—STUDY OUTCOMES ACCORDING TO GROUP ASSIGNMENT

<table>
<thead>
<tr>
<th>Outcome</th>
<th>Case management</th>
<th>Control</th>
<th>P</th>
</tr>
</thead>
<tbody>
<tr>
<td>(n=119)</td>
<td>(n=136)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Child obtained health insurance coverage, %</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Continuously insured</td>
<td>57 (49)</td>
<td>50 (37)</td>
<td>&lt;.0001</td>
</tr>
<tr>
<td>Sporadically insured</td>
<td>30 (25)</td>
<td>30 (22)</td>
<td>&lt;.0001</td>
</tr>
<tr>
<td>Child continuously uninsured, %</td>
<td>13 (11)</td>
<td>16 (12)</td>
<td>&lt;.0001</td>
</tr>
<tr>
<td>Mean time to obtain insurance, 4, mean ± SD</td>
<td>80.7 ± 48</td>
<td>114.8 ± 102.4</td>
<td>&lt;.0001</td>
</tr>
<tr>
<td>Parental satisfaction with process of obtaining child’s insurance, % 5</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Very satisfied</td>
<td>80 (68)</td>
<td>70 (52)</td>
<td>&lt;.0001</td>
</tr>
<tr>
<td>Satisfied</td>
<td>17 (14)</td>
<td>19 (14)</td>
<td>&lt;.0001</td>
</tr>
<tr>
<td>Uncertain</td>
<td>9 (8)</td>
<td>11 (8)</td>
<td>&lt;.0001</td>
</tr>
<tr>
<td>Dissatisfied</td>
<td>5 (4)</td>
<td>6 (4)</td>
<td>&lt;.0001</td>
</tr>
<tr>
<td>Very dissatisfied</td>
<td>3 (3)</td>
<td>3 (3)</td>
<td>&lt;.0001</td>
</tr>
<tr>
<td>Mean parental satisfaction score for process of obtaining child’s insurance (5-point Likert scale), mean ± SD 4</td>
<td>1.33 ± 0.77</td>
<td>2.40 ± 1.40</td>
<td>&lt;.0001</td>
</tr>
</tbody>
</table>

1 Obtained but then lost health insurance coverage.
2 Regardless of whether child was insured or continuously uninsured; data were collected at the final 1-year follow-up contact.
3 By Wilcoxon 2-sample test, Kruskal-Wallis test, and Cochran-Armitage trend test.
4 Where 1 = very satisfied, 2 = satisfied, 3 = uncertain, 4 = dissatisfied, and 5 = very dissatisfied.

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TABLE 3.—MULTIPLE LOGISTIC-REGRESSION ANALYSIS OF FACTORS ASSOCIATED WITH CHILDREN OBTAINING INSURANCE COVERAGE

<table>
<thead>
<tr>
<th>Independence variable</th>
<th>Adjusted odds ratio (95% confidence interval) for obtaining insurance coverage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Group assignment:</td>
<td>Referent</td>
</tr>
<tr>
<td>Child’s age:</td>
<td>7.78 (5.20–11.64)</td>
</tr>
<tr>
<td>0-5 y</td>
<td>Referent</td>
</tr>
<tr>
<td>6-11 y</td>
<td>Referent</td>
</tr>
<tr>
<td>Annual combined family income:</td>
<td>0.32 (0.13-0.56)</td>
</tr>
<tr>
<td>At or below federal poverty threshold</td>
<td>0.46 (0.30–0.73)</td>
</tr>
<tr>
<td>Parental citizenship:</td>
<td>Referent</td>
</tr>
<tr>
<td>Unemployed</td>
<td>1.19 (0.70-2.02)</td>
</tr>
<tr>
<td>Legal resident</td>
<td>Referent</td>
</tr>
<tr>
<td>U.S. citizen</td>
<td>Referent</td>
</tr>
<tr>
<td>Parental employment:</td>
<td>Referent</td>
</tr>
<tr>
<td>Unemployed</td>
<td>0.76 (0.45–1.37)</td>
</tr>
<tr>
<td>Participant recruitment in relation to policy change in state coverage of uninsured children:</td>
<td>Referent</td>
</tr>
<tr>
<td>Restrictive change in effect</td>
<td>0.46 (0.22–0.99)</td>
</tr>
<tr>
<td>Reestablishment of most of prior policy</td>
<td>0.74 (0.46–1.21)</td>
</tr>
</tbody>
</table>

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S. 3977

Be it enacted by the Senate and House of Represent-atives of the United States of America in Congress assembled,

SECTION 1. REDUCED TAXES FOR PATRIOT EMPLOYERS.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

"SEC. 45N. REDUCTION IN TAX OF PATRIOT EMPLOYERS.

"(a) IN GENERAL.—In the case of any taxable year with respect to which a taxpayer is a Patriot employer for the taxable year.

"(b) ALLOWANCE AS GENERAL BUSINESS CREDIT.—Section 38(b) of the Internal Revenue Code of 1986 is amended by striking ‘‘and’’ at the end of paragraph (25), by striking the period at the end of paragraph (26) and inserting ‘‘;’’ and, and by adding at the end the follow-

"(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2006.

Mr. OBAMA. Mr. President, I rise today, with my good friend and colleague, the senior Senator from the great State of Illinois, to introduce the Patriot Employers Act of 2006.

This measure is designed to help businesses and workers seeking to compete in the global economy. By reducing corporate taxes for those firms that invest in America and American employees, the Patriot Employers Act rewards companies that, among other things, pay decent wages, provide health benefits, provide health coverage and support our troops by paying a full differential salary for deployed National Guard employees.

Too often we hear troubling news reports of American companies outsourcing jobs and exploiting corporate tax loopholes—by setting up incorporated offices, for example, in the Cayman Islands to avoid paying their fair share of taxes. Such companies fail to see that they are harming the very economy that they, too, will need to rely on in the future.

Recognizing these challenges, this bill says that we are going to align our corporate tax policy with the corporate practices we want to encourage.

The Patriot Employers Act cuts taxes for American companies that, among other things, pay decent wages, pay decent healthcare premiums; maintain or increase their U.S. workforce relative to their workforce located abroad; pay an hourly rate several dollars above the outdated minimum wage; provide either employer matching of retirement plan contributions or a defined contribution plan with an employer match; and provide full differential salary benefits for National Guard employees called into active duty.

I urge quick support for this important legislation.

By Mrs. CLINTON. S. 3978. A bill to provide consumer protections for lost or stolen check cards and debit cards similar to those provided with respect to credit cards, and for other purposes, to the Committee on Banking, Housing, and Urban Affairs.

Mrs. CLINTON. Mr. President, today I am introducing the Debit and Check Card Consumer Protection Act of 2006, to provide consumer protections for lost or stolen debit cards and to prevent card fraud.

The future of the American economy depends on the future of the American workforce. Let’s begin the conversation about how to ensure American competitiveness for the 21st century and beyond.

I urge quick support for this important legislation.

I urge quick support for this important legislation.
transactions with debit cards, 2.3 billion more transactions than with credit cards.

While debit and check card growth benefits the American economy, consumers continually face greater challenges to prevent and protect themselves and check card fraud. Recent statistics show that in 2005, ATM/debit card fraud in the United States generated losses of $2.75 billion. During the same period, ATM fraud alone affected 3 million U.S. consumers.

Despite these findings, debit and check card consumer liability protections under the law remain substandard as compared to credit cards. Under current law, debit and check card holders are liable for fraudulent transactions dependent upon when they report the fraud. In some cases the consumer can be held accountable for $500 worth of fraudulent transactions. Conversely, credit card holders who face similar consumer challenges are held to a maximum payment of $50 and are allowed to refuse or “chargeback” a payment when goods or services fail to arrive or they are dissatisfied with a transaction. Debit and check card holders are not provided with similar “chargeback” protections. Fortunately, some debit and check card issuers provide customers with stronger liability protections; however, it is essential that consumers are assured liability protections under the law, not just through a company’s policy.

The Debit and Check Card Consumer Protection Act of 2006 remedies these inconsistencies between credit card liability protections and debit and check card liability protections by simply affording the same level of protection to debit and check card users given to credit card users. This legislation is an important step in ensuring consumer protections in an economy increasingly driven by electronic commercial transactions, and I am proud that Consumers Union, one of the largest nonpartisan advocate organizations for consumer rights, has endorsed it.

The time has come to strengthen debit and check card liability protections for the American consumer, and I urge my colleagues to support this simple and commonsense remedy to a growing problem. I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 3978

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 “Debit and Check Card Consumer Protection Act of 2006”.

SEC. 2. FINDINGS.

Congress finds that—

(1) debit and check card use has experienced double digit growth for longer than a decade, and more than 80 percent of American consumer households now possess a debit or check card;

(2) between 2001 and 2006 consumers made 42,500,000 transactions with debit cards, eclipsing credit card transactions by 2,500,000,000;

(3) as of 2003, debit cards accounted for 1/3 of all purchases in stores;

(4) in addition to the rise in debit and check card use, debit and check card fraud increasingly challenges American consumers;

(5) in 2005, debit card and ATM fraud accounted for losses of $2,750,000,000;

(6) despite that growth, statutory debit and check card liability protections remain substandard, as compared to credit cards;

(7) the debit and check card industry has, in some instances, instituted liability protections that often exceed the requirements set forth under the provisions of law; and

(8) the law should be changed to ensure a continued level of liability protection.

SEC. 3. CAP ON DEBIT CARD LIABILITY.

Section 909(a) of the Electronic Funds Transfer Act (15 U.S.C. 1693g(a)) is amended—

(A) by striking ‘‘Notwithstanding the foregoing’’ and all that follows through ‘‘whichever is less,’’; and

(B) by striking ‘‘means’’ and inserting ‘‘means’’.

SEC. 4. DEBIT CARD ERROR RESOLUTION.

Section 908(f) of the Electronic Funds Transfer Act (15 U.S.C. 1693(f)) is amended—

(1) by redesignating paragraphs (6) and (7) as paragraphs (7) and (8), respectively; and

(2) by inserting after paragraph (5) the following:

‘‘(6) a charge for goods or services not accepted by the consumer or the designee thereof, or not delivered to the consumer or the designee thereof, which the cardholder is solicited to enter into such claim or defense.’’.
prevention of life-threatening incidents in schools. I am very proud of these efforts, and I know that the parents of children who suffer from food allergies in Connecticut have confidence that their children are safe throughout the school day. Other States, such as Massachusetts, have enacted similar guidelines. Tennessee school districts are poised to implement their statewide guidelines in July. But too many States across the country have food allergy management guidelines that are inconsistent from one school district to the next.

In my view, this lack of consistency underscores the need for enactment of uniform, Federal policies that school districts can choose to adopt and implement.

For this reason, my colleague, Senator Frist, and I introduce the Food Allergy and Anaphylaxis Management Act of 2006 today to address the growing need for uniform and consistent school-based food allergy management policy. I thank Senator Frist for his hard work and commitment to this important legislation.

The legislation does two things. First, it directs the Secretary of Health and Human Services, in consultation with the Secretary of Education, to develop and make available voluntary food allergy management guidelines for preventing exposure to food allergens and assuring a prompt response when a student suffers a potentially fatal anaphylactic reaction.

Second, the bill provides for incentive grants to school districts to assist them with adoption and implementation of the Federal Government’s allergy management guidelines in all K–12 public schools.

I wish to acknowledge and offer my sincere appreciation to the members of the Food Allergy and Anaphylaxis Network for their commitment to this legislation and for raising public awareness, providing advocacy, and advancing research on behalf of all individuals who suffer from food allergies. I hope that my colleagues in the Senate and in the House will consider and pass this important legislation before the end of the year so that the Department of Health and Human Services can begin work on developing national guidelines as soon as possible. Schoolchildren across the country deserve nothing less than a safe and healthy learning environment.

Mr. Frist. Mr. President, 6 years ago, my great-nephew had some peanut butter. He was 13 months old. For most 13-month-old children, this wouldn’t be an issue. But for McClain Portis, it was.

You see, unbeknownst to him or his parents at the time, McClain is allergic to peanuts. When he ate that peanut butter, he had an anaphylactic reaction.

Within 30 seconds, his lips and eyes swelled shut, his face turned bright red, and he developed what is called a full body hive.

But McClain’s parents were quick thinkers. They called 911, and he was soon better after a dose of epinephrine. That’s what calms the anaphylactic reaction, if administered in time.

But 6 hours later, the epinephrine wore off. McClain had a biphasic reaction and had to return to the pediatrician to receive steroids. His older sister, just 4 years old at the time, asked their mother, “Is my brother going to die?”

McClain is 7 years old now—in first grade. He’s an active boy, with many friends. And he enjoys school. But school hasn’t been easy—for McClain or his parents.

It’s that way for a lot of children with food allergies, especially when they find themselves switching schools.

I recently met another young man from Nashville—Andrew Wright. He’s 14 now, and he attends the same high school from which I graduated.

He’s endured food allergies nearly his entire life—but somehow the high-spirited teen keeps a positive outlook on life.

For a long time, every year he and his parents had to start from scratch. They had to teach the schools how to recognize and treat an allergic reaction. And they had to teach them about his allergens—sheep’s milk, tree nuts, peanuts, and possibly shellfish. That’s stressful work—for Andrew, for his parents, and even for the schools.

Andrew isn’t alone in their struggles. Across the country, 3 million children suffer from food allergies.


Foods that most people enjoy. But these 8 foods account for 90 percent of all food allergic reactions.

And for 3 million American children, these foods frequently aren’t safe. Their immune system makes a mistake. It treats something in a certain food as if it’s dangerous.

The food itself isn’t harmful, but the body’s reaction is.

Within a few hours—or sometimes, only minutes—of consuming a food allergen, a host of symptoms can burst forth, affecting the eyes, nose, throat, respiratory system, skin, and digestive system. The reaction could be mild—or it could be more severe, like it was for my great-nephew McClain.

Food-allergic reactions are the leading cause of anaphylaxis. If left untreated for too long, anaphylaxis can prove fatal. But it’s treatable—with adrenaline, or epinephrine.

In fact, studies have demonstrated an association between a delay in the administration of epinephrine—or non-administration—and anaphylaxis fatalities.

So it makes sense that we’d want schools to keep epinephrine on hand—in case a child experiences a food-allergic reaction leading to anaphylaxis. And it makes sense that we’d want school personnel to know how to recognize and treat food-allergic reactions.

But currently, there are no Federal guidelines concerning the management of life-threatening food allergies in the school setting.

In fact, in a recent survey, three-fourths of elementary school nurses reported not developing their own training guidelines for responding to food allergies.

This means that when children change schools—they’re promoted, they move, they’re relocated—for whatever reason—they and their parents face different food allergy management approaches. And there’s no across-the-board consistency.

That’s why Senator Dodd and I have introduced the Food Allergy and Anaphylaxis Management Act of 2006.

We believe the Federal Government should establish uniform, voluntary food allergy management guidelines—and schools should be strongly encouraged to adopt and implement such guidelines.

The bill directs the Secretary of Health and Human Services—in consultation with the Secretary of Education—to develop voluntary food allergy management guidelines.

But with this measure, we can help prevent exposure to food allergens and help ensure a prompt response when a child suffers a potentially fatal anaphylactic reaction. Under the bill, guidance lines must be developed and made available within one year of enactment.

Additionally, the bill provides for school-based allergy management incentive grants to local education agencies. These grants assist with the adoption and implementation of food allergy management guidelines in public schools.

There are 3 million American children who suffer from food allergies. We can’t cure them of their allergies. But we can help prevent allergic reactions, and we can help ensure timely treatment of them when they occur.

I urge my colleagues to support this bipartisan measure, so we can help keep America’s children healthy.

By Mr. Kohl (for himself and Mr. Leahy): S. 3981. A bill to amend the Federal Food, Drug, and Cosmetic Act to establish requirements for certain petitions submitted to the Food and Drug Administration, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. Kohl. Mr. President, I rise today to introduce the Citizen Petition Fairness and Accuracy Act of 2006. This legislation will help speed the introduction of cost-saving generic drugs by preventing abuses of the Food and Drug Administration citizen petition process.

Consumers continue to suffer all across our country from the high—and rising costs—of prescription drugs. A recent independent study found that prescription drug spending has more than quadrupled since 1990, and now accounts for 11 percent of all health care
spending. At the same time, the pharmaceutical industry is one of the most profitable industries in the world, returning more than 15 percent on their investments.

One key method to bring prescription drug prices down is to promote the introduction of generic alternatives to expensive brand name drugs. Consumers realize substantial savings once generic drugs enter the market. Generic drugs cost on average of 63 percent less than their brand-name equivalents. One study estimates that every 1 percent increase in the use of generic drugs could save $1 billion in health care costs.

This is why I have been so active in the last year in pursuing legislation designed to combat practices which impede the introduction of generic drugs—including S. 3582, the Preserve Access to Generics Act, which would forbid payments from brand name drug manufacturers to generic manufacturers to keep generic drugs off the markets, and S. 2300, the Lower Priced Drugs Act, legislation I cosponsored to combat other conduct which impedes the marketing of generic drugs. The legislation I introduce today targets abuse of the citizen petition process.

FDA rules permit anyone to file a so-called citizen petition to raise concerns about the safety or efficacy of a generic drug that a manufacturer is seeking FDA approval to bring to market. While this citizen petition process was put in place for a laudable purpose, unfortunately in recent years it has been abused by frivolous petitions submitted by brand name drug manufacturers or individuals acting at their behest whose only purpose is to delay the introduction of generic competition. The FDA has a policy of not granting a generic manufacturer’s drug application until after it has considered and evaluated any citizen petitions regarding that drug. The process of resolving a citizen petition (even if ultimately found to be groundless) can delay the approval by months or years. Indeed, brand name drug manufacturers often wait to file citizen petitions until just before the FDA is about to grant the application to market the new generic drug; solely for the purpose of preventing the introduction of the generic competitor for the maximum amount of time possible. This gaming of the system should not be tolerated.

In recent years, FDA officials have expressed serious concern about the abuse of the citizen petition process. Last year, FDA Chief Counsel Sheldon Bradshaw noted that “[t]he citizen petition process is in some cases being abused. Sometimes, stakeholders try to use this mechanism to unnecessarily delay the approval of potentially lifesaving products.” He added that he found it “particularly troublesome” that he had “seen several examples of citizen petitions that appear designed not to raise timely concerns with respect to the legality or scientific soundness of approving a drug application, but rather to delay approval by compelling the agency to take the time to consider the arguments presented in the petition, regardless of their merits, and regardless of whether the petitioner could have made those very arguments months and months before.”

And a simple look at the statistics gives credence to these concerns. Of the 21 citizen petitions for which the FDA has reached a decision since 2003, 20 or 95 percent of them have been found to be without merit. Of these, ten were identified as “eleventh hour petitions”, defined as those filed less than 6 months prior to the estimated entry date of the generic drug. None of these ten “eleventh hour petitions” were found to have merit, but each caused unnecessary delays in the marketing of the generic drug by months or over a year, causing consumers to spend millions and millions more for their prescription drugs than they would have spent without these abusive filings.

Despite the expense these frivolous citizen petitions cause consumers and the FDA, under current law the government has absolutely no ability to sanction or penalize those who abuse the citizen petition process, or who file petitions simply to keep competition off the market. Our legislation will serve as a strong deterrent to those who abuse the process. Our bill will, for the first time, require all those who file citizen petitions to affirm the truthfulness and good faith of the petition, similar to what is required of a litigant who makes a filing in court. The party filing the citizen petition will be required to affirm that the petition is well grounded in fact and warranted by law; is not submitted for an improper purpose, such as to harass or cause unnecessary delay in approval of competing drugs; and does not contain any materially false, misleading, or fraudulent statement.

The Secretary is authorized to penalize anyone found to have submitted an abusive petition, to keep sanctions include a fine up to one million dollars, a suspension or permanent revocation of the right of the violator to file future citizens’ petition, and a dismissal of the petition at issue. HHS is also authorized to refer the matter to the Federal Trade Commission so that the FTC can undertake its own investigation as to the competitive consequences of the frivolous petition and take any action it finds appropriate. Finally, the bill directs the HHS that all citizen petitions be adjudicated within six months of filing, which will put an end to excessive delays in bringing needed generic drugs to market because of the filings of these petitions.

Our bill will not have any effect on any person filing a truly meritorious citizen petition, this legislation will serve as a strong deterrent to attempts by brand name drug manufacturers or any other party that seeks to abuse the citizen petition process to thwart competition. It will thereby remove one significant obstacle exploiting by brand name drug companies to prevent or delay the introduction of generic drugs. I urge my colleagues to support this legislation.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

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 “Citizen Petition Fairness and Accuracy Act of 2006”.

SEC. 2. CITIZEN PETITIONS AND PETITIONS FOR STAY OF AGENCY ACTION.
Section 506(j)(5) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 356(j)(5)) is amended by adding at the end the following:

“(b) The Secretary of Health and Human Services shall, after notice and opportunity for public hearing, determine within 6 months after receipt of a complaint, a request under section 10.30 or section 10.35 of title 21, Code of Federal Regulations (or any successor regulation), whether the petition is well-grounded in fact and warranted by law; is not submitted for an improper purpose, such as to harass or cause unnecessary delay in the approval of competing drugs; or contains any materially false, misleading, or fraudulent statement.

“(ii) The Secretary shall investigate, on receipt of a complaint, a request under clause (i), or on its own initiative, any petition submitted under such section 10.30 or section 10.35 (or any successor regulation), that—

“(g) Notwithstanding any other provision of law, any petition submitted under section 10.30 or section 10.35 of title 21, Code of Federal Regulations (or any successor regulation), shall include a statement that to the petitioner’s best knowledge and belief, the petition—

“(i) includes all information and views on which the petitioner relies, including all representative data and information known to the petitioner that is favorable or unfavorable to the petition;

“(ii) is well grounded in fact and is warranted by law;

“(iii) is not submitted for an improper purpose, such as to harass or cause unnecessary delay (including unnecessary delay of competition or agency action); and

“(iv) does not contain any materially false, misleading, or fraudulent statement.

“(ii) The Secretary shall investigate, on receipt of a complaint, a request under clause (i), or on its own initiative, any petition submitted under such section 10.30 or section 10.35 (or any successor regulation), that—

“(i) does not comply with the requirements of clause (i);

“(ii) may have been submitted for an improper purpose as described in clause (i); or

“(iii) may contain a materially false, misleading, or fraudulent statement as described in clause (i).

“(ii) If the Secretary finds that the petition has knowingly and willingly submitted the petition for an improper purpose as described in clause (i), or that contains a materially false, misleading, or fraudulent statement as described in clause (i), the Secretary may—

“(i) impose a civil penalty of not more than $100,000, plus attorneys fees and costs of reviewing the petition and any related proceedings;
Mr. HARKIN. Mr. President, more than 41 million Americans suffer from a moderate to serious mental disorder. Unfortunately, because of the lingering stigma attached to mental illness, and lack of coverage under health insurance, these disorders often go untreated. I am particularly concerned that we are neglecting the mental health of our returning veterans.

Earlier this year, I introduced a bill directing the Department of Veterans Affairs to create a program to address the shocking rate of suicide among veterans returning from combat in Iraq and Afghanistan. That bill, the Joshua Omvig Suicide Prevention Act of 2006, was named in honor of a young hero from Grundy Center who killed himself soon after returning from a tour of duty in Iraq.

But we also need a broader strategy for addressing the mental health needs of service members exposed to the stress and trauma of war.

And that is why I introduced legislation today directing the Department of Veterans Affairs to develop a comprehensive plan to improve the diagnosis and treatment of Post Traumatic Stress Disorder, PTSD, in our veterans.

My bill would require the VA to create a curriculum and required resources for training VA medical personnel in better screening for PTSD. It also would require the VA to commit additional staff and resources to this challenge.

During my years in the Navy, I learned one of the most important lessons of my entire life: Never leave a buddy behind. That’s true on the battlefield—and it’s also true after our service members return home.

Often, the physical wounds of combat are repaired, but the mental damage— the psychological combat—can haunt a person for a lifetime.

One study shows that about 17 percent of active-duty service members who served in Iraq screened positive for anxiety, depression, or PTSD. This number is comparable to rates of PTSD experienced by Vietnam War veterans. But, in the decades since, scientists have learned that quick intervention is crucial.

This is exactly the aim of my bill: to improve early detection and intervention . . . to save lives . . . and to prevent long-term mental illness. The Federal Government has a moral contract with those who have fought for our country and sacrificed so much.

This bill is about making good on that contract.

By Mr. HARKIN (for himself, Mr. LEAHY, Ms. MIKULSKI, and Mr. KERRY):

S. 3988. A bill to improve programs for the identification and treatment of post-deployment mental health conditions, including post-traumatic stress disorder, in veterans and members of the Armed Forces, and for other purposes; to the Committee on Veterans' Affairs.

Mr. HARKIN. Mr. President, more than 41 million Americans suffer from a moderate to serious mental disorder. Unfortunately, because of the lingering stigma attached to mental illness, and lack of coverage under health insurance, these disorders often go untreated. I am particularly concerned that we are neglecting the mental health of our returning veterans.

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This bill is about making good on that contract.

By Mr. OBAMA:

S. 3988. A bill to amend title 10 and 38, United States Code, to improve benefits and services for members of the Armed Forces, veterans of the Global War on Terrorism, and other veterans, to require reports on the effects of the Global War on Terrorism, and for other purposes; to the Committee on Veterans' Affairs.

Mr. OBAMA. Mr. President, I rise today to introduce a legislation that is significant both in the problems it seeks to address and the man it seeks to honor.

Since the day he arrived in Congress more than two decades ago, LANE EVANS has been a tireless advocate for the men and women with whom he served. When Vietnam vets started falling ill from Agent Orange, he led the effort to get them compensation. LANE was one of the first in Congress to speak out about the health problems facing Persian Gulf war veterans. He’s worked to help veterans suffering from Post-Traumatic Stress Disorder, and he’s also helped make sure thousands of homeless veterans in our country have a place to sleep and a meal.

I am very proud today to introduce the Lane Evans Veterans Healthcare and Benefits Improvement Act of 2006. This bill honors a legislator who leaves behind an enduring legacy of service to our veterans. The legislation also is an important step towards caring for our men and women who are currently fighting for us.

Today, nearly 1.5 million American troops have been deployed overseas as part of the global war on terror. These brave men and women who protected us are beginning to return home. Six hundred thousand people who served in Iraq and Afghanistan are now veterans, at least 184,400 have already received treatment at the VA. That number is increasing every day. Many of these fighting men and women are coming home with major injuries. As a country, we are only beginning to understand the true costs of the global war on terror.

For instance, last week, the Government Accountability Office reported that VA has faced $3 billion in budget shortfalls since 2005 because it understated the costs of caring for Iraq and Afghanistan veterans. The VA wasn’t getting the information it needed from the Pentagon and was relying on outdated data and incorrect forecasting models. We cannot let these kinds of bureaucratic blunders get in the way of the care and support we owe our servicemembers.

To avoid these costly shortfalls in the future, we have to do a better job keeping track of veterans. That’s why the first thing the Lane Evans Act does is to establish a system to track global war on terror veterans. The VA established a similar data system following the Persian Gulf War. That effort has
When family members of veterans seek quickly and accurately document reformation could be useful to VA to electronic copy of all military and time of discharge with a secure full each separating service member at the Department of Defense would provide records. Under the Lane Evans Act, the for their benefits as the Department of associated with mental health screening for vets to get care.

The Lane Evans Act also tackles Post-Traumatic Stress Disorder. Mental health patients account for about a third of the new veterans seeking care at the VA. The VA’s National Center for PTSD reports that “the wars in Afghanistan and Iraq are the most sustained combat operations since the Vietnam War, and initial signs imply that these ongoing wars are likely to produce a new generation of veterans with chronic mental health problems.” This bill addresses PTSD in 2 ways. First, the window during which new veterans can automatically get care for mental health from 2 years to 5 years. Right now, any servicemember discharged from the military has up to 2 years to walk into the VA and get care, no questions asked. After that, vets have to prove that they are disabled because of a service-connected injury, or they have to prove their income is below threshold levels. Unfortunately, it can take years for symptoms of PTSD to manifest themselves. The time it takes to prove service-connection for mental health illness is valuable time lost during which veterans are not receiving critically needed treatment. The Lane Evans Act allows veterans to walk into a VA any time 5 years after discharge and get assessed for mental health care. This both extends the window and shortens the wait for vets to get care.

Second, the legislation makes face-to-face physical and mental health screening mandatory 90 to 90 days after a soldier is deployed in a war zone. This will ensure that our fighting force is ready for battle, and that we can identify and treat those at risk for PTSD. By making the exams mandatory, we can help eliminate the stigma associated with mental health screening and treatment.

Another problem veterans face is that the VA and DoD do not effectively share medical and military records. Older vets have long fought for their benefits as the Department of Defense recovers aging and lost paper records. Under the Lane Evans Act, the Department of Defense would provide each separating service member at the time of discharge with a secure full electronic copy of all military and medical records to help them apply for healthcare and benefits. DoD possesses the technology to do this now. The information could be useful to VA to quickly and accurately document reenlistment or deployment to a war zone. The electronic data will also be helpful in future generations when family members of veterans seek information about military service, awards, and wartime deployment that goes well beyond the existing single-sheet DD-214 discharge certificate, which is all veterans currently receive.

Finally, the legislation improves the transition assistance that guardsmen and reservists is accelerated, reserve units get abbreviated and perfunctory transition assistance instead of intensive training. The VA should provide equal briefings and transition services for all service members regarding VA healthcare, disability compensation, and other benefits, regardless of their duty status.

Lane Evans dedicated his life to serving this country and dedicated his time in Congress to serving veterans. The legislation I am introducing today, honors both the man and his mission, and will continue his legacy to the next generation of American veterans.

By Mr. BIDEN:

S. 3989: A bill to establish a Homeland Security and Neighborhood Safety Trust Fund Act of 2006 to fund priorities toward securing the Homeland, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

Mr. BIDEN. Mr. President, I rise today to introduce the Homeland Security Trust Fund Act of 2006. And, I do so because it is my sincere belief, that in order to better prevent attacks here at home, we must dramatically reorder the priorities of the Federal Government.

This legislation, which I unsuccessfully attempted to attach to the port security legislation 2 weeks ago, will reorder our priorities by creating a homeland security trust fund that will set aside $3.3 billion to invest in our homeland security over the next 5 years. Through this trust fund we will allocate an additional $10 billion per year over the next 5 years to enhance the safety of our communities.

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 Congresses’ 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 doubled 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 for fiscal year 2007. We can give the FBI an additional $100 million over the next 5 years 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.

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

For example, this year the tax cut for Americans that make over $1 million is nearly $60 billion. Let me repeat that, just one year of the Bush tax cut for Americans making over $1 million is nearly $60 billion. If we dedicate roughly one-half of that—approximately $32 billion—to fund the operations of the Department of Homeland Security. We have invested twice as much for a tax cut for millionaires—$53.3 billion—and investing 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 all 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 counter-terrorism units. We could hire an additional 1,000 FBI agents to help ensure that FBI is able to implement critical reforms without abandoning its traditional 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.

I want to turn this around, our most 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 for fiscal year 2007. We can give the FBI an additional $100 million over the next 5 years 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.

We continually authorize funding for critical homeland security programs, but a look back at our recent appropriations bills tells us that the funding rarely matches the authorization. Just this July we passed the Department of Homeland Security Appropriations Bill which allocated only $210 million for port security grants—which is just over one-half of the amounts authorized in the
bipartisan port security legislation that passed the Senate 2 weeks ago.

Yet, 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 port security legislation sponsored by myself, Senator McCAN and others. This legislation authorizes $1.2 billion to secure the soft targets in our rail system, such as the tunnels and stations. Notwithstanding, we have only allocated $150 million per year for rail and security will rely on less than $15 million allocated for intercity passenger rail security.

So, while it is critical that we have acknowledged the need for increased rail security funding by passing authorizations, unless we invest the money, it doesn’t really 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 $0 funding for the COPS hiring program and we’ve 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 industries 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.

This legislation will set some priorities. 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 they need, and are sufficiently coordinated to do the job by providing $1.15 billion per year for COPS grants; $160 million per year for FBI agents; $200 million to hire and equip 1,000 law enforcement cops on the street, funded prevention programs and more prison beds to lock up violent offenders. It worked; violent crime went down every year for 8 years from the historic highs to the lowest levels in a generation.

Our Nation is at its best when we all pull together and sacrifice. Our Nation’s most fortunate citizens are just as patriotic as those in the middle class, and I am confident that they will be willing to forgo 1 year of their tax cut for the greater good of securing the homeland. The bottom line is that with this legislation, we make clear what our national priorities should be, we set out how we will pay for them, and we ensure those who are asked to sacrifice, that money the government raises for security actually gets spent on security.

This legislation is about re-ordering our homeland security priorities. I realize that it will not be enacted this year, but I believe we need this legislation again in the next Congress and I will push for its prompt passage and I hope to gain the support of my colleagues in this effort.

By Mr. BUNNING:
S. 3992. A bill to amend the Exchange Rates and International Economic Policy Coordination Act of 1998 to clarify the definition of manipulation with respect to currency, and for other purposes; read the first time.

Mr. BUNNING. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 3992.

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 “United States Fair Currency Practices Act of 2006”.

SEC. 2. FINDINGS.

(a) Congress makes the following findings:

(1) Since the Exchange Rates and International Economic Policy Coordination Act of 1988 (22 U.S.C. 5302(3)) was enacted the global economy has changed dramatically, but increased capital mobility and a sharp increase in the flow of funds internationally, and an ever growing number of emerging market economies becoming systemic important players in a new flow of goods, services, and capital. In addition, practices such as the maintenance of multiple currency regimes have become rare.

(2) Exchange rates in major trading nations are occasionally manipulated or fundamentally misaligned due to direct or indirect governmental intervention in the exchange market.

(3) A major focus of national economic policy should be a market-driven exchange rate for the United States dollar at a level consistent with a sustainable balance in the United States current account.

(4) While some degree of surpluses and deficits in payments balances may be expected, particularly in response to increasing economic globalization, large and growing imbalances raise concerns of possible disruption to financial markets. In part, such imbalances reflect the existence of policies that foster fundamental misalignment of currencies.

(5) Currencies in fundamentally misaligned may seriously weaken the ability of international markets to adjust appropriately to global capital and trade flows, threatening trade flows and causing economic harm to the United States.

(6) The effects of a fundamentally misaligned currency may be so harmful that it is essential to correct the fundamental misalignment without remorse of any policy that contributed to the misalignment.

(7) The interests of facilitating the exchange of goods, services, and capital among countries, sustaining sound economic growth, and fostering financial and economic stability. Article IV of the International Monetary Fund’s Articles of Agreement obligates each member of the International Monetary Fund to avoid manipulating exchange rates in order to prevent effective balance of payments adjustment under Article IV of the International Monetary Fund to avoid manipulating exchange rates in order to prevent effective balance of payments adjustment under Article IV of the International Monetary Fund’s Articles of Agreement.

TITLED—INTERNATIONAL MONETARY AND FINANCIAL POLICIES

SEC. 101. AMENDMENTS TO DEFINITIONS.

Section 3006 of the Exchange Rates and International Economic Policy Coordination Act of 1998 (22 U.S.C. 5302(3)) was amended by adding at the end the following:

“(3) FUNDAMENTAL MISALIGNMENT.—The term ‘fundamental misalignment’ means a material sustained disparity between the observed levels of an effective exchange rate for a currency and the corresponding levels of an effective exchange rate for that currency that would be consistent with fundamental macroeconomic conditions based on a generally accepted economic rationale.

(4) EFFECTIVE EXCHANGE RATE.—The term ‘effective exchange rate’ means a weighted average of bilateral exchange rates, expressed in either nominal or real terms.

(5) GENERALLY ACCEPTED ECONOMIC RATIONALE.—The term ‘generally accepted economic rationale’ means an explanation drawn on widely recognized macroeconomic...
theory for which there is a significant degree of empirical support.”

SEC. 102. BILATERAL NEGOTIATIONS.

(a) IN GENERAL.—Section 3006(b) of the Exchange Rates and International Economic Policy Coordination Act of 1988 (22 U.S.C. 5306(b)) is amended to read as follows:

“(b) BILATERAL NEGOTIATIONS.

“(1) The Secretary of the Treasury shall analyze on an annual basis the exchange rate policies of foreign countries, in consultation with the International Monetary Fund, and consider whether countries—

“(A) manipulate the rate of exchange between their currency and the United States dollar for purposes of preventing effective balance of payments adjustments or gaining unfair competitive advantage in international trade; or

“(B) have a currency that is in fundamental misalignment.

“(2) AFFIRMATIVE DETERMINATION.—If the Secretary considers that such manipulation or fundamental misalignment is occurring with respect to countries that—

“(A) have material global current account surpluses or deficits;

“(B) have significant bilateral trade surpluses with the United States, the Secretary of the Treasury shall take action to initiate negotiations with such foreign countries on an expedited basis, in the International Monetary Fund or bilaterally, for the purpose of ensuring that such countries regularly and promptly adjust the rate of exchange between their currencies and the United States dollar to permit effective balance of payments adjustments and to eliminate the unfair advantage.

“(3) REQUIREMENT.—The Secretary shall not be required to initiate negotiations if the Secretary determines that such negotiations would have a serious detrimental impact on vital national economic and security interests. The Secretary shall inform the chairmen and the ranking minority member of the Committee on Banking, Housing, and Urban Affairs of the Senate and of the Committee on Financial Services of the House of Representatives of the Secretary’s determination.

SEC. 103. REPORTING REQUIREMENTS.

Section 3005 of the Exchange Rates and International Economic Policy Coordination Act of 1988 (22 U.S.C. 5305) is amended to read as follows:

“SEC. 3005. REPORTING REQUIREMENTS.

“(a) REPORTS REQUIRED.—

“(1) IN GENERAL.—The Secretary, after consulting with the Chairman of the Board, shall submit to Congress, on or before October 15 of each year, a written report on international economic policy and currency exchange rates.

“(2) INTERIM REPORT.—The Secretary, after consulting with the Chairman of the Board, shall submit to Congress, on or before April 15 of each year, an interim report on interim developments with respect to international economic policy and currency exchange rates.

“(b) CONTENTS OF REPORTS.—Each report submitted under subsection (a) shall contain—

“(1) an analysis of currency market developments and the relationship between the United States dollar and the currencies of major economies or United States trading partners;

“(2) a review of the economic and financial policies of major economies and United States trading partners and an evaluation of the impact that such policies have on currency exchange rates and the United States dollar;

“(3) a description of any currency intervention by the United States or other major economies or United States trading partners, or other actions undertaken to adjust the actual exchange rate of the dollar; and

“(4) an evaluation of the factors that underlie conditions in the currency markets, including—

“(A) monetary and financial conditions;

“(B) foreign exchange reserve accumulation;

“(C) macroeconomic trends;

“(D) trends in current and financial account balances;

“(E) the trend and composition of, and changes in, international capital flows;

“(F) the impact of the external sector on economic changes;

“(G) the size and growth of external indebtedness;

“(H) trends in the net level of international investment; and

“(I) capital controls, trade, and exchange restrictions; and

“(5) a list of currencies of the major economies or economic areas that are manipulated or in fundamental misalignment and a description of any economic models or methodologies used to establish the list;

“(6) a description of any reason or circumstance underlying the manipulation or in fundamental misalignment that such currency identified under paragraph (5) is manipulated or in fundamental misalignment based on a generally accepted economic rationale;

“(7) a list of each currency identified under paragraph (5) for which the manipulation or fundamental misalignment causes, or contributes to, a material adverse impact on the economy of the United States, including a description of any reason or circumstance that explains why the manipulation or fundamental misalignment is not accounted for under paragraph (6);

“(8) the results of any prior consultations conducted or other steps taken; and

“(9) a list, during the reporting period when the issue of exchange-rate misalignment was raised in a counter-vailing duty proceeding under subtitle A of title VII of the Tariff Act of 1930 or in an investigation under section 421 of the Trade Act of 1974;

“(b) CONTENTS OF REPORTS.—The Secretary shall consult with the Chairman of the Board with respect to the preparation of each report required under subsection (a). Any comments provided by the Chairman of the Board shall be submitted to the Secretary not later than the date that is 15 days before the date each report is due under subsection (a). The Secretary shall submit the report after taking into account all comments received.

SEC. 104. INTERNATIONAL FINANCIAL INSTITUTION GOVERNANCE ARRANGEMENTS.

(a) INITIAL REVIEW.—Notwithstanding any other provision of law, before the United States approves a proposed change in the governance arrangement of any international financial institution, as defined in section 1701(c)(2) of the International Financial Institutions Act (22 U.S.C. 262c(c)(2)), the Secretary of the Treasury shall determine whether such international financial institution would benefit from the proposed change, in the form of increased voting shares or representation, has a currency that is manipulated or in fundamental misalignment, and if so, whether the manipulation or fundamental misalignment causes a substantial extraterritorial impact on the economy of the United States. The determination shall be reported to Congress.

(b) SUBSEQUENT ACTION.—If the Secretary determines that the United States shall oppose any proposed change in the governance arrangement of any international financial institution (as defined in subsection (a)), if the Secretary renders an affirmative determination pursuant to subsection (a), or the President makes any affirmative determination pursuant to subsection (a), the United States shall continue to oppose any proposed change in the governance arrangement of an international financial institution, pursuant to subsection (b), until the Secretary determines and reports to Congress that the currency of each member of the international financial institution that would benefit from the proposed change, in the form of increased voting shares or representation, is neither manipulated nor in fundamental misalignment.

SEC. 105. NONMARKET ECONOMIC STATUS.

(a) IN GENERAL.—Paragraph (b)(B)(vi) of section 771 of the Tariff Act of 1930 (19 U.S.C. 1677(b)(B)(vi)) is amended by inserting before the end the following:—

“(B) a summary in each such instance of whether any member of the international financial institution that would benefit from the proposed change, in the form of increased voting shares or representation, is neither manipulated nor in fundamental misalignment.

(b) TERMINATION.—The amendment made by this section shall apply during the 10-year period beginning on the date of the enactment of this Act.

TITLE II—SUBSIDIES AND PRODUCT-SPECIFIC SAFEGUARD MECHANISM

SEC. 201. FINDINGS.

Congress makes the following findings:

(1) The economy and national security of the United States are critically dependent upon a vibrant manufacturing and agricultural base.

(2) The good health of United States manufacturing and agriculture requires, among other things, unfeathered access to open markets abroad and fair access to markets in the United States to compete on the basis of quality and product performance.

(3) The International Monetary Fund, the World Trade Organization, and the General Agreement on Tariffs and Trade, in their joint pursuit of the General Agreement on Tariffs and Trade, in their joint pursuit of the non-application of subsidies and product-specific safeguard measures, have repeatedly noted that exchange-rate misalignment can cause imbalances in the international trading system that could ultimately undercut the stability of the system, but have taken no action to address such imbalances and interferences.

(4) Since 1994, the People’s Republic of China and other countries have aggressively intervened in currency markets and taken other measures that have significantly undermined the values of their currencies against the United States dollar and other currencies.

(5) This policy by the People’s Republic of China, for example, has resulted in substantial undervaluation of the renminbi, by up to 40 percent or more.

(6) Evidence of this undervaluation can be found in the large and growing trade surpluses of the People’s Republic of China; substantially expanding foreign direct investment in China; and the rapidly increasing foreign exchange reserves that are held by the People’s Republic of China.
(7) Undervaluation by the People's Republic of China and by other countries acts as both a subsidy for their exports and as a non-tariff barrier against imports into their territorially based economy. The United States manufacturing and agriculture.

(8)(A) As members of both the World Trade Organization and the International Monetary Fund to the People's Republic of China and other countries have assumed a series of international legal obligations to eliminate all subsidies for exports and to facilitate international trade by fostering a monetary system that does not tend to produce erratic disruptions, that does not prevent effective balance-of-payments adjustment, and that does promote to the advantage.

(B) These obligations are most prominently set forth in Articles VI, XV, and XVI of the GATT 1994 (as defined in section 211(b)(12) of the Uruguay Round Agreements Act (19 U.S.C. 3511(b)(12)), and in Articles IV and VIII of the International Monetary Fund's Articles of Agreement.

(9) Under the foregoing circumstances, it is consistent with the international legal obligations of the People's Republic of China and similar obligations owed by other countries and the corresponding international legal rights of the United States to amend relevant United States trade laws to make explicit that exchange-rate misalignment is actionable as a country subsidy.


(a) AMENDMENTS TO DEFINITION OF COUNTERVAILABLE SUBSIDY.—

(1) FINANCIAL CONTRIBUTION.—Section 771(5)(D) of the Tariff Act of 1930 (19 U.S.C. 1677(5)(D)) is amended—

(A) by redesignating clauses (i) through (iv) as subclauses (I) through (IV), respectively;

(B) by striking ‘‘The term’’ and inserting ‘‘(i) The term’’; and

(C) by adding at the end the following:

(ii) Exchange-rate misalignment (as defined in section 211(b)(12) of the Uruguay Round Agreements Act (19 U.S.C. 3511(b)(12)), and in Articles IV and VIII of the International Monetary Fund’s Articles of Agreement.

(2) BENEFIT CONFERRED.—Section 771(5)(E) of the Tariff Act of 1930 (19 U.S.C. 1677(5)(E)) is amended—

(A) in clause (iii), by striking ‘‘, and’’ and inserting a comma;

(B) in clause (iv), by striking the period at the end and inserting ‘‘; and’’; and

(C) by adding at the end the following new clause:

‘‘(V) mechanisms employed to maintain its currency at an undervalued exchange rate relative to another currency and, in particular, the nature, duration, and monetary expenditures of such policies;’’.

(b) C RITICAL CIRCUMSTANCES.—Section 771(5)(F) of the Tariff Act of 1930 (19 U.S.C. 1677(5)(F)) is amended by adding at the end the following new sentence: ‘‘If the Commission makes an affirmative determination that exchange-rate misalignment is occurring, the Commission and the President shall consider such exchange-rate misalignment as a factor weighing in favor of providing import relief in accordance with subsection (a).’’

SEC. 203. CLARIFICATION TO INCLUDE EXCHANGE-RATE MISALIGNMENT BY THE PEOPLES REPUBLIC OF CHINA AS A CONDITION TO BE CONSIDERED WITH RESPECT TO MARKET DISRUPTION UNDER CHAPTER 2 OF TITLE IV OF THE TARIFF ACT OF 1930.

(a) MARKET DISRUPTION.—

(1) IN GENERAL.—Section 421(c) of the Trade Act of 1974 (19 U.S.C. 2461(c)) is amended by adding at the end the following new paragraph:

‘‘(4) For purposes of this section, the term ‘exchange-rate misalignment’ means a significant, non-temporary, and non-repetitive deviation in the renminbi as a result of protracted large-scale intervention by or at the direction of a governmental authority in exchange markets. Such undervaluation shall be found when the observed exchange rate for the renminbi is significantly below the exchange rate that could reasonably be expected for that foreign currency absent the intervention.’’

(b) EXTENSION OF ACTION.—Section 421(k)(2) of the Trade Act of 1974 (19 U.S.C. 2451(k)(2)) is amended by adding at the end the following new sentence: ‘‘If the Commission makes an affirmative determination that exchange-rate misalignment is occurring, the Commission and the President shall consider such exchange-rate misalignment as a factor weighing in favor of providing import relief in accordance with subsection (a).’’

(c) STANDARD FOR PRESIDENTIAL ACTION.—Section 421(k)(2) of the Trade Act of 1974 (19 U.S.C. 2451(k)(2)) is amended by adding at the end the following new sentence: ‘‘If the President affirmatively determines that exchange-rate misalignment is occurring, the President shall consider such exchange-rate misalignment as a factor weighing in favor of providing import relief in accordance with subsection (a).’’

(d) MODIFICATIONS OF RELIEF.—Section 213(m)(2) of the Trade Act of 1974 (19 U.S.C. 2531(m)(2)) is amended by adding at the end the following new sentence: ‘‘If the President makes an affirmative determination that exchange-rate misalignment is occurring, the President and the Commission shall reconcile such exchange-rate misalignment as a factor weighing in favor of finding that continuation of relief is necessary to prevent or remedy the market disruption at issue.’’

(e) EXTENSION OF ACTION.—Section 421(o) of the Trade Act of 1974 (19 U.S.C. 2451(o)) is amended—

(1) in paragraph (1), by adding at the end the following new sentence: ‘‘If the Commission makes an affirmative determination that exchange-rate misalignment is occurring, the Commission and the President shall consider such exchange-rate misalignment as a factor weighing in favor of finding that continuation of relief is necessary to prevent or remedy the market disruption at issue.’’; and
(a) COPY OF PETITION, REQUEST, OR RESOLUTION TO BE TRANSMITTED TO THE SECRETARY OF DEFENSE.—Section 421(b)(4) of the Trade Act of 1974 (19 U.S.C. 2451(b)(4)) is amended by inserting ""; the Secretary of Defense'' after ""the Trade Representative''.

(b) DETERMINATION OF SECRETARY OF DEFENSE.—Section 421(b) of the Trade Act of 1974 (19 U.S.C. 2451(b)) is amended by adding at the end the following new paragraph:

""(6) Not later than 15 days after the date on which an investigation is initiated under this subsection, the Secretary of Defense shall submit to the Commission a report in writing which contains the determination of the Secretary as to whether or not the articles of the People's Republic of China that are the subject of the investigation are like or directly competitive with articles produced by a domestic industry that are critical to the defense industrial base of the United States.''

(c) PROHIBITION ON PROCUREMENT BY THE DEPARTMENT OF DEFENSE OF CERTAIN DEFENSE ARTICLES IMPORTED FROM THE PEOPLE'S REPUBLIC OF CHINA.

SEC. 204. PROHIBITION ON PROCUREMENT BY THE DEPARTMENT OF DEFENSE OF CERTAIN DEFENSE ARTICLES IMPORTED FROM THE PEOPLE'S REPUBLIC OF CHINA.

SEC. 204. PROHIBITION ON PROCUREMENT BY THE DEPARTMENT OF DEFENSE OF CERTAIN DEFENSE ARTICLES IMPORTED FROM THE PEOPLE'S REPUBLIC OF CHINA.

(a) COPY OF PETITION, REQUEST, OR RESOLUTION TO BE TRANSMITTED TO THE SECRETARY OF DEFENSE.—Section 421(b)(4) of the Trade Act of 1974 (19 U.S.C. 2451(b)(4)) is amended by inserting ""the Secretary of Defense'' after ""the Trade Representative''.

(b) DETERMINATION OF SECRETARY OF DEFENSE.—Section 421(b) of the Trade Act of 1974 (19 U.S.C. 2451(b)) is amended by adding at the end the following new paragraph:

""(6) Not later than 15 days after the date on which an investigation is initiated under this subsection, the Secretary of Defense shall submit to the Commission a report in writing which contains the determination of the Secretary as to whether or not the articles of the People's Republic of China that are the subject of the investigation are like or directly competitive with articles produced by a domestic industry that are critical to the defense industrial base of the United States.''

(c) PROHIBITION ON PROCUREMENT BY THE DEPARTMENT OF DEFENSE OF CERTAIN DEFENSE ARTICLES.—(1) PROHIBITION.—If the United States International Trade Commission makes an affirmative determination under section 421(b) of the Trade Act of 1974 (19 U.S.C. 2451(b)(4)) is amended by inserting ""the Secretary of Defense'' after ""the Trade Representative''.

(2) WAIVER.—The President may waive the application of the prohibition contained in paragraph (1) on a case-by-case basis if the President determines and certifies to Congress that it is in the national security interests of the United States to do so.

SEC. 205. APPLICATION TO GOODS FROM CANADA AND MEXICO.

Pursuant to article 1902 of the North American Free Trade Agreement and section 408 of the North American Free Trade Agreement Implementation Act of 1993 (19 U.S.C. 3438), the amendments made by sections 105 and 202 of this Act shall apply to goods from Canada and Mexico.
Whereas a supportive environment, empathy, and understanding are considered critical factors in the healing process of a family that is coping with and recovering from the loss of a child;

Whereas the mission of The Compassionate Friends is to assist families working towards the positive resolution of grief following the death of a child, and to provide information to help others be supportive; and

Whereas the work of local chapters of The Compassionate Friends provides a caring environment in which bereaved parents, grandparents, and siblings can work through their grief with the help of others: Now, therefore, be it

Resolved, That the Senate—

(1) designates the second Sunday in December 2006, as "National Children's Memorial Day" in conjunction with The Compassionate Friends Worldwide Candle Lighting;

(2) supports the efforts of The Compassionate Friends to assist and comfort families grieving the loss of a child; and

(3) calls upon the people of the United States to observe National Children's Memorial Day with appropriate ceremonies and activities in remembrance of the many infants, children, and young adults who have died.

AMENDMENTS SUBMITTED AND PROPOSED

SA 5092. Mr. FRIST submitted an amendment intended to be proposed by him to the bill S. 403, supra, to amend title 18, United States Code, to prohibit taking minors across State lines in circumvention of laws requiring the involvement of parents in abortion decisions, which was ordered to lie on the table.

SA 5093. Mr. FRIST submitted an amendment intended to be proposed to amendment SA 5092 submitted by Mr. Frist and intended to be proposed by him to the bill H.R. 6061, supra, to prohibit taking minors across State lines in circumvention of laws requiring the involvement of parents in abortion decisions; which was ordered to lie on the table; as follows:

On page 12, line 2, strike "45 days" and insert "46 days".

SA 5094. Mr. FRIST submitted an amendment intended to be proposed to amendment SA 5092 submitted by Mr. Frist and intended to be proposed by him to the bill H.R. 6061, supra, which was ordered to lie on the table.

SA 5095. Mr. RINGAMAN submitted an amendment intended to be proposed by him to the bill H.R. 6061, supra, which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 5092. Mr. FRIST submitted an amendment intended to be proposed by him to the bill S. 403, supra, to amend title 18, United States Code, to prohibit taking minors across State lines in circumvention of laws requiring the involvement of parents in abortion decisions; which was ordered to lie on the table.

SA 5093. Mr. FRIST submitted an amendment intended to be proposed by him to the bill S. 403, to amend title 18, United States Code, to prohibit taking minors across State lines in circumvention of laws requiring the involvement of parents in abortion decisions; which was ordered to lie on the table; as follows:

On page 12, line 2, strike "45 days" and insert "46 days".

SA 5094. Mr. FRIST submitted an amendment intended to be proposed to amendment SA 5092 submitted by Mr. Frist and intended to be proposed to the bill H.R. 6061, to amend title 18, United States Code, to prohibit taking minors across State lines in circumvention of laws requiring the involvement of parents in abortion decisions; which was ordered to lie on the table; as follows:

Strike "47 days" and insert "46 days".

SA 5095. Mr. FRIST submitted an amendment intended to be proposed to the bill H.R. 6061, to amend title 18, United States Code, to prohibit taking minors across State lines in circumvention of laws requiring the involvement of parents in abortion decisions; which was ordered to lie on the table; as follows:

Strike "47 days" and insert "46 days".

SA 5096. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 403, to amend title 18, United States Code, to prohibit taking minors across State lines in circumvention of laws requiring the involvement of parents in abortion decisions; which was ordered to lie on the table.

SA 5097. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 403, supra, which was ordered to lie on the table.

SA 5098. Mr. ROCKEFELLER (for himself, Mrs. CLINTON, Mr. WYDEN, Ms. MIKULSKI, Mr. FEINGOLD, Mr. LEVIN, and Mrs. FEINSTEIN) proposed an amendment to the bill S. 3930, to authorize trial by military commission for violations of the law of war, and for other purposes.

SA 5099. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 403, supra, which was ordered to lie on the table.

SA 5100. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 403, supra, which was ordered to lie on the table.

SA 5101. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill S. 403, supra, which was ordered to lie on the table.

SA 5102. Mrs. BOXER submitted an amendment intended to be proposed by her to the
(i) the name of the detainee and a description of the suspected terrorist activities of the detainee; 
(ii) the rendition process, including the location and custody of the detainee and to which the detainee was rendered; and 
(iii) the knowledge, participation, and approval of foreign governments in the rendition process.

(E) For each detainee who was rendered or otherwise transferred to the custody of another nation during or before the preceding three years:

(i) the knowledge of the United States Government, if any, concerning the subsequent treatment of the detainee and the efforts made by the United States Government to obtain that information; 
(ii) the requests made by United States intelligence agencies to foreign governments for information to be obtained from the detainee; 
(iii) the information provided to United States intelligence agencies by foreign governments relating to the interrogation of the detainee; 
(iv) the current status of the detainee; 
(v) the status of any parliamentary, judicial, or other investigation about the rendition or other transfer; and 
(vi) any other information about potential risks to United States interests resulting from the rendition or other transfer.

(c) CIA INSPECTOR GENERAL AND GENERAL COUNSEL REPORT—

(1) ANNUAL REPORTS REQUIRED.—Not later than one year after the date of the enactment of this Act, and annually thereafter, the Inspector General of the Central Intelligence Agency and the General Counsel of the Central Intelligence Agency shall each submit to the congressional intelligence committees a report on the detention, interrogation and rendition programs of the Central Intelligence Agency during the preceding year.

(2) ELEMENTS.—Each report under paragraph (1) shall include, for the period covered by such report, the following:

(A) An assessment of the adherence of the Central Intelligence Agency to any applicable law in the conduct of the detention, interrogation, and rendition programs of the Central Intelligence Agency.

(B) Any violations of law or other abuse on the part of personnel of the Central Intelligence Agency, other United States Government personnel or contractors, or anyone else acting on behalf of the Central Intelligence Agency, and rendition programs of the Central Intelligence Agency in the conduct of such programs.

(C) An assessment of the effectiveness of the detention, interrogation, and rendition programs of the Central Intelligence Agency.

(D) Any recommendations to ensure that the detention, interrogation, and rendition programs of the Central Intelligence Agency are conducted in a lawful and effective manner.

(E) CONSTRUCTION OF REPORTING REQUIREMENT.—Nothing in this subsection shall be construed to modify the authority and reporting obligations of the Inspector General of the Central Intelligence Agency under section 17 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403a) or any other law.

(F) CERTIFICATION OF COMPLIANCE.—Not later than three months after the date of the enactment of this Act, and promptly upon any subsequent approval of interrogation techniques or procedures by the Central Intelligence Agency, the Attorney General shall submit to the congressional intelligence committees—

(i) an unclassified certification whether or not each approved interrogation technique complies with the Constitution of the United States and all applicable treaties, statutes, Executive orders, and regulations; and 
(ii) an explanation of why each approved technique complies with the Constitution of the United States and all applicable treaties, statutes, Executive orders, and regulations.

(g) DEFINITIONS.—In this section:

(1) CONGRESSIONAL INTELLIGENCE COMMITTEES.—The term "congressional intelligence committees" means—

(A) the Select Committee on Intelligence of the Senate; and 
(B) the Permanent Select Committee on Intelligence of the House of Representatives.

(2) LAW.—The term "law" includes the Constitution of the United States and any applicable treaty, statute, Executive order, or regulation.

SA 5096. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 403, to amend title 18, United States Code, to prohibit taking minors across State lines in circumvention of laws requiring the involvement of parents in abortion decisions; which was ordered to lie on the table; as follows:

On page 2, lines 24 and 25, strike “save the life of the minor because her life” and insert “save the life or health of the minor because her life or health”.

SA 5097. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 403, to amend title 18, United States Code, to prohibit taking minors across State lines in circumvention of laws requiring the involvement of parents in abortion decisions; which was ordered to lie on the table; as follows:

On page 2, lines 24 and 25, strike “save the life of the minor because her life” and insert “save the life or health of the minor because her life or health”.

SA 5098. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 403, to amend title 18, United States Code, to prohibit taking minors across State lines in circumvention of laws requiring the involvement of parents in abortion decisions; which was ordered to lie on the table; as follows:

On page 2, lines 24 and 25, strike “save the life of the minor because her life” and insert “save the life or health of the minor because her life or health”.

SEC. 4. SEVERABILITY AND EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect 45 days after the date of enactment of this Act.
the United States; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

“(D) LIMITATION ON REQUIREMENTS.—Notwithstanding subparagraph (A), nothing in this paragraph shall require the Secretary to provide fencing and install additional physical barriers, roads, lighting, cameras, and sensors in a location along an international border of the United States, if the Secretary determines that the use or placement of such resources is not the most appropriate means to achieve and maintain operational control over the international border at such location.’’.

SA 5106. Mr. KENNEDY submitted an amendment intended to be proposed by him to the bill H.R. 6061, to establish operational control over the international land and maritime borders of the United States; which was ordered to lie on the table; as follows:

At the end of the amendment add the following: “operational control shall also include the implementation of those measures described in the Comprehensive Immigration Reform Act of 2006, as passed by the Senate on May 29, 2006, that the Secretary determines to be necessary and appropriate to achieve or maintain operational control over the international land and maritime borders of the United States.’’.

AUTHORITY FOR COMMITTEES TO MEET
COMMITTEE ON ARMED SERVICES
Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on September 28, 2006, at 9:30 a.m., in open session to receive testimony on military voting and the Federal Voting Assistance Program.

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

COMMITTEE ON FINANCE
Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session on Thursday, September 28, 2006, at 2:30 p.m., in 215 Dirksen Senate Office Building, to hear testimony on “America’s Public Debt: How Do We Keep It From Rising?”

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

SELECT COMMITTEE ON INTELLIGENCE
Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on September 28, 2006 at 2:30 p.m., to hold a closed hearing.

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

SUBCOMMITTEE ON AVIATION
Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Subcommittee on Aviation be authorized to meet on Thursday, September 28, 2006 at 10:00 a.m. on “New Aircraft in the National Airspace System.”

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

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT, THE FEDERAL WORKFORCE, AND THE DISTRICT OF COLUMBIA
Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Subcommittee be authorized to meet on Thursday, September 28, 2006 at 10 a.m. for a hearing entitled, “Securing the National Capital Region: An Examination of the NCR’s Strategic Plan.”

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

SUBCOMMITTEE ON SUPERFUND AND WASTE MANAGEMENT
Mr. MCCONNELL. Mr. President, I ask unanimous consent that on Thursday, September 28, at 9:30 a.m. the Subcommittee on Superfund and Waste Management be authorized to hold a legislative hearing to consider S. 3871, a bill directing the EPA to establish a hazardous waste electronic manifest system.

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

FOREIGN POLICY
Mr. FRIST. Mr. President, we have had a long and full day today. I have some remarks to make on a couple of bills, and then we will close down, with a brief statement on what I see unfolding over the days.

Mr. President, the Senate has before it two very important bills dealing with critical foreign policy issues facing our Nation.

One of them is the Iran Freedom Support Act, H.R. 6198. This is a bipartisan bill which passed the House earlier today by voice vote. In other words, it was a noncontroversial bill in the House. It was cosponsored there by Congressman Tom LANTOS, the ranking Democrat on the Committee on International Relations, as well as by Congressman GARY ACKERMAN, the ranking Democrat on the Subcommittee on Middle East and Central Asia. The Iran Freedom Support Act is also strongly supported by the Bush administration. Enactment of this bill is time-sensitive because it will extend for another 5 years the provisions of the Iran and Libya Sanctions Act, or better known here on the floor as ILSA. ILSA has been an important element of the U.S. sanctions regime against Iran for the past 10 years, and ILSA will expire tomorrow unless Congress acts to extend it.

Iran is continuing to defy the will of the international community by persisting with its efforts to produce nuclear weapons in violation of international nonproliferation norms. I could not think of a worse time than now to allow ILSA to lapse; the signal this would send to Iran of U.S. irresolution and weakness would be terrible. IUL, I wish to serve notice on all Members of the Senate that tomorrow I will ask unanimous consent to pass H.R. 6198, and I hope there will be no Member of this body who steps forward at that time to reward Iran’s intransigence by blocking passage of this bipartisan legislation.

The second very important bill affecting our foreign policy that is today pending before the Senate is the United States-India Peaceful Atomic Energy Cooperation Act, S. 3709. This bill was reported by the Committee on Foreign Relations on July 20 and has been pending before us since that time. It is strongly supported by Chairman LUGAR and the ranking Democrat of that committee, Senator BIDEN. Together they have developed a managers’ amendment that they both support and that they would like the Senate to approve. The House companion measure has already passed that body by a wide margin.

Enactment of this legislation is essential in order to begin a new era in relations between our Nation and India, the world’s largest democracy. This legislation will enable us to cooperate with India in the area of civil nuclear energy, something that is today contrary to U.S. law. We need to be able to do this to fulfill commitments President Bush made to Prime Minister Singh of India on July 18 of last year. If we are unable to fulfill those commitments, the disappointment in India will be such that United States-India relations could be set back by many years, and the promise of a new era in relations that was begun in July 18 of last year will be lost.

Like the Iran bill, the India legislation has been cleared on our side of the aisle. Republican Members of the Senate are ready to approve the managers’ amendment to S. 3709 tonight, in its current form, with no further debate or amendment.

Regrettably, the same is not true on the other side of the aisle. Senate Democrats are not ready tonight to pass the managers’ amendment to this legislation in its current form.

This is regrettable because if the Democrats would permit us to pass the
A bill (S. 3993) to amend title 18, United States Code, to provide penalties for aiming laser pointers at airplanes, and for other purposes.

Mr. FRIST. Mr. President, I now ask for a second reading and, in order to place the bills on the calendar under the provisions of rule XIV, I object to my own request, en bloc.

The PRESIDING OFFICER. Objection is heard. The bills will be placed on the calendar, en bloc.

REMOVAL OF INJUNCTION OF SECRECY—TREATY DOCUMENTS 109–13 AND 109–14

Mr. FRIST. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the following agreements transmitted to the Senate on September 28, 2006, by the President of the United States:


I further ask that the agreements be considered as having been read the first time; that they be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and that the President’s messages be printed in the RECORD.

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

The messages of the President are as follows:

MUTUAL LEGAL ASSISTANCE AGREEMENT WITH THE EUROPEAN UNION (TREATY DOC. NO. 109–13)

To the Senate of the United States:

With a view to receiving the advice and consent of Senate to ratification, I transmit herewith the Agreement on Mutual Legal Assistance between the United States of America and the European Union (EU), signed on June 25, 2003, at Washington, together with 25 bilateral instruments that subsequently were signed between the United States and each European Union Member State in order to implement the Agreement with the EU, and an explanatory note that is an integral part of the Agreement, I also transmit, for the information of the Senate, the report of the Department of State with respect to the Agreement and bilateral instruments. The bilateral instruments with three EU Member States, Estonia, Latvia, and Malta, take the form of comprehensive new extradition treaties, and therefore will be submitted individually.

A parallel agreement with the European Union on mutual legal assistance, together with bilateral instruments, will be transmitted to the Senate separately. These two agreements are the first law enforcement agreements concluded between the United States and the European Union. Together they serve to modernize and expand in important respects the law enforcement relationships between the United States and the 25 EU Member States, as well as formalize and strengthen the institutional framework for law enforcement relations between the United States and the European Union.

The U.S.-EU Extradition Agreement contains several provisions that should...
improve the scope and operation of bilateral extradition treaties in force between the United States and each EU Member State. For example, it requires replacing outdated lists of extraditable offenses included in 10 older bilateral treaties with the modern "dual criminality" criterion, thereby enabling coverage of such newer offenses as money laundering. Another important provision ensures that a U.S. extradition request is not disfavored by an EU Member State that receives a competing request for the person from another Member State pursuant to the newly created European Arrest Warrant. Finally, the Extradition Agreement simplifies procedural requirements for preparing and transmitting extradition documents, easing and speeding the current process.

I recommend that the Senate give early and favorable consideration to the Agreement and bilateral instruments.

GEORGE W. BUSH.


ORDERS FOR FRIDAY,
SEPTEMBER 29, 2006

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m. on Friday, September 29. I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and the Senate proceed to a period for the transaction of morning business, with the time equally divided between the two leaders or their designees until 10 a.m.; further, that at 10 a.m., the Senate proceed to a vote on the adoption of the conference report to accompany H.R. 5631, the Department of Defense appropriations bill.

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

PROGRAM

Mr. FRIST. Mr. President, today we had a very busy day. We passed the Military Commissions Act, the Terrorist Tribunal Act, and also invoked cloture on the border fence bill, another very important piece of legislation. This evening, we reached an agreement to consider the Department of Defense appropriations bill conference report, and tomorrow morning at 10 o'clock the Senate will vote on that conference report, and then we will resume the postcloture debate on the border fence bill.

I remind my colleagues to be prepared for a busy day tomorrow, with votes throughout the day. Given the cloture vote this evening of 71 to 28, I hope we can expedite the border fence bill and finish it at an early hour tomorrow.

This is a very important bill that focuses on border security and border security first, recognizing we have a lot more to do in the future, but it does give us that opportunity to address the fact that we have millions of people coming across the U.S. border every year illegally, and we need to start the enforcement of that border and that border security by a physical structure, UAVs, with cameras and sensors, specifically 700 miles of fence along that border.

Following that, we will have the cloture vote on the message on the Child Custody Act, a very important bill that addresses one of the major legislative initiatives here; that is, to secure America's values and look at the issue of a young girl being taken for an abortion across State lines without parental permission. It is common sense. We passed it on the floor of the Senate not too long ago, and this is an amended version that came over from the House, and now is the time for us to pass it once again.

Beyond that, we have a number of other outstanding items that will need to be addressed before the recess. As we speak, issues surrounding our ports, again another part of that major thematic for this month of securing our homeland as we work on border security and funding the war on terror and giving our Government, our military, and our CIA the tools that we need to carry out this war on terror for our ports.

Our port security has to be addressed. It is being addressed in conference. Conferences were appointed by the House earlier tonight and that conference met tonight, so I am very hopeful that we will be able to address port security over the next 24, 36 hours.

In addition, we have nominations of the various judges that we need to consider before we leave. We have a treaty, U.S.–U.K. extradition that we need to address before we leave. There are other cleared items, including a large energy package. All of these are being held up tonight by the other side of the aisle, but I am very hopeful that we will be able to address these issues over the course of the next day or so.

If we are unable to complete all of our work tomorrow, Senators can expect a Saturday session. It is clear, as I set out really 2 weeks ago, that we have a large agenda. We are moving along very, very well, making real progress, as shown by the six votes that we had over the course of the day. But we have a lot more to do, and we will stay until we finish that work either late tomorrow or into Saturday.

ADJOURNMENT UNTIL 9:30 A.M.
TOMORROW

Mr. FRIST. 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 notice.

There being no objection, the Senate, at 9:42 p.m., adjourned until Friday, September 29, 2006, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate September 28, 2006:

DEPARTMENT OF THE TREASURY

MICHAEL A. DAVIS, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF THE TREASURY, VICE ANTONIO FRATTO.

MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY FOUNDATION


NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

DANA GIOIA, OF CALIFORNIA, TO BE CHAIRPERSON OF THE NATIONAL ENDOWMENT FOR THE ARTS FOR A TERM OF FOUR YEARS. (REAPPOINTMENT)

FOREIGN SERVICE

THE FOLLOWING-NAMED CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE DEPARTMENT OF STATE FOR PROMOTION IN THE SENIOR FOREIGN SERVICE CLASS OF COUNSELOR:

CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF CAREER MINISTERS:

WILLIAM R. BROWNFIELD, OF TEXAS
KATHERINE E. CANVAN GREGORIO, OF OHIO
CHRISTOPHER ROBERT HILL, OF BROOK ISLAND
CAMELON R. HUSE, OF CONNECTICUT
GEORGE MCCABE, OF MAINE
GEORGE P. METAYER, OF LOUISIANA

CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF MINISTER-COUNSELOR:

ELIZABETH JAMIESON AGRIN, OF VIRGINIA
EDWARD MALFORD ALFORD, OF ILLINOIS
PETER K. AUGUSTINE, OF TEXAS
CLYDE BISHOP, OF PENNSYLVANIA
LILIBETH THIERRY BOND, OF NEW HAMPSHIRE
GAYLETHA BEATRICE BROWN, OF THE DISTRICT OF COLOMBIA

DAVID M. B. BUSS, OF TEXAS
LINDA LABERGE CALMELL, OF NEW HAMPSHIRE
JUDITH ANN CHAMMAS, OF VIRGINIA
THOMAS MORE COUNTRYMAN, OF WASHINGTON
BRETT JOSHUA CUMBERLAND, OF ILLINOIS
ELIZABETH LINK DIBLE, OF VIRGINIA

JAMES ROBERT MOORE, OF FLORIDA
KEVIN CORT MILAS, OF CALIFORNIA
MARY BLAND MARSHALL, OF VIRGINIA
PATRICK JOSEPH LINEHAN, OF CONNECTICUT

MICHAEL J. BOYLE, OF WYOMING
CHRISTOPHER J. BEEDE, OF VIRGINIA
RAYMOND R. BACA, OF FLORIDA

ADRIENNE S. O'NEAL, OF MARYLAND
JAMES THOMAS ROBERTSON, OF VIRGINIA
LINDA THOMAS-GREENFIELD, OF LOUISIANA
AN THANH LE, OF THE DISTRICT OF COLUMBIA

JAMES ROBERT MOORE, OF FLORIDA
DAWNCYN M. MOZEL, OF MARYLAND
PETER K. AUGUSTINE, OF TEXAS

ALBERTO M. FERNANDEZ, OF VIRGINIA
ROBERT T. GODEC, JR., OF VIRGINIA
CHARLES R. HAMILTON, OF FLORIDA
JUDITH A. HARRISOON, OF ILLINOIS
JENNIFER KLEMM, OF ENGLAND

WILLIAM M. HICKS, JR., OF WYOMING
AN THANH LE, OF THE DISTRICT OF COLUMBIA
GEORGE W. BUSH.

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WILLIAM M. HICKS, JR., OF WYOMING
AN THANH LE, OF THE DISTRICT OF COLUMBIA
GEORGE W. BUSH.
John Olson, of California
Andrew W. Olityan, of Texas
Andrew A. Passen, of Pennsylvania
Mark A. Pekala, of the District of Columbia
Michael F. Pelletier, of Maine
Margorie R. Phillips, of Virginia
Geoffrey R. Pratt, of California
Pamela S. Quarles, of Virginia
Eric Seth Ruhn, of New York
Daniel H. Rurikstein, of California
Robert Joel Silverman, of California
Robin Angela Smith, of the District of Columbia
Michael A. Spangler, of Maryland
Andrew Walter Sterngold, of New Jersey
Karl Stoltz, of Virginia
Mark Charles Storella, of New Hampshire
Paul Randall Sturdiw, of Virginia
Mary Thompson-Jones, of Virginia
Michael E. Thurston, of Washington
William Weinstien, of California
Robert Karl Whitehead, of California
Rebecca Ruth Winchester, of Virginia
Dian B. Woodsen, of the District of Columbia
Steven Edward Zatz, of Florida

Career Members of the Senior Foreign Service, Class of Counselor, and Consular Officers and Secretaries in the Diplomatic Service of the United States of America:

Wayne R. Asberry, of Virginia
Cynthia Anne Bovens, of Maryland
Dan Blaine Christenson, of Washington
Edgar R. Gaarder, of Virginia
Duane Hellick, of Florida
Kenneth J. Hoeft, of Michigan
Raymond W. Hoosung, of Missouri

To be rear admiral

Rear Admiral (Select) Cynthia A. Coggan, 0000

In the Coast Guard

The following named officer for appointment as the Director of the Coast Guard Reserve pursuant to Title 14, U.S.C., Section 15 in the grade indicated:

To be rear admiral

Rear Admiral (Select) Cynthia A. Coggan, 0000

In the Air Force

The following named individual in the grade indicated in the reserve of the Air Force under Title 10, U.S.C., Section 12203:

To be colonel

Thomas C. Hanks, 0000
HON. MARSHA BLACKBURN
OF TENNESSEE
IN THE HOUSE OF REPRESENTATIVES
Wednesday, September 27, 2006

In April 2006, his three children wrote about their father stating: "Many months have passed since Mesfin Wolde Mariam, the father of all three of us, and grandfather of Semra, in and for exposing systematic abuses and sometimes neglect as the case may be over a period of several decades. What is amazing about this incredible human being is his sharpness and focus even in prison. This is a dedicated human being who chose to stay in his native Ethiopia to stand up for, and educate the helpless and the neglected, even though he had plenty of opportunity and offers."

In July, I was honored to have Mr. LEWIS come to Connecticut to talk with local leaders and children in the Hartford community. It was clear that the community's young people require more than physical security to keep them safe from harm. They need a network of support to treat the emotional, mental and developmental harms associated with community violence. Today, I am proud to be joined by Congressman LEWIS and 27 of my distinguished colleagues to introduce the City Youth Violence Recovery Act of 2006. This bill is a step in the right direction in healing the youth of Hartford and the youth in cities devastated by violence throughout the United States. Specifically, this bill would create a Department of Health and Human Services grant program to provide urban communities with funding for counseling, mental health services, post-traumatic stress type services, and violence prevention and conflict mediation for city youth.

We can no longer remain indifferent to the needs of our urban youth. As Members of Congress, as Americans, and as fathers and mothers, we cannot allow any more young lives to be lost in this war at home. Our cities' children deserve better; they deserve a future.
HONORING BRENTWOOD MIDDLE SCHOOL AND FRANKLIN ELEMENTARY SCHOOL

HON. MARSHA BLACKBURN OF TENNESSEE
IN THE HOUSE OF REPRESENTATIVES
Wednesday, September 27, 2006

Mrs. BLACKBURN. Mr. Speaker, today I ask my colleagues to join me in honoring two schools in Tennessee’s 7th Congressional District that have been ranked among the Nation’s best. Both Brentwood Middle School and Franklin Elementary School have earned recognition from the U.S. Department of Education as 2006 No Child Left Behind Blue Ribbon Schools. The schools qualified for this distinction by scoring in the top 10 percent in State assessments. While only six schools in Tennessee achieved this distinction, our community has been blessed with two.

Mr. Speaker, the students, parents, teachers, and administrators at Brentwood Middle and Franklin Elementary deserve our congratulations for their commitment to excellence. Our students are gaining skills that will make them lifelong learners, and that’s a real credit to the community.

I would especially like to thank Brentwood Middle Principal Kay Kendrick and Franklin Elementary Principal Mark Tornow for their hard work and dedication.

COMMEMORATING THE 15TH ANNIVERSARY OF THE REPUBLIC OF AZERBAIJAN’S INDEPENDENCE

HON. EDDIE BERNICE JOHNSON OF TEXAS
IN THE HOUSE OF REPRESENTATIVES
Wednesday, September 27, 2006

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I rise to acknowledge Azerbaijan’s 15th anniversary of its re-independence on October 18. In the current global political climate, Azerbaijan is unique among democracies as the world’s first Muslim democratic republic.

Azerbaijan is one of the United States’ most important friends and supporters. We share important political, economic and security interests.

Azerbaijan was the first among nations to offer the United States unconditional support in the war against terrorism, providing airspace and airport use for Operation Enduring Freedom in Afghanistan. Azerbaijan cooperates with the United States within international and regional institutions including U.N., Organization for Security and Cooperation in Europe—OSCE, and NATO’s Partnership for Peace program. Azerbaijan also works together with the United States within the framework of the Organization for Democracy and Development—GUAM which is comprised of Azerbaijan, Georgia, Moldova, and Ukraine.

The group was created as a political, economic and strategic alliance aimed at overcoming common risks and threats and strengthening the independence and sovereignty of its member states.

The Republic of Azerbaijan is a standout nation among the South Caucasus countries, with a population of 8 million people and an ambitious economic policy. During the last decade Azerbaijan has been implementing structural reforms and adopting numerous laws and legislative changes, paving the way toward further integration within the global economy. The Nation has been moving toward a more diversified economy to achieve sustainable growth and to meet the social and development needs of its population. As reported by the International Monetary Fund, IMF, Azerbaijan’s macroeconomic performance “has been impressive with strong growth, low inflation and a stable exchange rate.” Real GDP grew by an annual average of over 10 percent during the last 6 years and build up to 34.4 percent in the first 8 months of 2006, driven by investments in the energy sector, followed by growth in the construction and transportation sectors, and agriculture.

Since signing the “Contract of the Century” in 1994, Azerbaijan has developed its energy sources within the Caspian region to diversify western energy supplies. On July 13, 2006 the Baku-Tbilisi-Ceyhan main oil export pipeline was inaugurated. Diversification of the economy and ensuring the development of non-oil sectors is a priority for the government. This policy includes implementation of projects and programs that create favorable conditions for development of private entrepreneurship, attracting investment in non-oil sector, creating new jobs, evaluation of potential industries and markets and development of infrastructure in the regions.

A democratic, prosperous, and peaceful Azerbaijan will be a strong partner and ally for the United States. I look forward to working with the Azerbaijani Government and people to develop this relationship.

Mr. Speaker, I join my colleagues in the House of Representatives today in commemorating Azerbaijan’s independence. I look forward to the bonds of friendship between the United States and Azerbaijan becoming even stronger in the future.

PAYING TRIBUTE TO GARY L. MAAS
HON. THOMAS G. TANCREDO OF COLORADO
IN THE HOUSE OF REPRESENTATIVES
Wednesday, September 27, 2006

Mr. TANCREDO. Mr. Speaker, I rise today to recognize the achievements of retiring Littleton Police Chief Gary Maas. Chief Maas, a constituent of mine, was able to reorganize and improve the Littleton Police Department since the beginning of his term in 1996.

During his tenure, Chief Maas focused on developing a community outreach program to provide services to neighborhoods across division lines. Along with this success, Maas oversaw the initiation of community surveys in order to determine the priorities of the citizens. A caring and committed individual, Mr. Maas restored confidence and strength in the Littleton Police Department through his implementation of educational requirements on entry level positions and his work with the union to establish the Master Police Officer program.

Mr. Speaker, it is with the profound pleasure to honor Mr. Gary Maas and his achievements here today, and wish him all the best in his retirement.

HONORING THE LIFE AND SERVICE OF MARINE LANCE CORPORAL TIMOTHY CREAGER

HON. MARSHA BLACKBURN OF TENNESSEE
IN THE HOUSE OF REPRESENTATIVES
Wednesday, September 27, 2006

Mrs. BLACKBURN. Mr. Speaker, I ask my colleagues to rise today in honor of Marine Cpl. Timothy Creager. Timothy is one of America’s fallen heroes. He was one of our best and brightest, and he had the courage to put himself in harm’s way for our country.

On July 1, 2004, Lance Corporal Creager was killed in action while on patrol near Fallujah, in the Al-Anbar Province in Iraq, surrounded by his fellow marines of 2nd Light Armored Reconnaissance Battalion. His sacrifice shows how precious freedom is—that a man would give his life to preserve it for his family and fellow Americans.

We Tennesseans knew Tim as an outstanding student, Eagle Scout, and battalion commander in the Civil Air Patrol at Craigmont High School. In 2003, he gave up his scholarship to the Citadel after his sophomore year because he felt it was his duty to enlist in the Marines. Timothy chose this path because he believed in America.

On Veterans Day this November 11, 2006, the Bartlett community will hold a 5K race to honor Timothy. The community will also be dedicating an expanded Bartlett Veterans Memorial to honor Timothy and all those who have served our country.

Mr. Speaker, nothing can replace Timothy and no words can express our gratitude to his family and friends for raising the kind of young man who would give his all for America. We can only honor his life and always remember his courage.

Our thoughts are with his mom and dad, Kay and Mike. I want them to know their country is grateful and we won’t forget what their son did for us all.

TRIBUTE TO GREGORY AND DR. NIKOLAOS STAVROU

HON. DONALD M. PAYNE OF NEW JERSEY
IN THE HOUSE OF REPRESENTATIVES
Wednesday, September 27, 2006

Mr. PAYNE. Mr. Speaker, we all remember the heady days when the Communist bloc collapsed on its own weight and the peoples of Eastern Europe came out of the dark days of totalitarianism and into the light of freedom. The collapse was so abrupt and so spontaneous that few people had the luxury of taking stock of the heroic efforts made by so many people over a period of 70 years that proceeded the days of freedom; and there were heroes in every country of Eastern Europe throughout the dark days of communist terror. From all countries of Eastern Europe none was so isolated and its people more oppressed than Albania. The Enver Hoxha regime was the last one to collapse, and just a few days after its demise, over one million Albanians crossed the borders of neighboring countries in search of food and freedom. This particular regime thrived in its splendid isolation and the knowledge that if no one was allowed to enter or leave the country, then no
one would tell the true story of a suffering people. But there were idealists who never forgot the Albanian people and found ways to expose the regimes’ sins. I rose today to pay tribute to two such idealists who have been ignored in our hastiness to absolve all former communists. I must refer to two such individuals with unbound idealism, one whom lives among us, the other made the ultimate sacrifice. They are the Stavrou brothers, Gregory and Nikolaos.

Gregory, at age 23 assumed risky intelligence missions into Albania for the Greek service. In his last mission, aimed at restoring a vital network that the British traitor Kim Philby betrayed, he, too, was betrayed, captured, tortured, tried before a military tribunal and executed on September 3, 1953. It appears he was Philby’s last victim in Albania. I am told that Gregory’s last words to the military judges were, “I will do it again, if I have another chance.” His heroism gave hope to the Albanian people that they were not forgotten. For his bravery, Gregory was posthumously decorated by Decree of the Greek Government on September 19, 1991 with the Medal of Exceptional Deeds for his courage and unparalleled heroism.

Dr. Nikolaos A. Stavrou, his brother and prominent professor in International Affairs at Howard University continued his brother’s work by other means. His testimony before committees of the U.S. House of Representatives and his appearance before the U.N. Commission on Human Rights earned him the wrath of the Hoxha regime. Dr. Stavrou was among the few scholars in the West who regularly exposed Albanian atrocities and Hoxha’s vast gulag. His articles appeared in the Washington Post, Outlook Section, the Manchester Guardian, To Vema (Greece), Borba (Yugoslavia), The World and I, World Affairs, and many other journals. For 12 years, he was the analyst of Albanian Affairs for the Hoover Institution’s Annual Review of World Communist Movement. He annoyed the Tirana regime so badly that it condemned him to death in absentia.

For 15 years since the collapse of the Albanian Communist regime, Dr. Stavrou sought quietly the help of the Albanian Government to locate, exhume and retrieve Gregory’s remains and give him a decent funeral. He approached this truly human tragedy quietly and away from public fanfare and nationalist overtones until now. Two Albanian Prime Ministers and a Speaker of the Albanian parliament promised him to conduct an inquiry into his brother’s death but ultimately nothing came of it. As an American citizen, Dr. Stavrou and his family honor a hero of the Cold War who happened to be his brother. I have also called upon our Department of State to use its good offices with the Albanian Government and to solve a humanitarian issue but never received a satisfactory answer. The least we can do is honor this family for the sacrifice made for freedom. I am among those who consistently supported the cause of the Albanian peoples to gain their freedom and develop their country. However, our support should not be taken for granted. I hope the government of Prime Minister Berisha would be more respectful of those who gave their lives for freedom.

PAYING TRIBUTE TO KELSEY MARTINEZ

HON. THOMAS G. TANCREDO
OF COLORADO
IN THE HOUSE OF REPRESENTATIVES
Wednesday, September 27, 2006

Mr. TANCREDO. Mr. Speaker, I rise today to pay tribute to one of my constituents, Ms. Kelsey Martinez of Centennial, Colorado. Ms. Martinez has been accepted to the People to People World Leadership Forum here in our Nation’s Capital. This year marks the 50th anniversary of the People to People program founded by President Eisenhower in 1956. Ms. Martinez has displayed academic excellence, community involvement and leadership potential. All students chosen for the program have been identified and nominated by educators.

Mr. Speaker, I would like to join in paying tribute to Kelsey Martinez, and wish her the best in all her future endeavors.

EXpressing the sense of Congress that there should be established a Let’s All Play Day

HON. JOHN B. LARSON
OF CONNECTICUT
IN THE HOUSE OF REPRESENTATIVES
Wednesday, September 27, 2006

Mr. LARSON of Connecticut. Mr. Speaker, I want to thank the distinguished gentleman from Rhode Island, Mr. LANGEVIN for his leadership on this bill. As cosponsor, I also want to express my strong support for children of all abilities to have environments where they can learn and play together.

As the father of three, I understand that play is essential to healthy childhood development. Play inspires thinking, imagination, problem-solving and creates learning opportunities that can’t be found in the classroom. Playgrounds are where children can play, learn and understand the world around them. Unfortunately, in many cases, the design of traditional playgrounds isolates children with disabilities from playing, learning and sharing with their peers.

Today, we are introducing legislation that recognizes that all children should have equal access and equal opportunity to play together on barrier-free, inclusive playgrounds. This bill would express the sense of Congress that a “Let’s All Play Day” should be established for all children, including the estimated 6 million children in the United States with a disability that make it hard or impossible to enjoy traditional playgrounds.

As we discuss the importance of play for all children, I want to take a moment to recognize the work of the National Center for Boundless Playgrounds. The National Center for Boundless Playgrounds is a champion in bringing the joy of play to all children with and without disabilities. Formed in 1997 and located in the town of Bloomfield in the First Congressional District, Boundless Playgrounds in collaboration with Hasbro, Inc. and GameTime has helped communities in 21 states create more than 100 extraordinary “boundless” barrier-free playgrounds. I want to thank the Center for their tireless work and dedication in the state of Connecticut and across the country on behalf of all children.

Mr. Speaker, as children with and without disabilities learn together in classroom, we should encourage their learning together outside on the playground. I encourage my colleagues and communities across the country to join me and Congressman LANGEVIN in celebrating the joy of play for all children, with all abilities, in every community.

HONORING SAM SMITHSON ON HIS BIRTHDAY

HON. MARSHA BLACKBURN
OF TENNESSEE
IN THE HOUSE OF REPRESENTATIVES
Wednesday, September 27, 2006

Mrs. BLACKBURN. Mr. Speaker, it is a privilege to rise today to honor Mr. Sam Smithson on his 94th birthday and to thank him for his dedication and service to our country.

Born in Williamson County, Tennessee on October 4, 1912, Mr. Smithson was inducted into the Army as a Private First Class in December of 1942. He fought bravely in major battles across Normandy, northern France, the Rhinelands, and the Ardennes as a member of B Company, 612th Tank Destroyer Battalion. On December 17, 1944, Pfc. Smithson was captured by German forces and sent to a prisoner-of-war camp, Stalag XII–C, deep within Germany.

After living in captivity under brutal conditions for nearly six months, the camp was liberated by Allied Forces on April 28, 1945. Mr. Smithson’s heroism and determination in the face of adversity earned him a promotion to Corporal upon his discharge from the Army in October 1945.

Mr. Smithson and his late wife Fronie were married for 69 years and had one son, Sam Smithson, Jr. On Saturday, September 30th, Mr. Smithson’s family and friends will gather to celebrate his 94th birthday.

Sam’s story is the American story. It’s a testament to the determination and love of country that has kept us free for more than two centuries now. It’s because of men like Sam that the American Dream lives. We thank God for his service to America, and it’s right that we take time to reflect on his life and celebrate his 94th birthday.

Mr. Speaker, I ask my colleagues to join me in sending our thanks to Mr. Smithson for his service to our nation and our best wishes as he celebrates his birthday.

Regarding HIV/AIDS and African Americans

HON. EDDIE BERNICE JOHNSON
OF TEXAS
IN THE HOUSE OF REPRESENTATIVES
Wednesday, September 27, 2006

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I rise today on the crisis of HIV/AIDS among African Americans.
There are currently more than 68,000 Texans living with the disease.

Americans should be reminded that HIV/AIDS does not discriminate when it comes to who can catch the disease. In fact, HIV is taking a devastating and disproportionate toll on people of color.

Among women living with HIV in Texas in 2005: 19 percent are White, 18 percent are Hispanic, and over 60 percent are African American.

The Congressional Black Caucus will continue to lead the HIV/AIDS fight in Congress and support programs that are making progress against this devastating disease.

We can and must all do more. Governments, corporations, foundations, religious groups and private citizens must unite to win the war on AIDS.

There is no other moral or practical choice.

PAYING TRIBUTE TO DETECTIVE MIKE THOMAS

HON. THOMAS G. TANCRED
OF COLORADO
IN THE HOUSE OF REPRESENTATIVES
Wednesday, September 27, 2006

Mr. TANCRED. Mr. Speaker, I rise today to pay tribute to a fallen policeman from Colorado, Mike Thomas.

This week thousands of Coloradans paid their respects to Detective Thomas, who was killed earlier this month while waiting at a stoplight. According to reports, officers came from as far away as Canada to pay their respects.

Mr. Thomas was a longtime dedicated public servant. He spent more than two decades serving the community as a policeman, and like his father Delbert, was an Air Force veteran. He will be sorely missed.

I was particularly moved by an account I read in The Denver Post about Mr. Thomas recounted by police Captain Jerry Hinkle. Hinkle told those gathered at the funeral about a card the department had received from a well-wisher named “George” after news of Mike Thomas’ tragic death. In the card, George wrote about how when he was a teenage gang member whose future prospects looked bleak, he encountered Mr. Thomas. Thomas pulled up to the boy in his squad car, talked, and today George is the owner of a successful security company.

Mr. Speaker, all Coloradans owe a great debt of gratitude to Mike Thomas, and all of the men and women of law enforcement who risk their lives each day to guarantee our safety.

He will be missed by all who knew and loved him.

HONORING FIRST BAPTIST CHURCH OF CLARKSVILLE ON 175 YEARS OF WORSHIP

HON. MARSHA BLACKBURN
OF TENNESSEE
IN THE HOUSE OF REPRESENTATIVES
Wednesday, September 27, 2006

Mrs. BLACKBURN. Mr. Speaker, it is a privilege for me today to take a moment and honor a community of people in Clarksville, Tennessee. The First Baptist Church in Clarksville is celebrating a remarkable 175 years of worship and that’s an achievement we ought to all applaud.

With a history of faithful and dynamic leadership, the First Baptist congregation has blessed the community of Clarksville with their ministry and prayer. Pastor Roger Freeman continues this legacy of good works through faith as the current Senior Pastor of First Baptist.

From an active Senior Adult Ministry to a tremendous Preschool Ministry, the church is making our community a better place every day. With strength and faith, the congregation reaches out to the community of Clarksville and offers many a beacon of hope and comfort.

Mr. Speaker, I ask my colleagues to join me in thanking Pastor Freeman and the congregation of First Baptist Church of Clarksville for their continued ministry and with them all the best for another 175 years of dedication to the Lord.

RECOGNIZING JIMMY SEEMAN OF DADE CITY, FLORIDA

HON. GINNY BROWN-WAITE
OF FLORIDA
IN THE HOUSE OF REPRESENTATIVES
Wednesday, September 27, 2006

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, I rise today to recognize the amazing achievements of Jimmy Seeman of Dade City, Florida. Already exhibiting an entrepreneurial spirit at the age of 17, Jimmy runs his own 40-acre nursery, Gardens Wholesale Nursery.

Jimmy began to take an active interest in the agricultural field at the age of 13 while working alongside his father at his lawn maintenance business. Starting by growing a few plants on the side, Jimmy eventually expanded his operation and opened his own nursery. Today Gardens Wholesale Nursery includes several employees and 40-acres of plantable land.

Showing an amazing drive for personal growth, Jimmy has taken it upon himself to learn Spanish to better communicate with many of his employees, often waking at 3 a.m. to study and practice his Spanish. Jimmy has also taught himself to fix computers and install irrigation.

With the support of his parents, Cathy and Jimmy, and his two brothers, Michael and Jacob, Jimmy has shown that neither age nor experience are required to be an accomplished businessman. Through hard work and dedication Jimmy has proven to his family and friends that he is well on his way to achieving remarkable success in his chosen field.

Mr. Speaker, it is young men and women like Jimmy Seeman that should be congratulated for contributing to the American entrepreneurial spirit. I look forward to following Jimmy’s career as he runs Gardens Wholesale Nursery and wish him the best of luck in his future endeavors.

PERSONAL EXPLANATION

HON. MICHAEL N. CASTLE
OF DELAWARE
IN THE HOUSE OF REPRESENTATIVES
Wednesday, September 27, 2006

Mr. CASTLE. Mr. Speaker, if I had been present to vote on Monday, September 25 and Tuesday, September 26, 2006, I would have voted in the following way:

No—H.R. 5092—Bureau of Alcohol, Tobacco, Firearms, and Explosives (BATFE) Modernization and Reform Act of 2006
Yes—H. Res. 989—Declaring the United Kingdom for its efforts in the War on Terror, and for other purposes
Yes—H. Res. 1017—Affirming support for the sovereignty and security of Lebanon and the Lebanese people
Yes—H. Res. 1038—Rule providing for H.R. 2679—Public Expression of Religion Act
Yes—H. Res. 1039—Rule providing for S. 403—Child Custody Protection Act
No—S. 403—Child Custody Protection Act
Yes—H. Res. 723—Calling on the President to take immediate steps to help improve the security situation in Darfur, Sudan, with a specific emphasis on civilian protection
Yes—H. Res. 992—Urging the President to appoint a Special Envoy for Sudan

NATIONAL INSTITUTES OF HEALTH REFORM ACT OF 2006

SPEECH OF
HON. MARTIN T. MEEHAN
OF MASSACHUSETTS
IN THE HOUSE OF REPRESENTATIVES
Tuesday, September 26, 2006

Mr. MEEHAN. Mr. Speaker, I rise today to urge this Congress to redouble its efforts in the fight against cancer.

Over 33,000 people in my home state of Massachusetts will be diagnosed with some form of cancer this year.

I recently met with a number of constituents about the importance of increased funding for cancer research. One of my constituents, Judith Hurley, shared her cancer story with me. After extreme weight loss and extensive testing, Judith was diagnosed with stage 4 metastatic breast cancer, which had spread to her bones. Judith endured a variety of treatments, and made one thing clear to her doctors: she was not through raising her children.

Mr. Speaker, I am happy to report that in July, Judith became a 5-year cancer survivor. Another one of my constituents, Sue Terezshko is a two-time breast cancer survivor.

Mr. Speaker, constituents like Judith and Sue are the beneficiaries of advances in cancer treatment.

Congress must do more to fund cancer research and treatment programs.

Yes, we should pass the National Institutes of Health Reform Act of 2006, which authorizes a 5% increase in funding for the National Institutes of Health (NIH). Congress must also appropriate a 5% increase for the NIH in the...
FY 2007 Labor-HHS Appropriations bill. A 5% increase over last year’s levels would give an additional $240 million to the National Cancer Institute alone. This funding would allow the Institute to further fund the basic research necessary to determine the root causes of cancer and improve care.

However, a 5% increase in NIH funding will only maintain pace with rising costs and inflation. It is essentially flat-funding for the NIH. Therefore, I challenge this House to support a 5% increase in NIH funding in addition to any increase to cover the cost of inflation, which Democrats have previously proposed.

Second, Congress should pass the Breast Cancer and Environmental Research Act and the Breast Cancer Patient Protection Act.

Next week will begin National Breast Cancer Awareness Month. While important advances have been made, we still do not know what causes this disease, or how to prevent it.

Breast cancer remains the second leading cause of cancer death among women. The American Cancer Society estimates that a woman in the United States has a 1 in 7 chance of developing invasive breast cancer during her lifetime—this risk was 1 in 11 in 1975.

Congress has failed to act on the Breast Cancer and Environmental Research Act, a bill with the overwhelming bipartisan support of 255 members. The Breast Cancer and Environmental Research Act will further our understanding of the impact that environmental factors have on breast cancer. For the 3 million women living with breast cancer and their families, we should pass this important legislation.

Congress should also pass the Breast Cancer Patient Protection Act.

My constituent Donna Carbone was lucky to have her surgeon override a hospital’s decision to send her home less than 24 hours after her mastectomy in 1998. We must ensure that Donna’s experience is no longer the exception to the rule, but instead becomes the standard quality of care.

The Breast Cancer Patient Protection Act, which has the bipartisan support of 180 members, would prohibit an insurer from limiting impatient care following a mastectomy to less than 48 hours.

On the eve of Breast Cancer Awareness Month, let’s recommit ourselves to finding the root causes of breast cancer and improving patient care. Let’s not offer just false hope, let us fight a real war on cancer by investing in the tools necessary to eradicate this disease.

HIV/AIDS

HON. BOBBY L. RUSH
OF ILLINOIS
IN THE HOUSE OF REPRESENTATIVES
Wednesday, September 27, 2006

Mr. RUSH. Mr. Speaker, in 2004, my state of Illinois, had the 4th highest numbers of African Americans living with AIDS—nearly 8,000—of the more than 35,000 people living with HIV/AIDS. Despite the improvements in the health outcomes of AIDS patients in the general population, in communities of color AIDS is the leading cause of death of African American women. The United States has a 1 in 25 and 34 and the third leading cause of death among Hispanics between the ages of 35 and 44.

Mr. Speaker, last week, the House Energy and Commerce Committee, on which I serve, reported H.R. 6143, the Ryan White HIV/AIDS Treatment Act by a vote of 38 to 10. While the bill is flawed in several respects—particularly in the level of funding that it authorizes to provide comprehensive treatment and services to victims of HIV/AIDS—the President did, for the first time, codify the Minority Aids Initiative (MAI) as a separate title of the Ryan White CARE Act reauthorization.

This means that for the first time in its history, the Minority AIDS Initiative will become permanent law, as it is enacted. The Minority AIDs Initiative is specifically designed to bridge the gap in HIV service delivery by providing culturally competent and linguistically appropriate HIV care and support services provided for under the MAI.

Since communities of color still account for a disproportionate number of HIV/AIDS cases, I am pleased that the Committee’s bill took the first step in directing resources to address the problem of HIV/AIDS in the African American community. It is my sincere hope that future Congresses will be able to more adequately address this epidemic.

THE STORY OF TED WILLIAMS—A NATIVE SON OF CALIFORNIA AND AN AMERICAN HERO

HON. JOHN CAMPBELL
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Wednesday, September 27, 2006

Mr. CAMPBELL of California. Mr. Speaker, born on April 24th, 1921 in Hawthorne, California, Theodore (“Ted”) Williams was delivered into a family divided by divorce and early hardships. Fortunately, the happiest years of his youth were spent with his mother, step-father and siblings on a 35-acre citrus nursery and farm which skirted the eastern border of the giant Irvine Ranch in Orange County, California. It was on the farm where Williams developed the strong work ethic and key survival skills which have served him so well over the course of his life.

Following the death of his beloved step-father in 1935 and his family’s ensuing financial challenges, Ted Williams left Tustin High School during his senior year and enlisted in the U.S. Marine Corps. On January 15, 1940, he was sworn in as a “Boot Marine” and immediately deployed to the Philippine Islands where he was stationed in the Manila area near Clark Field, Cavite and Mariveles, part of the 4th Marine Regiment and home port to the 16th Naval District Fleet. Less than a year later, on December 7th, 1942, the United States was attacked by the Japanese at Pearl Harbor. The very next day, the Japanese attacked the Philippines; and Williams found himself cut-off from the rest of the world.

Alone, hungry and wounded, Williams and his military comrades waged a brave three-month fight against the enemy yet, ultimately, were forced to join a massive surrender—and the infamous Bataan Death March. For a month fight against the enemy yet, ultimately, Williams and his fellow soldiers were aided by Filipino civilians, mostly women and children, who heroically provided water and food to the survivors of the march. Ultimately however, more than 10,000 soldiers died at the hands of the enemy through torture, disease, starvation and murder. Surviving the march yet in failing health, Williams was eventually sent to The Zero Ward at Bilibid, a dilapidated prison functioning as a crude hospital. There he recovered only to suffer a host of new injuries brought on by harsh prison labor that lasted for nearly two years.

In June 1944, he was sent to a prison camp in the north at Cabanatuan where he was assigned to the torturous runway construction camp. A month later, Williams was evacuated by prisoner boat transport (known as Hell Ships) to Camp 17 in Kyushu, Japan, where he served as a slave laborer in a coal mine, followed by time served at Camp 1 in Fukoku, Japan. On August 25th, 1945, just weeks after the bombing of Hiroshima and Nagasaki, Williams and his fellow POWs were released by their captors.

Discharged from the Marine Corps in 1946, Williams returned to Orange County and married Dolores Wallace, whom he later divorced. After a series of odd jobs, Williams built a steam power with his fellow travelers of California. In 1972, he moved to Santa Ana, where he met and married Lillian May Phipps, his travel companion and fellow adventurer. It was Lillian who brought Williams back to the Philippines to retrace his POW experiences, a trip Williams has since made 21 times. In February 1979, Williams underwent open heart surgery and, as part of his physical and emotional recovery, began work on “Rogues of Bataan,” an autobiographical account of the Bataan Death March. Just one year later, Lillian died from liver cancer.

Inspired by his late wife’s kind and generous heart, Williams embarked on a series of charitable efforts including the funding of an orphanage in Mexico and the founding of TERI, Inc. (Training, Education and Research Institute) in Oceanside, CA, a private nonprofit agency providing residential care, education, employment and other programs and services for people with all sorts of developmental disabilities and special needs. Upon a return trip to the Philippines with other survivors of the Bataan Death March, Williams spearheaded the effort to build, equip and staff an elementary school on the Philippine Island of Corregidor. During this period in his life, Williams returned to his writing and completed “Rogues of Bataan,” which was first published in 1999 and has since been re-released with all proceeds benefiting TERI, Inc. In 2003, Williams embarked on the creation of the Corregidor School Fund which has since built and furnished the Llamas Memorial Institute in Mariveles, Bataan, Philippines, an educational library which was officially dedicated on July 4, 2006. In recognition of his charitable works, community service and humanitarian efforts to the Filipino people, Ted Williams was placed on the prestigious “Perpetual Honor Roll” for the Order of the Knights of Rizal (as chartered by the Philippine government) on March 16, 2006. Now, at age 85 and in failing health, Ted Williams is worthy of his own special recognition by the United States. This American from Orange County, California is a true American Hero, a passionate patriot and a caring and humble community servant.
RECOGNIZING THE AMERICAN RED CROSS CHISHOLM TRAIL CHAPTER ON THEIR 90 YEARS OF SERVICE

HON. KAY GRANGER OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 2006

Ms. GRANGER. Mr. Speaker, I rise today to recognize the Chisholm Trail Chapter of the American Red Cross as they celebrate 90 years of service in Texas, including my district in the Fort Worth area.

Chartered in 1916 in response to World War I, the American Red Cross Chisholm Trail Chapter has been present during both local and national events in U.S. history. The passionate volunteers and staff that make up the Chisholm Trail Chapter provide care, comfort and lifesaving skills to residents in my District.

Headquartered in Fort Worth, the Chisholm Trail Chapter serves its neighbors by providing a variety of services throughout 23 counties, from the Tarrant County line to San Angelo.

The Chapter’s variety of programs and services extend to all members of the Fort Worth community at home, in school, and in the workplace. Last year, over 111,000 people were helped by the WHEELS Transportation Service. This program assists older Americans and people with disabilities who need to help keeping their medical and vocational appointments by providing necessary means of transportation.

Constantly striving to ensure the health and safety of its constituents, the Chapter provides training in first aid, CPR, swimming, lifeguarding, and babysitting. Last year, the Chapter enrolled over 41,000 people in their Health and Safety Programs.

I am particularly impressed with their Armed Forces Emergency Services program. Twenty-four hours a day, 365 days a year, the Chisholm Trail Chapter helps military members and their families stay in touch by providing timely, accurate and verified information following the death or serious illness of a family member, the birth of a child or other critical family matter.

The Chisholm Trail Chapter has touched me personally as well. On March 28, 2000, an F-2 tornado formed and took aim at Tarrant County. Five lives were lost and homes and businesses were destroyed. The tornado began just west of downtown and made a direct hit on the Cash America building, where my office was located. From there, the storm intensified into an F-3 twister and leveled an Arlington neighborhood.

The Chisholm Trail Chapter responded in force to the tornadoes, meeting the physical and emotional needs of thousands of families. An American Red Cross Emergency Response Vehicle made its way to my office building several times each day for nearly two weeks, distributing meals and bottled water to the work crews attempting to salvage what was left from the debris.

In addition to meeting local community needs through essential programs and services, the Chisholm Trail Chapter has responded to the needs of our nation and the world by sending volunteers into a terrorist attack site following the events of September 11, 2001, and raising nearly $2 million locally to help south Asian tsunami victims in 2004.

Prior to landfall of Hurricane Katrina, the Chapter deployed local volunteers to Louisiana.

The Chisholm Trail Chapter met the call to serve those left devastated in the wake of Hurricanes Katrina and Rita by opening eight shelters, housing 1,200 evacuees and providing 576,137 meals. During the months of September and October 2005, the Chapter served over 7,000 families and offered 6,606 mental health contacts to those in need of emotional assistance. This coordinated response exemplifies the Chapter’s dedication to guaranteeing the health and safety of those who have experienced the effects of natural disasters.

Mr. Speaker and fellow Colleagues, please join me in recognizing the American Red Cross Chisholm Trail Chapter on its 90th birthday. With congratulations and gratitude for the excellent work they do to enrich our lives, I am pleased to acknowledge their service to our communities throughout the Fort Worth area and all corners of this great nation.

HONORING MS. JOY TRICKETT

HON. FRANK R. WOLF OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 2006

Mr. WOLF. Mr. Speaker, it is an honor for me to recognize Ms. Joy Trickett of Leesburg, Virginia, for her outstanding work to address the problems of homelessness and poverty in northern Virginia.

Ms. Trickett is currently board chair for the Good Shepherd Alliance (GSA) Emergency Homeless Shelters in Sterling, Ashburn, Leesburg, Lucketts and South Riding in Virginia’s 10th District.

For many hours each week, she volunteers to make a difference, one person at a time. On any given day, you might find Ms. Trickett in the Good Shepherd thrift store in Sterling, working with her staff, or writing a grant proposal with her administrative director in Leesburg, or interfacing with other sister organizations like the Clothes Closet in Herndon, LINK in Sterling, Loudoun Red Cross and Northern Virginia Family Services in Fairfax. She serves on the board of directors for both GSA and LINK, and on the ecumenical council of her church.

Joy believes we all have an inherent responsibility to serve the poor and needy. She is an energetic, God-loving woman who leads by example. Joy has received several awards and recognition, including the Loudoun Volunteer Services 2005 Adult Volunteer of the Year award in Leesburg during April 2005 and the National Council of Negro Women (NCNW) 2005 Outstanding Humanitarian Award in Washington, D.C., during October 2005. During the 2006 Virginia General Assembly, Ms. Trickett was honored by the House of Delegates with the commendation Joy Trickett. Individuals are nominated for this recognition based on efforts that are considered to be of local, state or national significance.

In short, Ms. Trickett has provided tremendous synergy for communities with Good Shepherd Alliance and LINK in Loudoun and Fairfax counties. I ask that my colleagues join me in recognizing Ms. Trickett’s work and accomplishments.

TRIBUTE TO FIRE CHIEF REYNOLD “RENNY” SANTONE, JR.

HON. BILL SHUSTER OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 2006

Mr. SHUSTER. Mr. Speaker, I rise today to honor Fire Chief Reynold “Renny” Santone, Jr. of the Altoona Fire Department, in Altoona, Pennsylvania, who has been named “Person of the Year” by the Blair Bedford Central Labor Council. The distinguished fire chief was nominated for the award by his fellow members of the fire department. Chief Santone, marking 41 years of protecting the Altoona Area, was recently presented with this distinguished award at the Labor Council’s annual awards dinner.

This award honors people like Santone “who work for a living and who are well respected and well loved” for their contributions to employees, co-workers and the community, said the Blair Bedford Central Labor Council’s President Robert Kurtz, while delivering remarks at the event. President Kurtz commended Fire Chief Santone, saying that he is “not a paper chief” who distances himself from his firefighters, but that “he’s out there in the trenches with them.”

Chief Santone joined ranks with the Altoona Fire Department in 1965, and looking back on the day he joined the force, said: “They hired me on April Fool’s Day. What I was really waiting for was the red International Association of Fire Fighters sticker—to me that means I was a real professional firefighter.”

Chief Santone has certainly proved his abilities as a firefighter in the Altoona Area. Fifteen years after joining the department, Firefighter Reynold Santone was named fire chief in 1984. Today, he leads the department’s 4 fire stations and a standing staff of 13 on call firefighters. Chief Santone remarked, “I’ve always known what I’ve wanted to do and where I wanted to be,” saying that he expects to retire from the same station on Washington Avenue that he joined in 1965.

Fire Chief Reynold “Renny” Santone, Jr.’s dedication to the protection of our local community, and its citizens, is admirable. We hope that others will follow in his footsteps and serve our community with the same pride and honor as Chief Santone has done for the past 41 years.

TRIBUTE TO BROTHER PAUL HANNON

HON. VITO FOSELLA OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 2006

Mr. FOSELLA. Mr. Speaker, on October 8, 2006, Brother Paul Hannon will celebrate 25 years of service as a Christian Brother and educator.

For the past 25 years Brother Hannon has worked as a teacher, athletic director, and hockey moderator. He has spent the past 10 years of his service at my Alma mater, Monsignor Farrell High School in Staten Island, NY.

Over the last quarter century Brother Hannon has served as a Christian Brother...
whose assignments have been varied and enriching. His most fulfilling calls to service have been spent working with many youth, particularly those near and dear to me at Monsignor Farrell. His enthusiasm is unwavering, and he has created programs such as in-house television studios which have given students exposure to work they never before would have imagined.

Brother Hannon is an invaluable member of the communities I represent and I commend him for his outstanding leadership and commitment to the people of Staten Island and Brooklyn.

IN RECOGNITION OF ANN HAMILTON

HON. MICHAEL C. BURGESS
OF TEXAS
IN THE HOUSE OF REPRESENTATIVES
Wednesday, September 27, 2006

Mr. BURGESS. Mr. Speaker, I rise today to recognize Ann Hamilton from Gainesville in her quest to provide outdoor carriage rides to disabled and handicapped citizens.

Ms. Hamilton’s mission is to build carriages designed for disabled and handicapped individuals so that they too can experience the magnificence of the outdoors. These equestrian excursions allow disabled persons to make a connection with nature that they would normally have the opportunity to do.

I admire Ms. Hamilton’s passion and willingness to take the initiative to bring new opportunities to people with limited mobility. Her dedication to this project will ensure equal opportunities to citizens of the 26th District of Texas as well as the rest of the state.

IN RECOGNITION OF THE RETIREMENT OF MASSACHUSETTS BAY TRANSPORTATION AUTHORITY EMPLOYEE ROBERT O’GARA OF BRAINTREE, MASSACHUSETTS

HON. STEPHEN F. LYNCH
OF MASSACHUSETTS
IN THE HOUSE OF REPRESENTATIVES
Wednesday, September 27, 2006

Mr. LYNCH. Mr. Speaker, I rise today in honor of a man who has dedicated the past 43 years to the Commonwealth of Massachusetts as an employee of the Massachusetts Bay Transportation Authority (MBTA).

Robert O’Gara, the son of Michael and Anna O’Gara, was born on October 28, 1941 in South Boston, Massachusetts. In 1962, after graduating from South Boston High School, Robert joined the MBTA as a Junior Clerk working out of the Everett Repair Shop. Robert developed a reputation for exceptional craftsmanship and a meticulous attention to detail. For the next decade, Robert restored trains at the Everett Repair Shop until he moved to Riverside Station as a Riverside repairman. Once he began working at the Riverside Yard, Robert took his dedication and hard work to a higher level and would place vehicle history on the dash of every vehicle sent in for repair. These notes, dubbed “O’Gara Grams”, allowed repairmen to thoroughly inspect each train in order to ensure peak performance.

Along with being a committed employee, Robert is a devoted husband and father. Robert has the enormous pleasure and tremendous good fortune to be married to his wife Mary of 38 years. They are the proud parents of eight children and the grandparents of seven adoring grandchildren.

Mr. Speaker, it is my distinct honor to take the floor of the House today to join with Robert O’Gara’s family, friends, and brothers and sisters of the Massachusetts Bay Transportation Authority to thank him for 43 years of remarkable service to the Commonwealth of Massachusetts. I urge my colleagues to join me in celebrating Robert’s distinguished career and wishing him a happy and full retirement.

HIV/AIDS

HON. AL GREEN
OF TEXAS
IN THE HOUSE OF REPRESENTATIVES
Wednesday, September 27, 2006

Mr. AL GREEN of Texas. Mr. Speaker, I wish to bring to my colleagues’ attention the devastating impact that HIV/AIDS continues to have on our country and, in particular, on African Americans. African Americans make up only 12 percent of the United States population yet account for over 50 percent of all new HIV diagnoses. We must ask ourselves why this statistic is so high and continue to focus on ways to reduce it. AIDS diagnoses among African Americans are increasing while diagnoses among other groups are decreasing. By the end of 2003, 172,278 African Americans were living with AIDS and studies show that number is rising. This crisis is having an especially crippling effect on African American women who account for over two-thirds of new HIV/AIDS cases among women. Additionally, AIDS is the number one cause of death for African American women ages 25–34.

These statistics clearly reflect a catastrophic problem facing African Americans today. It is imperative that we continue to support prevention efforts and encourage a willingness to speak out about this disease in our community. We must assume the challenge of combating this crisis. If we do not, our complacency will only contribute to the devastation caused by this disease.

TRIBUTE TO MAYOR JOHN LYONS OF PEMBROKE PARK, FL

HON. KENDRICK B. MECK
OF FLORIDA
IN THE HOUSE OF REPRESENTATIVES
Wednesday, September 27, 2006

Mr. MECK of Florida. Mr. Speaker, I wish to pay tribute to the late Mayor John Lyons of Pembroke Park, FL. Mayor Lyons was a great community leader and role model, and his passing will be mourned throughout the community.

Mayor Lyons passed away on Thursday, September 21, 2006. The funeral Mass to celebrate his life will be held today beginning at 11 a.m. at Nativity Catholic Church, 5200 Johnson St., Hollywood, FL.

Mayor Lyons was a World War II veteran and a Chicago native. For over 20 years he worked for the Chicago Fire Department, from which he retired as a lieutenant. He moved to South Florida and continued his career of community leadership. He served as chairman of Pembroke Park’s code-enforcement board for 4 years. In 1991, Mayor Lyons was elected to the Pembroke Park Town Commission and was a member there for the rest of his life. In 2003, his colleagues elected him mayor.

Mayor Lyons was the loving and devoted husband of Mrs. Eleanor Lyons. He is also survived by his granddaughter, Kimberly, and her husband John Hasenberg; great-grandchildren Elinor and Binyamin; brother Leo Lyons; and brother and sister-in-law Raymond and Nan Lyons.

Mr. Speaker, Mayor Lyons was an institution in Pembroke Park, FL. He was a kind and giving man who dedicated his life to community service, and he will be sorely missed.

Both Pembroke Park and Broward County have lost a great leader. I offer my sincere condolences to his family and all who were touched by his kindness and service.

TRIBUTE TO NORMAN AND IRA BRAMAN’S 50TH WEDDING ANNIVERSARY

HON. MARIO DIAZ-BALART
OF FLORIDA
IN THE HOUSE OF REPRESENTATIVES
Wednesday, September 27, 2006

Mr. MARIO DIAZ-BALART of Florida. Mr. Speaker, I rise in recognition of Norman and Irma Braman’s 50th wedding anniversary. Two individuals of Miami who have dedicated their lives to philanthropic ideals which send ripples throughout our great nation. Mr. and Mrs. Braman have been dedicated to promoting the State of Israel and remembering the Holocaust to ensure that such tragedies never occur again and to beating the disease of breast cancer, of which too many women and families suffer.

In 1998, they established the Braman Family Foundation and in 2002 gave a gift of $5 million to the Miller School of Medicine at the University of Miami to establish the Braman Family Breast Cancer Institute. With this establishment, they raise awareness of the importance of early detection and encourage regular self-examinations.

The couple have been leaders in the establishment of the Miami Beach Holocaust Memorial, where Mr. Braman is an original founder and previous president of the Board of Trustees. He has served as president and campaign chair of the Greater Miami Jewish Federation. Mrs. Braman has provided tremendous leadership to the Greater Miami Jewish Federation and has participated in numerous missions to Israel.

It is a privilege and an honor for me to call the Bramans my friends, and on behalf of the residents of Miami, I thank them for their dedication to our community and our country.

PERSONAL EXPLANATION

HON. ED PASTOR
OF ARIZONA
IN THE HOUSE OF REPRESENTATIVES
Wednesday, September 27, 2006

Mr. PASTOR. Mr. Speaker, on rollcall Nos. 483, 484, 485, and 486, I missed voting due
to my beeper malfunction. Had I been present, I would have voted “yea.”

ON H.R. 5857, AND H.R. 6051, NAMING POST OFFICES FOR REPRESENTATIVES MORRIS UDALL AND JOHN F. SEIBERLING

HON. MARK UDALL
OF COLORADO
IN THE HOUSE OF REPRESENTATIVES
Wednesday, September 27, 2006

Mr. UDALL of Colorado. Mr. Speaker, I want to express my thanks to Mr. GRIJALVA, and Mr. TIM RYAN, for introducing these bills; to their colleagues in the Arizona and Ohio delegations, respectively, for cosponsoring them; and to the leadership on both sides for scheduling them for consideration by the House.

H.R. 5857 would designate a Post Office in Tucson, AZ, as the “Morris K. ‘Mo’ Udall Post Office Building,” while H.R. 6051 would designate a Federal building in Akron, OH, as the “John F. Seiberling Federal Building.”

With every bill we debate and every vote I cast, I am conscious of the many years during which my father served here in the House of Representatives. He was truly a “man of the House,” and I know that to him no honor could be greater than the bipartisan—non-partisan, really—support of our colleagues for a measure intended to recognize that service.

And I think it is very appropriate that at almost the same time the House will extend similar recognition to my father’s longtime friend and colleague, former Representative John Seiberling of Ohio. I think nobody could be more deserving of such recognition.

My father and John Seiberling not only served at the same time, they worked closely together on many measures that came before what was then the Committee on Interior and Insular Affairs—now known as the Resources Committee. Examples include the legislation dealing with strip mining—the Surface Mining Control and Reclamation Act—finally signed into law by President Carter after President Ford had vetoed an earlier version, and the Alaska National Interest Lands Conservation Act—ANILCA—also known as the Alaska Lands Act, which was signed into law on December 2, 1980.

President Clinton later awarded John Seiberling the Presidential Citizens Medal, which is awarded in recognition of U.S. citizens who have performed exemplary deeds of service for our Nation.

In making the award, the President rightly explained that “An ardent advocate for the environment, John F. Seiberling has demonstrated a profound commitment to America’s natural treasures. Championing numerous bills during his 17 years in Congress, including the Alaska Lands Act, John Seiberling safeguarded millions of acres of parks, forests, wildlife refuges, and wilderness areas.” And, in recognition of John Seiberling’s work as a member of the Judiciary Committee, President Clinton went on to say that “working in a spirit of bipartisanship, he also promoted civil rights and worker rights, always striving to improve the quality of life in America.”

Truer words were never spoken of any Member of Congress.

In conclusion, Mr. Speaker, I want to express my strong support for the bill recognizing the service of Representative Seiberling, and my heartfelt thanks for the honor bestowed on my father and our family by the bill to name a post office in Tucson in his memory.

MORE BORDER PATROL AGENTS
NOW ACT OF 2006

SPEECH OF
HON. DARRELL E. ISSA
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Tuesday, September 26, 2006

Mr. ISSA. Mr. Speaker, I rise today in support of H.R. 6160, the More Border Patrol Agents Now Act of 2006. This legislation takes an important step toward making our borders more secure and our country safer. More agents along our Nation’s borders will lead to better enforcement of our immigration laws. The enforcement retirement of 6,000 more Border Patrol agents in the next 2 years is a good start to enhancing border security, but if these agents cannot be easily hired, or if current Border Patrol agents are lost to other employment, this enhanced security cannot be maintained.

Personnel concerns should not be a factor limiting the effectiveness of the Border Patrol. H.R. 6160 addresses some of these concerns. By streamlining the hiring process and offering recruitment and retention bonuses, H.R. 6160 takes steps to ensure that the Border Patrol will be an effective first line of defense at our borders.

Numerous times, I have met with Border Patrol agents in and around my district in Southern California. On several occasions, the issue of the age limit for new hires has been brought up. Currently, the Border Patrol is covered under law enforcement retirement provisions, meaning new hires must be under the age of 40, unless they presently serve or have previously served in a position covered by federal retirement. This precludes retired members of our armed forces from employment by the Border Patrol if they are 40 years of age or older. Because of this arbitrary provision, the Border Patrol is unable to hire extremely qualified individuals, many of whom would need little further training to be effective Border Patrol agents. It is my hope that Congress will address the age limit issue so even more qualified agents can be hired.

I want to thank Mr. ROGERS for his leadership on this issue. I would also like to thank Chairmen King and Davis and both the Homeland Security and Government Reform Committee for responding to the needs of the Border Patrol Agency so it can better secure our Nation’s borders.

IN HONOR OF TENANTS’ RIGHTS ADVOCATE MICHAEL MCKEE

HON. JERROLD NADLER
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES
Wednesday, September 27, 2006

Mr. NADLER. Mr. Speaker, I rise today to pay tribute to an extraordinary advocate and organizer, Michael McKee, who has worked tirelessly on behalf of New York City tenants for over three decades. Unfortunately, I was unable to attend the reception honoring him, so I hope to honor him now.

A veteran housing activist, Mr. McKee has made fighting on behalf of tenants his life’s work. His combination of committed leadership and innovative organizing has grown the tenant movement into the important force it is today. Few activists have proven as forward-thinking and savvy as Mr. McKee.

When the state legislature began phasing out rent control and rent stabilization in 1971, Michael joined with housing activists statewide to begin a lobbying campaign on anti-tenant legislators. The groups called not only for the restoration of rent laws that would protect tenants in New York City, but also for reforms that would benefit tenants in parts of the state without rent regulation.

The tenant movement became firmly grounded in legislative action, and gave birth in 1974 to Tenants & Neighbors, an advocacy organization that has been at the forefront of tenants rights since its inception. Under the leadership of Mr. McKee, the leaders of Tenants & Neighbors focused on the warranty of habitability law and the Tenants’ Right to Repair Act and the Disability Rent Increase Exemption. They urged passage of the Emergency Tenant Protection Act, which restored rent control and rent stabilization. Later, they led the fight to elect tenants to public housing boards outside of New York City, and helped pass the Disability Rent Increase Exception. Mr. McKee soon joined other advocates to create the People’s Housing Network, a program to develop tenant leaders across the state.

As a tenant organizer for the Metropolitan Council on Housing and the Brooklyn Tenants Union, Mr. McKee taught thousands of New Yorkers how to fight for their rights in a meaningful and lasting way. When Tenants & Neighbors began a major overhaul in 1994, membership increased 16-fold in response to Mr. McKee’s direct mail and phonebanking programs. This new grassroots approach brought tenants together to pressure elected officials and create a fundraising base.

Mr. McKee is now building on the voter education efforts of Tenants & Neighbors by pouring his energies into political organizing. All too often, tenants lose when their needs are weighed against the financial interests of landlords and property owners. Mr. McKee has successfully encouraged tenants to take an active part in the political process, and has helped to make tenants rights organizations a powerful force in pushing government officials to address tenant issues.

Michael McKee has been not just a key strategist in many of the battles New York City tenants have faced over the past 30 years, but also a graceful public face. On behalf of tenants throughout the five boroughs, I commend his work on behalf of thousands of New Yorkers, and look forward to another 30 years of successful activism.
CHILD INTERSTATE ABORTION NOTIFICATION ACT

SPEECH OF
HON. CAROLYN B. MALONEY
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 26, 2006

Mrs. MALONEY. Mr. Speaker, I rise in strong opposition to this bill.

True to form, in the pre-election rush, the majority is pushing through legislation that does nothing to protect the health and safety of our children but instead harms them. We already voted on this legislation in April. Why are we voting on the bill today? It’s simple, the Child Interstate Notification Act is a sweet treat for the anti-choice right, the exact group the Majority is courting these next 6 weeks.

This bill harms families by encouraging relatives to seek civil action against each other. It tells young women that if they cannot confide in their parents, they are simply out of luck and must face this difficult situation alone. And, it prevents minors from counting on the adults they trust: their counselors, their older siblings, their friends and their clergy.

Mr. Speaker, in a perfect world, children would openly communicate with their parents. In a perfect world, we would not be faced with unintended pregnancies. But these are tumultuous times, and the world is far from perfect. That does give us license to pass imperfect laws.

The bill before us provides no exception for the health of the mother, as required by the Supreme Court. And, it violates States rights by forcing the laws of one State onto another.

Mr. Speaker, this is a bad bill. I urge you to oppose this bill and put the safety and well-being of America’s young women before the political agenda of the anti-choice majority.

I urge a “no” vote.

PERSONAL EXPLANATION

HON. CHARLES B. RANGEL
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 2006

Mr. RANGEL. Mr. Speaker, I would like to offer a personal explanation of the reason I missed rollcall vote 431 on Thursday, September 7, 2006. This vote concerned amendment H. Amdt. 1204 to H.R. 503, the “American Horse Slaughter Prevention Act.” It would provide that the Secretary of Agriculture must provide that the Secretary of Agriculture must not authorize the intentional slaughter of an American horse.

In 1956, CGRC opened its doors in Media, Pennsylvania, and today is an independent, private, non-profit community organization dedicated to meeting the behavioral health care and special educational needs of those living in southeast Pennsylvania, in the counties of Delaware, Montgomery, and Bucks, in addition to the State of Delaware. Child Guidance Resource Centers, now headquartered in Havertown, Delaware County, Pennsylvania, is entering its 50th year of service addressing the needs of over 3,000 children and families each year, through 25 different programs, in 23 different locations. CGRC has over 350 employees, including highly qualified professional therapists and clinicians.

Child Guidance is committed to creating and sustaining healthy and safe communities through cutting edge clinical services that address and maintain the health and well-being of the clients they serve. Vital to this commitment is an outstanding clinical and support staff that provides services of unparalleled value. Programs include a broad spectrum of alternative efforts to address the needs of children with autism: Elementary Education Services, After School, Extended School Year and Summer Therapeutic Activities Programs. CGRC also offers a wide variety of educational services for children that enable them to ultimately flourish within the least restrictive educational settings possible—through Elementary Education Services, Extended School Year, and School-Based Contracted Services Programs. The staff involved with CGRC’s Truancy and Delinquency Prevention Program and its Multi-systemic Therapy Program collaborate actively with local county Juvenile Justice Departments, District Justices and School Districts, to reduce truancy and delinquency throughout the county. The cornerstone of CGRC’s work involves cutting edge behavior intervention through those programs noted above, as well as many other centerbased and community-based services.

CGRC is registered with the Pennsylvania Bureau of Charitable Organizations; licensed by the Pennsylvania Department of Public Welfare; accredited by the Joint Commission on Accreditation of Healthcare Organizations; a United Way participating agency; and a member of the Pennsylvania Community Providers Association, as well as the National Council for Community Behavioral Healthcare. The citizens of the 7th District and I are very proud of the Child Guidance Resource Centers for their continued efforts to provide quality service to those in need of them. I know that the CGRC will continue its fine tradition of service, community support, and its many admirable efforts in the future.

Mr. Speaker, I ask my colleagues to join me today in recognizing the Child Guidance Resource Centers on its 50th anniversary of service to our community.

HONORING THE MEMORY OF MR. GEORGE SINOPOLI

HON. JIM COSTA
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 2006

Mr. COSTA. Mr. Speaker, I rise today to honor the memory of Mr. George Sinopoli, who passed away peacefully on Wednesday, August 30, 2006. Mr. Sinopoli lived a life of service to our community and to the causes for which he fought. He was an exemplary advocate within the entire State of California for Veterans’ Rights.

Born on April 13, 1918, Mr. Sinopoli spent his childhood in both Fresno and Chicago Heights, Illinois. He returned to Fresno as a teen and lived there the remainder of his life. In 1942, Mr. Sinopoli enlisted in the United States Army Air Corps, where he served as an airplane mechanic. His interest in airplanes launched and through hard work and determination he proved that he qualified for flight training as a cadet. Mr. Sinopoli graduated as a pilot in 1943 and he immediately reported to his first assignment with the Troop Carrier Command. Upon completion of his service in the military, Mr. Sinopoli joined the workforce and embarked on his lifelong career with Jensen & Pieglad. After 54 years of dedicated service, Mr. Sinopoli retired from the company. Aside from his commitments to his family and the workforce, Mr. Sinopoli was a long-time member of the Valley Veterans Board. His extensive knowledge permitted him to be a time advocate for veterans in the Valley. In 1951 he joined the American Legion and held many offices in the organization, including: Post Commander of 594, District Commander, Department Commander of the State of California, and as an aide to the National Commander. He was also a life member of the American Legion, Disabled American Veterans and AM-VETS. Further, Mr. Sinopoli was a member of the Elks Lodge and Chairman of the California Citizens Flag Alliance.

In 1964, Mr. Sinopoli’s leadership efforts were recognized when he received the distinguished honor through his appointment, by then Governor Pat Brown, to the California Veterans Board. His extensive knowledge surrounding veterans’ affairs allowed him to also serve on the California Veterans Board as Chairman for Governors Ronald Reagan, Jerry Brown, Gray Davis, and most recently, Arnold Schwarzenegger. In addition to his responsibilities to the State Board, Mr. Sinopoli energetically supported assistance to the homeless veterans, as well as those placed in residence at the three California Veterans Homes. Lastly, he was a founding member of the Central California Veterans Home Support Foundation, a support group dedicated to build a veterans home in Fresno to serve all Valley veterans.

George Sinopoli is survived by his wife, Mary; daughter, Gloria Jean; son, Sam and his wife Judi; grandchildren, Anthony Michael, Julie and Lauren; and sister, Louise.

Although his passing brings sadness to those whose life he touched, Mr. Sinopoli’s
warm and compassionate personality which inspried those around him will be missed deeply and his life and his accomplishments will always be remembered.

TRIBUTE TO ALFONSO R. DE LEON
HON. SILVESTRE REYES OF TEXAS
IN THE HOUSE OF REPRESENTATIVES
Wednesday, September 27, 2006

Mr. REYES. Mr. Speaker, I urge my colleagues to join me in thanking U.S. Citizenship and Immigration Services, USCIS, Harlingen District Director Alfonso R. De Leon for his over 40 years of Federal service and in congratulating him on his upcoming retirement.

Mr. De Leon began his career in 1970, when he joined the Immigration and Naturalization Service, INS, as a radio operator with the U.S. Border Patrol in Del Rio, Texas.

In 1975, he transferred to Laredo, Texas, where he served with INS Inspections as a Trainer, Case Officer, Special Case Officer, Supervisor, Assistant Port Director, Acting Port Director and, finally, Port Director.

In September 1988, at the height of the influx of asylum-seekers brought on by political turmoil in Central America, Mr. De Leon was selected as the Assistant District Director for the Harlingen, Texas, District Office. In 1991, he was promoted to Deputy District Director.

Mr. De Leon also played a leadership role during the establishment of the Department of Homeland Security, DHS, and in 2003 was named Interim District Director of USCIS. The following year he was promoted to USCIS District Director, a position he holds today.

I have known Mr. De Leon since 1970. My friend and former colleague is truly an American success story, having worked his way up through the ranks of INS and DHS. He has always exemplified expertise, dedication, and professionalism in every position he has held throughout his career.

As a result, Mr. De Leon has earned widespread respect from his colleagues and employees as well as numerous other local, state, and federal law enforcement officials. He has also been a leader in implementing innovative programs to enhance national security, eliminate the immigration caseload backlog, and improve customer service in the Harlingen District.

Most importantly, Mr. De Leon is also a devoted family man. He and his wife, Mary Blanch, have three children and four grandchildren. I know that of many accomplishments, Mr. De Leon is perhaps most proud of his fine family, and deservedly so.

Again, Mr. Speaker, I urge my colleagues to join me in expressing the House of Representatives’ appreciation for Harlingen District Director Alfonso R. De Leon’s service to our Nation and in wishing him all the best in his retirement.

COMMENDING MICHIGAN STATE UNIVERSITY DEAN GEORGE E. LEROI FOR HIS SERVICE TO THE STUDENTS OF MICHIGAN STATE UNIVERSITY AND HIS SIGNIFICANT CONTRIBUTION TO THE SUCCESS OF THE COLLEGE OF NATURAL SCIENCES
HON. JOHN J.H. “JOE” SCHWARZ OF MICHIGAN
IN THE HOUSE OF REPRESENTATIVES
Wednesday, September 27, 2006

Mr. SCHWARZ of Michigan. Mr. Speaker, I rise today to take this opportunity to commend Michigan State University Dean George E. Leroi for his service to the students of Michigan State University, and his significant contribution to the success of the College of Natural Sciences. George Leroi’s long career includes service as an assistant professor of chemistry at Princeton University and as a professor of chemistry at Michigan State University. During his tenure at both of these fine institutions, Dr. Leroi guided, supported, taught, befriended, and counseled numerous students throughout both their academic and professional careers.

Dr. Leroi was awarded a Ford Foundation Fellowship, a SURF Research Fellowship with the U.S. National Bureau of Standards, and served as a Research Collaborator with the National Synchrotron Light Source at Brookhaven National Laboratory. In 1996, George Leroi was named as the Dean of the College of Natural Sciences at Michigan State University, and he continues to serve in that position today. In 2004, Dr. Leroi’s significant experience in chemistry and his personal commitment to the success of the Michigan State University College of Natural Sciences brings great credit to himself, the State of Michigan, and the United States of America, and we recognize him upon the date of his retirement, October 6, 2006.

CELEBRATION OF THE UNVEILING OF THE MOHANDAS GANDHI STATUE IN THE CLEVELAND CULTURAL GARDENS
HON. DENNIS J. KUCINICH OF OHIO
IN THE HOUSE OF REPRESENTATIVES
Wednesday, September 27, 2006

Mr. KUCINICH of Ohio. Mr. Speaker, I rise today to celebrate the installation of a statue of Mohandas Gandhi in the Cleveland Cultural Gardens. The statue stands as a beacon for the ideals Gandhi promoted: peace, amity, and cooperation of all people of all nations.

The unveiling event is being co-hosted by the Cleveland Cultural Gardens Association and the Federation of Communities of India. The statue is funded through a grant from the Cleveland Cultural Gardens which started as a 256-acre tract of land donated to the City of Cleveland by John D. Rockefeller in 1896. With the theme “Peace Through Mutual Understanding,” the Gardens are represented by 24 nations from all around the world. These Gardens, which have become both a staple of Cleveland and the entire country, have inspired people of all backgrounds throughout its entire rich history. President Herbert Hoover once said of the gardens that, “Cleveland, by its series of cultural gardens, is setting a notable example to the nation.”

The addition of a statue of Gandhi continues this shining example of peace and cooperation. The statue stands in the India Cultural Garden on a mixture of Indian and American soil. In accordance with the values taught by Gandhi, the earth, which belongs to us all, can only be stewarded through cooperation, understanding, and embracing diversity.

Mohandas Gandhi, who pioneered the global civil rights struggle, has become a symbol of the movement for peace in international politics, brotherhood amongst diverse communities, and social progress through understanding. Gandhi, though a Hindu by practice, embraced diversity of all religions and expressions of spirituality and urged all human beings to stay in touch with a transcendental bond that connects us all. His life is a testament to strengthening international peace efforts through acknowledgement of each individual’s power to make a positive peaceful change in this world.

Born in 1869 in Gujarat, India, Gandhi studied law at University College London where he found himself at a cultural crossroads trying to embrace English customs while still preserving the traditions of his Indian ancestry. Gandhi would go on to lead the civil rights struggle in South Africa and finally the independence movement in his native India. Though he studied, lived, and worked in many countries, Gandhi became more of a global citizen, adopting the idea that all humans on the earth share a common thread of wanting peace, security, self-expression, and individuality in a diverse society. It is this same sensibility of global citizenship and acceptance of all people that is echoed in the Cleveland Cultural Gardens with the installation of this new statue.

Mr. Speaker and colleagues, please join me in recognizing the contributions to peace and community of Mohandas Gandhi through this statue in the Cleveland Cultural Gardens.

PETS EVACUATION AND TRANSPORTATION STANDARDS ACT OF 2006
SPEECH OF
HON. JAMES P. MORAN OF VIRGINIA
IN THE HOUSE OF REPRESENTATIVES
Wednesday, September 20, 2006

Mr. MORAN of Virginia. Mr. Speaker, I am pleased to be a supporter of H.R. 3858, the Pets Evacuation and Transportation Standards Act. I was disappointed to miss the original roll call vote on this important bill. Had I been present I would have voted “yes” in support of allowing people to save their vulnerable pets in the event of an emergency.

I am proud to be a cosponsor of this legislation. This bill will require localities to include in their emergency plan options to accommodate people with pets or service animals. One of the most heartbreaking elements of the Hurricane Katrina aftermath was seeing the number of pets that were abandoned throughout the gulf coast by the number of people who stayed to care for their pets rather than leave them behind. People should not be forced to choose between their own safety and leaving their beloved pets. There is also
a health and safety concern created in a dis-aster area when a large number of animals are stranded.

People have a connection with their pets. They know that animals trust their caretakers to take care of them and not leave them abandoned. It is important that we give people the choice of having their pets with them through an emergency, especially since they can serve as a source of comfort during a troubling time.

TRIBUTE TO GRACELAND UNIVERSITY SIFE TEAM

HON. LEONARD L. BOSWELL OF IOWA
IN THE HOUSE OF REPRESENTATIVES
Wednesday, September 27, 2006

Mr. BOSWELL. Mr. Speaker, as a proud Graceland University alumnus, I rise today to honor the Graceland University Students in Free Enterprise, or SIFE, Team, which recently took home the second place trophy in the SIFE World Cup Competition in Paris, France.

SIFE is a global non-profit organization, with activities in more than 40 countries. SIFE strives to teach market economics, success skills, financial literacy, and business ethics to students. SIFE teams use their knowledge to work to create economic opportunities for their communities.

The SIFE World Cup Competition brings together SIFE teams from all over the world, and I am proud that the Graceland team represented not only its university honorably, but represented our great Nation with distinction.

Mr. Speaker, the following students comprised the team that beat out 44 other national championship teams from around the world: Richa Acharya, Francis Ambrosia, Pooja Ananthanarayan, Brittany Atwood, James Bailey, Andi Barber, Misha Barbour, Shara Barbour, Ben Berning, Karin Blythe, Tyler Bridge, Emily Brock, Kris Brown, Caleen Bullard, Landon Burke, Ariana Bytyci, Curtis Calloway, Ashley Campbell, Sabina Curovac, Leatha Daily, Leonard Dalipi, Joe John De La Cialp, Stephen Donahoe, Cassie Eskridge, Allison Forth, Lindsay Garret, Tyler Garrett, Nicholas Gay, Shaw Geldreich, Shannan Graybill, Heather Gunn, Alexis Haines, Brieanna Hattey, Clayton Hines, Allan Hughes, Travis Hunt, Doug Hunter, Mercedes Jenkins, Kasey Johnson, Cooper Jones, Tyler Jones, Olga Khrentsova, Erik King, Kendra King, Colin Kohler, Andy Lavender, Hava Maloku, Garet Samuel, Jacqui Everett, Flora Ferati, Abe Forth, Lauren McClain, Michaela McCoy, Amanda McLead, Ethan Meichling, Baret Mil-ler, Amy Morgan, Aaron Nugent, Toks Olushola, Terra Paal, Maria Prieto, Ryan Richards, Charlie Rogers, Regan Russell, Guillermo Sanchez, Katherine Say, Michael Say, Reed Manuel, Sarah Marolf, Colin McClain, Jennifer Hamacher, Lauren Seaman, Jessica Serig, Andrea Stuck, Gellia Taddesse, Lora Toncheva, Lora Topourovou, Eric Van Kuiken, Leah Webb, Cara Wildermuth, Briania Williams, Shelby Williams, Stuart Williams, Sarah Wouters, James Young, and Zach Zenz.

As a proud alumnus, I join Graceland Uni-versity, and all of Iowa, in congratulating them and commend them for their great achieve-ment.

RECOGNIZING DR. HILARY KOPROWSKI ON THE OCCASION OF HIS 90TH BIRTHDAY

HON. CURT WELDON OF PENNSYLVANIA
IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 2006

Mr. WELDON of Pennsylvania. Mr. Speaker, today I wish to recognize the outstanding achievements of Dr. Hilary Koprowski—a man who has changed America, and the world, for the better.

Dr. Koprowski is one of the most distin-guished and respected biomedical researchers in American history and is known for his work as a creative scientist. One of Dr. Koprowski’s most notable achievements is his discovery of the first oral polio vaccine. Today, the Western Hemisphere has been declared free of para-lytic polio, and eradication of polio around the globe is within sight. The pioneering work of Hilary Koprowski has made this possible.

Today, Dr. Koprowski is the author or co-au-thor of over 860 articles in scientific publica-tions and is co-editor of several journals. Cur-rently, he is the President of the Biotechnology Foundation, Inc., Director of the Biotechnology Foundation Laboratories at Thomas Jefferson University and Head of the Center for Neurovirology at Thomas Jefferson University in Philadelphia.

Born in Warsaw, Poland, Dr. Hilary Koprowski was faced with a choice between a career in music or science. He received a de-grade in piano from the Warsaw Conservatory as well as the Scopus Cimilia Academy of Music in Rome. In 1939, Dr. Koprowski ob-tained his M.D. and adopted scientific re-search as his life’s work. Music remains a sig-nificant part of Dr. Koprowski’s life. His com-positions are published and are currently being played by various orchestras. Dr. Koprowski often compared science to music when he said, “A well-done experiment gives the same sense of satisfaction that a compos-er feels after composing a sonata.”

Mr. Speaker, Dr. Hilary Koprowski is a hero. He has been a world leader in scientific re-search for over six decades. His expertise and leadership in the field of science has helped save countless lives. I know the House will join me in paying tribute to this outstanding scientist on the occasion of his 90th birthday.

HONORING UNITED FOOD AND COMMERCIAL WORKERS UNION LOCAL 951 PRESIDENT ROBERT POTTER UPON HIS RETIREMENT

HON. PETER HOEKSTRA OF MICHIGAN
IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 2006

Mr. HOEKSTRA. Mr. Speaker, I rise today to honor Robert Potter, President of the United Food and Commercial Workers (UFCW) Union Local 951, upon his retirement.

A graduate of Calvin College in Grand Rap-ids, MI, Robert Potter won election nine times as President of UFCW 951. Since 1980, he grew the organization that represents an unaffiliated union of 6,000 members into one of the largest local unions in Michigan and the largest UFCW local in the United States. Today, UFCW 951 represents more than 35,000 members in an exemplary fashion: with innova-tive programs, a diverse and dedicated staff and professional management systems.

Robert Potter proved over the course of his career to be a skilled and pragmatic negotiator, facilitating several labor agreements that have preserved the options for thousands of employee sala ries and ensured the sustained prosperity of numerous businesses. In the early 1980s, he structured contracts with Kroger in West Michi-gan that allowed the grocer to remain profit-able through today. The same contract model still guides other area employers. He also ne-gotiated complex contracts covering all Michi-gan operations of Meijer, Inc. for 10 bar-gaining cycles without a single strike.

Robert Potter graciously shared his talents beyond his UFCW service by holding several officer positions within organized labor, including Vice President of both the Michigan State AFL-CIO and the Metro Detroit AFL-CIO. He also won election and re-election as an officer of the Michigan Economic Alliance of Business and Labor, serving from 1990 to the present.

Robert Potter’s accomplishments and lead-ership will not soon be forgotten, and his years of dedicated service and expertise will continue to shape the UFCW long after his re-tirement. As Chairman of the Committee for the Future of the UFCW, he helped to guide the group that will undoubtedly play a signifi-cant role in ensuring the UFCW’s future suc-cess.

Mr. Speaker, please let it be known that on this 27th day of September in 2006, the U.S. House of Representatives acknowledges the contributions and achievements of Robert Pot-ter.

TRIBUTE TO COMMISSIONER ISRAEL L. GAITHER

HON. SANFORD D. BISHOP, JR. OF GEORGIA
IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 2006

Mr. BISHOP of Georgia. Mr. Speaker, I rise today to honor a great African-American, Commissioner Israel L. Gaither, National Com-mander of the United States Salvation Army. Commissioner Gaither is the first African-American to hold the position in the Salvation Army’s 126-year history.

In his position, Commissioner Gaither heads a vast Army of 3,661 officers, 112,513 sol-diers, 422,543 members, 60,642 employees and nearly 3.5 million volunteers, who serve more than 31 million people annually. He is the Salvation Army’s chief spokesperson in the U.S. and coordinates matters of national concern to its mission. He acts as the chair-man of the national board of trustees and is responsible for presiding over tri-annual com-missioners’ conferences, which bring together key executive leaders of the Salvation Army’s four territories in the United States.

The General of the Salvation Army de-scribes Commissioner Gaither as a “model of spiritual leadership . . . [whose] experience in South Africa and London give him a world-ly view of the challenges facing the Army today, while retaining the essence of the mission of the Army rooted in biblical truth and values.”

Israel Gaither is a man who leads with total dependence on God and in partnership with
The study area includes both black and white sand beaches. The sand is formed from the erosion of cliffs, lava flows, and coral reefs. The area is also subject to volcanic eruptions, seismic activity, tsunami, and other hazards. More earthquakes occur in the Ka'u area than anywhere in the State and the hazard risk level in the study area ranges from the highest (category 1) to between 3 and 6 for the balance of the study area. The outstanding resources of Ka'u deserve protection; development at this time poses risks to these resources and potentially to human life.

INTRODUCTION OF THE KA'U COAST PRESERVATION ACT

HON. ED CASE
OF HAWAII
IN THE HOUSE OF REPRESENTATIVES
Wednesday, September 27, 2006

Mr. CASE. Mr. Speaker, I rise today to introduce the proposed Ka'u Coast Preservation Act, a bill direct the National Park Service to assess the feasibility of designating coastal lands on the Ka'u Coast of the island of Hawaii between Kapaau Point and Kahu Point as a unit of the National Park System.

In March 2005, I wrote to the National Park Service to ask that it conduct a reconnaissance survey of the Ka'u coast to make a preliminary analysis of the unique natural resources of the area to determine its suitability for inclusion as a unit within our National Park Service.

The draft reconnaissance report providing an overview of the natural and cultural resources of the study area is currently in the final stages of review, but the draft I have reviewed concludes that “Based upon the significance of the resources in the study area, and the current integrity and intact condition of these resources, a preliminary finding of national significance and suitability can be concluded.” The draft report goes on to recommend that Congress proceed with a full resource study of the area.

At present, the beautiful coastline of Ka'u is largely pristine: unspoiled, undeveloped, and uninhabited. It contains significant natural, geological, and archeological features. The northern part of the study area abuts Hawaii Volcanoes National Park and contains a number of notable geological features, including a huge ancient lava tube known as the Great Crack.

INTRODUCTION OF THE LEAD POISONING REDUCTION ACT

HON. LOUISE MINTOSH SLAUGHTER
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES
Wednesday, September 27, 2006

Ms. SLAUGHTER. Mr. Speaker, I am pleased to introduce today the Lead Poisoning Reduction Act, a bill that will tackle one of the most dangerous environmental hazards to our children’s health—lead poisoning. America has made an important pledge to eliminate this problem by 2010, and it is critical that Congress give our communities the tools needed to eradicate lead dangers.

Despite the fact that lead poisoning is preventable, it continues to affect 434,000 American children every year, resulting in serious health problems ranging from brain damage and hearing loss to coma and death. We cannot stand by and watch our children continue to be exposed to toxins we have the knowledge and tools to keep them healthy. In doing so, we rob them, and our communities, of their greatest potential.

Unfortunately, children are often most vulnerable to lead hazards in the places they ought to be the most safe—in their homes and in their childcare facilities. In 2003, the Department of Housing and Urban Development’s Office of Healthy Homes and Lead Hazard Control found that 14 percent of licensed childcare facilities had significant lead hazards. At facilities where the majority of children attending were African American, 30 percent were determined to pose serious risks of lead poisoning.

In conclusion, I congratulate the NLD on their 18-year commitment to democracy. I hope they never give up their struggle for freedom. I will never abandon my commitment to them or the people of Burma.

Today, Aung San Suu Kyi is under house arrest. Mr. Speaker, Commissioner Israel L. Gaither officially arrived at England, where he was second-in-command of both black and white sand beaches. The sand is formed from the erosion of cliffs, lava flows, and coral reefs. The area is also subject to volcanic eruptions, seismic activity, tsunami, and other hazards. More earthquakes occur in the Ka'u area than anywhere in the State and the hazard risk level in the study area ranges from the highest (category 1) to between 3 and 6 for the balance of the study area. The outstanding resources of Ka'u deserve protection; development at this time poses risks to these resources and potentially to human life.

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Our childcare professionals work tirelessly to care for our children and keep them safe. But they desperately need the appropriate resources to protect children from the hidden dangers of lead hazards. Like its companion bill, introduced in the other Chamber by Senator Obama, the Lead Poisoning Reduction Act will establish the Select Group on Lead Exposures which will be comprised of experts from the Secretary of Education, the Centers for Disease Control and Prevention, the National Institute of Environmental Health Science, the Administration for Children and Families, and the National Institute of Child Health and Human Development.

The Select Group will be charged with conducting a study of current State and local programs intended to prevent lead poisoning at childcare facilities. Within 1 year of enactment, the Select Group will establish lead safety standards and abatement procedures for such facilities. The bill provides for lead testing of child care centers, and directs the Select Group to establish and administer a grant program to defray abatement costs to help facilities comply with the new lead-safety standards. Finally, the Lead Poisoning Reduction Act will require that contractors hired for repair, renovation, or reconstruction of childcare facilities are provided with educational materials about lead hazards and the guidance necessary to avoid imposing additional risks of lead exposure. These initiatives will play an integral role in preventing future incidences of lead poisoning.

America’s children deserve to be safe at their childcare facilities. I, therefore, urge my colleagues to join me in supporting the Lead Poisoning Reduction Act.

IN HONOR OF THE RETIREMENT OF JAMES JOSEPH RUSH OF BOSTON, MA

HON. STEPHEN F. LYNCH
OF MASSACHUSETTS
IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 2006

Mr. LYNCH. Mr. Speaker, I rise today in honor of James Joseph Rush, in recognition of his outstanding contributions to the Commonwealth of Massachusetts Trial Court and to commend him for 43 years of dedicated service.

The son of John and Mary Rush, immigrants from County Mayo, Ireland, James was born on February 9, 1931 in Boston’s Mission Hill neighborhood. As a youth, James was very active in the Sacred Heart Church in Roslindale, MA, and served as the first president of the Boston Archdiocesan Chi-Rho Association.

After graduating from Roslindale High School, James enlisted in the United States Navy and served his country honorably from 1951 to 1955. During his tenure James served onboard the USS John W. Weeks, DD-701.

Upon completion of his distinguished service to our country James attended Boston College and graduated from the Carroll School of Management with a bachelor of arts degree in 1960. After graduation, James began a career in the Massachusetts Trial Court as a probation officer overseeing juveniles. Following this position James was assigned assistant chief of probation until 2004 when he was named the chief of probation in the West Roxbury Division of the Boston Municipal Court.

Along with providing distinguished service to his country and State, James is also an active member of his community. A faithful parishioner at St. Theresa’s in West Roxbury, James has served as the parochial vicar for many years. James is a past president of the St. Theresa’s School Parent-Teacher Association, has served on the parent advisory board of Catholic Memorial and is a member of the Boston College Alumni Association. James is also a member of the John G. Williams Council of the Knights of Columbus in Roslindale, MA.

Mr. Speaker, throughout his career in the Massachusetts Trial Court and his volunteer work in the community, James has served as a mentor and role model for Massachusetts youth. Above all of these accomplishments the title James cherishes most is that of husband and father. James has the enormous pleasure and tremendous good fortune to be married to his wife of 36 years, Virginia; they are the proud parents of six wonderful children and the grandparents of four adoring grandsons.

Mr. Speaker, it is my distinct honor to take the floor of the House today to join with James Rush’s family, friends and contemporaries to thank him for his remarkable service to the Commonwealth of Massachusetts. I urge my colleagues to join me in celebrating James’ distinguished career and wish him a happy and full retirement.

URGING THE PRESIDENT TO APPOINT A PRESIDENTIAL SPECIAL ENVY FOR SUDAN

SPEECH OF
HON. JAMES R. LANGEVIN
OF RHODE ISLAND
IN THE HOUSE OF REPRESENTATIVES

Monday, September 25, 2006

Mr. LANGEVIN. Mr. Speaker, I rise today in support of H.R. 3127, the Sudan Darfur Peace Act of 2006, which passed Congress on September 25, and H. Res. 992, which calls for the appointment of a presidential special envoy for Sudan and passed the House on September 26. H.R. 3127 addresses the ongoing violence and humanitarian disaster in the Darfur region by directing the president to impose sanctions on the Government of Sudan as well as freeze the assets of anyone responsible for acts of genocide, war crimes, or crimes against humanity in Sudan.

H.R. 3127 also supports the United Nations and NATO to send a civilian protection force to assist the African Union Mission in Sudan. This is especially important since the Sudanese Government is currently refusing to allow U.N. troops into Sudan, which threatens a recent peace agreement and could lead to further violence. I am disappointed, however, that an earlier provision in H.R. 3127 that would have allowed States to make a decision to divest from Sudan was not included in the final version.

This conflict has resonated with people all over the world who want this travesty to end. It is a shame that we have not learned from our mistakes in the past regarding genocide, but it is not too late to change the situation in Sudan. We must not stand by as the situation deteriorates in Darfur. It is our duty to end this human suffering, and I will continue to work to stop this conflict and promote peace in Sudan.

AMENDING THE INTERNAL REVENUE CODE OF 1986 TO TREAT INCOME EARNED BY MUTUAL FUNDS FROM EXCHANGE-TRADED FUNDS HOLDING PRECIOUS METAL BULLION AS QUALIFYING INCOME

HON. PHIL ENGLISH
OF PENNSYLVANIA
IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 2006

Mr. ENGLISH of Pennsylvania. Mr. Speaker, today I introduced legislation to update the Internal Revenue Code mutual fund rules to clarify that a mutual fund is permitted by the tax rules, as they are by the securities law, to invest in publicly traded securities representing interests in trusts holding precious metal bullion, such as gold.

Beginning in November 2004, the Securities and Exchange Commission has permitted the registration of securities representing equity interests in trusts holding precious metal bullion. These securities now trade on the New York Stock Exchange and the American Stock Exchange. They did not exist at the time the mutual fund tax rules were most recently amended by Congress.

These investments share the same essential characteristics as other securities that give rise to good income for mutual funds under the Internal Revenue Code. In particular, they are clearly “securities” for purposes of the Investment Company Act of 1940, and under the mutual fund tax rules, gain on sale of “securities” is clearly good income for the mutual fund.

However, because the bullion funds are treated as “grantor trusts” for income tax purposes, it is not clear whether the income from these securities would be considered qualifying income under the Internal Revenue Code Section 851(b) mutual fund rule that requires that 90 percent of the income of the mutual fund must be from securities and other specified passive investments. The Tax Code provisions applicable to grantor trusts generally treat the shareholder, “grantor,” as owning directly the underlying assets of that trust, rather than owning merely its equity interest in the trust, even when the shares in the trust are traded as securities on the major exchanges.

As a result, a mutual fund’s income from such investments, including its gain on sale, could be considered nonqualifying income. Excessive nonqualifying income would destroy the mutual fund’s qualification as a mutual fund and subject the fund income to a layer of tax at the fund on the same income that is also taxed to the shareholders.

The bill updates the Internal Revenue Code to correct that problem for securities holding precious metal bullion. It provides that the income derived from any interest in such a trust, including gain on the sale of such an interest, is considered qualifying income for purposes of the 90 percent rule. To qualify under this amendment, at least 95 percent of the holdings of the trust must be in the form of precious metal bullion.
As a result, individuals and pension plans that invest through mutual funds will have access to these types of investments in bullion when the mutual fund manager wants to make those investments.

The amendment would be effective for tax years beginning after date of enactment.

CONGRATULATIONS TO WESTGATE ELEMENTARY SCHOOL

HON. MARK STEVEN KIRK
OF ILLINOIS
IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 2006

Mr. KIRK. Mr. Speaker, I rise today to recognize Westgate Elementary School in Arlington Heights, Illinois, for being named a 2006 No Child Left Behind Blue Ribbon School.

Nearly 600 students, kindergarten through 5th grade, attend Westgate Elementary. The teachers and faculty at Westgate are focused on providing hands-on instruction that motivates and excites children about learning. As a result, these students consistently score above state and national averages on standardized tests in all subject areas.

Westgate Elementary is among 250 schools from across the nation chosen by the Secretary of Education to receive this acknowledgement. These schools have distinguished themselves by embodying the goals of reaching high standards and closing the achievement gap. Schools selected for this honor either have students from all subgroups that have made significant improvement or have students that achieve in the top 10 percent of their state on statewide tests.

This is a great honor for the 10th district, and I congratulate the principal, Dr. Kevin Dwyer, the students, and teachers at Westgate Elementary for this achievement.

HONORING MINNIE VAUTRIN

HON. MICHAEL M. HONDA
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 2006

Mr. HONDA. Mr. Speaker, I rise today to honor Minnie Vautrin, an American woman and missionary whose heroism changed the course of history during World War II.

Our country has seen countless acts of heroism in the face of war atrocities both in our country and abroad, Japan’s violent occupation of then-capital Nanking, China, historically known as Nanjing, claimed the lives of hundreds of thousands of innocent Chinese men, women and children and left its mark on history as one of the most brutal massacres and crimes against humanity of the 20th Century. An estimated 300,000 Chinese civilians were killed, and an estimated 20,000 women were raped, with some estimates as high as 80,000.

Minnie Vautrin, a missionary who worked at a women’s college in Nanking, courageously stood against the Japanese imperial army. A native of Illinois, she was one of the few American women in the region when the Japanese army invaded Nanking.

By using the American flag and proclamations issued by the American Embassy in China maintaining the college a sanctuary, Minnie helped repel incursions into the college, where thousands of women and children sought protection from the Japanese army. She often risked her own life to defend the lives of thousands of Chinese civilians.

Her devotion during this horrific event earned her the nickname “American Goddess of Mercy” among the people of Nanking, where she is fondly remembered. Her heroic actions and unparalleled efforts to save lives deserve to be recognized. Sadly, her story is relatively unknown.

That is why I, along with 14 of my colleagues, am introducing a resolution honoring her sacrifice, courage, humanity, and commitment to peace and justice during the violent Rape of Nanking. Minnie Vautrin’s story defines patriotism and heroism in the midst of war, and the introduction of this resolution honors her achievements today, the 120th anniversary of her birth.

Mr. Speaker, I commend my colleagues for joining me in honor of this phenomenal yet unknown heroine. To the thousands of innocent men, women and children who were spared because of Minnie Vautrin’s bold courage, she will never be forgotten.

RESOLUTION OF INQUIRY REQUESTING THE RELEASE OF UNCLASSIFIED VERSIONS OF THE APRIL 2006 NIE AND OTHER IRAQ INTELLIGENCE REPORTS

HON. JOHN CONYERS, JR.
OF MICHIGAN
IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 2006

Mr. CONYERS. Mr. Speaker, over the weekend, the media reported that American intelligence agencies completed a National Intelligence Estimate, NIE, finding that the Iraq war has increased the danger of terrorism against the United States. This is significant because the NIE represents the consensus judgment of the entire United States intelligence community and is approved by John D. Negroponte, the Director of National Intelligence. According to portions of the NIE declassified by the President, the intelligence agencies conclude that Islamic radicalism “has metastasized and spread across the globe.” This conclusion raises considerable questions about President Bush’s public statements that the war in Iraq has made us safer. Even though President Bush declassified about four pages of the 30-page NIE, the American people are entitled to the full story, not just pieces the President may selectively reveal.

Media accounts further indicate that the Administration has an additional classified intelligence community report that gives a grim assessment of the situation in Iraq. Some have expressed concern that release of this second NIE is being slowed by the Administration to avoid discussion before the November elections. If the intelligence estimate is finished, it should not be hidden from the American people.

In order to inform the public more fully regarding the impact of the occupation in Iraq on terrorism, and in particular, the declaration by 45 of my colleagues introducing a Resolution of Inquiry that would call for the immediate release of the full unclassified versions of both the April NIE as well as any other pending report on Iraq. While President Bush has released a small part of the April 2006 NIE, it is important that all unclassified materials on these matters be released.

The American people deserve to know the whole truth about the impact of the war in Iraq on the global war on terrorism. If what has been reported is correct, these Intelligence Estimates indicate that the Iraq war is part and parcel of this administration’s failed national security record, and has made us less safe from terrorist attacks.

REV. WILLIAM SCHULTZ REMARKS AT CEREMONY TO HONOR WAITSTILL SHARP AND MARTHA SHARP, AMERICAN HEROES OF THE HOLOCAUST

HON. TOM LANTOS
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 2006

Mr. LANTOS. Mr. Speaker, a few weeks ago a very moving ceremony was held at the United States Holocaust Memorial Museum and a plaque was placed to honor the Reverend Waitstill Sharp and his wife, Martha, true heroes of the Holocaust who risked their lives to save Jews from the atrocities of the Nazi regime.

On June 13, 2006, the Yad Vashem Holocaust Remembrance Authority in Israel honored the Sharps posthumously as “Righteous Among the Nations” for risking their lives to save Jews during the Holocaust. They are only the second and third Americans to be so honored. Varian Fry, with whom the Sharps worked, was the first American.

The Sharps’ incredible story is a powerful reminder that all of us have the moral obligation to do all we can to end violence and genocide where ever and when ever such atrocities occur. They, along with those who helped to make their work possible, deserve our gratitude and admiration. Each of us should make every effort to learn more about the atrocities and genocidal actions occurring around the globe today, strive to have the foresight and courage shown by the Sharps, and act with resolve to do everything we can to stop these horrors.

Our colleagues in the Senate passed a resolution on September 8 of this year honoring the courageous service of the Sharps. Representative JAMES MCDERMOTT, my colleague from Massachusetts, where the Sharps once lived, and I are introducing similar legislation in the House remembering the Sharps and their heroism.

Mr. Speaker, the Reverend William Schultz made particularly outstanding remarks at this ceremony honoring the Sharps at the U.S. Holocaust Museum. I urge my colleagues to ponder his comments and learn more about this brave, selfless couple and their amazing deeds.

REMARKS DELIVERED BY REV. WILLIAM SCHULTZ U.S. HOLOCAUST MEMORIAL MUSEUM SEPTEMBER 14, 2006

I think continually of those who were truly great.

Who, from the womb, remembered the soul’s history
Through corridors of light where the hours
Are suns
Endless and singing. Whose lovely ambition
Was that their lips, still touched with fire,
Should tell of the Spirit clothed from head
to foot in song . . .

What is precious is never to forget.

These are the opening lines of a poem by
Stephen Spender, the British man of letters.

So often when we hear the exhortation,
"Never forget!", it is the victims of atrocities
whose fates are being invoked. But today, with
the addition of the names of Martha and
Waitstill Sharp to the "Wall of Rescuers," it
is two people whose "... told of the Spirit
clothed from head to foot in song" that we
would have the world remember and the faith
that inspired them to take risks on behalf of
unknown people. Their courage and that faith
led them to face the Nazis not once, but twice and
a kind of almost incomprehensible determination
they exhibited that most of us mortals can only
dream of.

The plaque we install today has only 100
words on it, only 100 words in which to tell
their story. The documentary short produced
by the Unitarian Universalist Service
Committee, which we will see in a few moments,
has only twenty-minutes to make their heroism
clear. So it is fitting that the museum is adding
to its collection the 8–9,000 pages of docu-
mentary evidence that Larry Benequisto and Bill
Sullivan, the makers of the film, have gathered
from attics, from dusty store rooms in Czecho-
slovakia and France, from carefully preserved
Gestapo archives in Berlin, and from collec-
tions of personal letters. And it is fitting that
the museum has acquired the hours of inter-
views with Martha and Waitstill which Ghandi
Difiglia taped for UUSC while they were still
alive. The museum will no doubt also want to
preserve and archive the recollections of the
people who were rescued by the Sharps, people
like Rosemarie Fiegl, and of people who knew
them like Yehuda Bacon recollections which
Deborah Shaffer is filming. All of these frag-
ments of the story will be preserved here so
that scholars, historians, and authors can study
them and make more accessible the ob-
ligation to remember.

Today's dedication means that future visi-
tors to this museum will be continually re-
minded of two of who were truly great—Mar-
tha and Waitstill Sharp.

And part of what made them great were the
moral choices they made. How many of us
would set out from our comfortable homes,
leaving our small children behind, to travel to
an unstable part of the world where we would
be set out on its fateful voyage to Cuba and
before its 900 Jewish refugee passengers
were returned to Europe. It was before Ger-
many attacked Poland, before Britain declared
war on Germany. It was before the Warsaw
Ghetto. And it was before Auschwitz, before
"Auschwitz" became the name of anything other
than a pretty little town in Poland. It was,
in other words, before most of the rest of
the world awoke to the true extent of the Nazi
peril and the full measure of its threat to the
Jewish people. It was in fact five whole years
before Adolf Eichmann would offer to trade
the lives of 100,000 Hungarian Jews for 10,000 trucks and
the British High Commissioner in Egypt, Lord
Moynie, would reject the offer, saying, "But
where shall I put them? Whatever would I do
with one million Jews?" The Sharps, their
sponsors and their colleagues, were gauging
the tides and gauging them with an incompre-
sensibility. It is easy to feel small and blind
in comparison to that.

But that is not the lesson that I suspect the
Sharps would have us draw. We honor the Sharps
as heroes who saved hundreds of thousands of lives. But
wait! Waitstill and Martha knew that though they and their
colleagues, the Dexters and Charles Joy, were the
ones risking their lives on the streets of Prague
and in the mountains of Spain, they
were dependent upon a much larger circle
of friends and acquaintances who made their
heroism possible: the people who cared
for their children, the members of their congrega-
tion in Wellesley Hills who maintained their
church while they were gone, the supporters
of the Unitarian denomination that financed
their creation of an institution that came to
be known as the Unitarian Universalist Service
Committee, an institution that multiplied those
who knew him, was deeply saddened when he
left the vivid air signed with their
honors.

And by the streamers of white clouds
Near the snow, near the sun, in the highest
fields
See how these names are feted by the waving
grass
And by the streamers of white clouds
Whispers of wind in the listening sky.

The names of those who in their lives fought
for life
Who wore at their hearts the fire's center.
Born of the sun they traveled a short while
towards the sun,
And left the vivid air signed with their honor.

HONORING THE MEMORY OF ABE
JOLLEY

HON. JOHN S. TANNER
OF TENNESSEE
IN THE HOUSE OF REPRESENTATIVES
Wednesday, September 27, 2006
Mr. TANNER, Mr. Speaker, today I rise in
tribute to my good friend, Abe Jolley, whose
community service and sportsmanship will be
recognized next month at the inaugural Abe
Jolley Memorial Golf Tournament in our home-
town of Union City, Tennessee. The tour-
ament will raise money for a scholarship pro-
gram in northwest Tennessee.

Abe was as avid and skilled a golfer as any-
one I have ever met. In 1939—the same year
he was lucky enough to marry his wife, the
former Velma Taylor—he hit his hole-in-one,
only three weeks after he had started playing
golf. Another 50 years passed before his sec-
ond hole-in-one, a slump he blamed on the
hole always being in the wrong place. He hit
four more holes-in-one toward the end of his
golf career, including one at the age of 85.

Abe was more than a golfer, though. He
was a dedicated husband, father and grand-
father. He worked at the Obion County Motor
Company, was active at Union City First
United Methodist Church, served more than
50 years as a Mason and was a charter mem-
er of Union City Civitan Club.

I knew Abe Jolley all my life and, like all
who knew him, was deeply saddened when he
passed in 2004. Abe lived his life with energy
and excitement that I always admired. Mr.
Speaker, I hope you and our colleagues will
join me in honoring the memory of a very ex-
traordinary man and my dear friend, Mr. Abe
Jolley.

IN LASTING MEMORY OF BOBBIE
GENE "BOB" LANN

HON. MIKE ROSS
OF ARKANSAS
IN THE HOUSE OF REPRESENTATIVES
Wednesday, September 27, 2006
Mr. ROSS. Mr. Speaker, I rise today to
honor the memory of Bobbie Gene "Bob"
Lann, who passed away September 15, 2006,
in Magnolia, Arkansas at the age of 79.

After serving in the United States Army, Bob
Lann moved to Stamps, Arkansas, where he
lived for twenty-two years. Bob served as cap-
tain of the Stamps Fire Department, served on
the Stamps City Council and was charter
president of the Stamps Jaycees. He was also
ordained as a Deacon of the First Baptist Church where he was also treasurer and Sunday school Superintendent.

Bob later moved to Magnolia, Arkansas, where he opened Furniture Land. He was active in the community by serving as president of the Magnolia Colliery Chamber of Commerce, as a member of the Rotary Club and Optimist Club and Deacon at Central Baptist Church.

Bob Lann was an avid bluegrass fan and loved playing the fiddle with his friends.

My deepest condolences go to his wife of fifty-nine years, Bobby Ruth Coffman Lann; his daughter, Ameta Vines and her husband Johnny; his son Randy Lann and wife Cindy; his two grandchildren Julia Lann and Brad Lann; his step granddaughter, Toni Dickinson and his step great-granddaughter Emilee Dickin-son. Bob Lann will be greatly missed in Col-
lumbia County and throughout the state of Ar-
 kansa.

PAYING TRIBUTE TO ROD A. DAVIS

HON. JON C. PORTER
OF NEVADA

IN THE HOUSE OF REPRESENTATIVES
Wednesday, September 27, 2006

Mr. PORTER. Mr. Speaker, I rise today to honor my good friend Rod A. Davis for his leadership as CEO of St. Rose Dominican Hospital.

Rod attended college at Idaho State University, majoring in business administration with an emphasis on information systems. Following college, he began installing IBM computer systems in hospitals, where he says he “started catching the spirit of hospitals really helping people . . . and thinking this would be an excellent career.”

Today, Rod oversees the operation and direction of three St. Rose Dominican Hospitals in Southern Nevada for Catholic Healthcare West, a not-for-profit, religiously-based and non-tax-supported hospital system. St. Rose’s is a major healthcare player in Southern Ne-
vada, with a current payroll of more than 2,100 workers. As St. Rose’s CEO, Rod has stabilized operations and overseen the creation of the Barbara Greenspun Women’s Care Center of Excellence, the launch of Henderson’s only open-heart surgical and pediatric intensive care center program, and the development of numerous outreach programs.

Mr. Speaker, I am proud to honor my good friend Rod A. Davis. Under his leadership, St. Rose Dominican Hospitals have expanded tremendously and have greatly enhanced the lives of countless citizens of southern Nevada. I applaud his success and with him the best with his future endeavors.

IN RECOGNITION OF CRANIOFACIAL ACCEPTANCE MONTH

HON. MIKE ROSS
OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES
Wednesday, September 27, 2006

Mr. ROSS. Mr. Speaker, I am pleased to share my support and acknowledgement of September as Craniofacial Acceptance Month. Each year approximately 100,000 children are born in the United States with some form of facial disfigurement. In many cases, reconstructive surgeons can correct these problems easily—often while the children are still infants. In other cases, however, reconstruction is not so easy or even possible. The Children’s Craniofacial Association, CCA, is an organization that supports these children and their families. Through CCA’s continued dedication and efforts, I am pleased to share my support and thanks for their designation of September as Craniofacial Acceptance Month.

In 2001, my constituent, Wendelyn Osborne, brought the craniofacial disorders issue to my attention. At a young age Wendelyn was diagnosed with craniofacetaphyseal dysplasia, CMD. CMD is a rare disorder that affects only 200 people worldwide. Specifically, CMD involves an overgrowth of bone which never de-
teriorates. In Wendelyn’s case, this caused an abnormal appearance, bilateral facial paralysis and deafness. Other cases can include those with characteristics as well as blindness and joint pain. Wendelyn has had to go through 17 re-
constructive surgeries to counteract the med-
ical difficulties that comprise her disorder.

Unfortunately, the majority of reconstructive surgeries, such as those that Wendelyn has undergone, are not covered by insurance companies. Rather, many of them are treated as strictly cosmetic. As a result, individuals are forced to fight their insurance companies just to receive the life-saving surgeries they need.

The fact that these surgeries have been grouped in the same “cosmetic” category as surgeries that simply make people look better or younger is a tragedy.

Wendelyn’s story inspired me to introduce legislation that would assist these thousands of individuals who are affected by a craniofacial disorder. My legislation, the Re-
constructive Surgery Act, would ensure nation-
wide insurance coverage for medically nec-
essary reconstructive surgeries.

It is my hope that further education and un-
derstanding of craniofacial disorders will allow our nation to move forward and update exist-
ing laws to better meet the medical needs of those needing reconstructive, not cosmetic, surgery. I urge my colleagues to join in this ef-
fort and help recognize these conditions through Craniofacial Acceptance Month so that all Americans can access the care they need.

PAYING TRIBUTE TO WALTER M. HIGGINS III

HON. JON C. PORTER
OF NEVADA

IN THE HOUSE OF REPRESENTATIVES
Wednesday, September 27, 2006

Mr. PORTER, Mr. Speaker, I rise today to honor my good friend Walter M. Higgins III for his leadership as CEO of Sierra Pacific Re-
sources, the parent company to both Nevada Power Company and Sierra Pacific Power Company.

Walter’s first career was as a U.S. naval of-
cer. After obtaining a nuclear science degree from the U.S. Academy, he served as a nu-
clear submarine officer. After ending his active military service, Walter remained a naval re-
servist, ultimately retiring as a captain after a total of 29 years of service.

The transition from military service to a civil-
ian career was relatively easy for Walter, who obtained a position with Bechtel Corp., which was designing and constructing nuclear power plans. From there, he worked at the U.S. Atomic Energy Commission, Portland General Electric and Louisville Gas & Electric. He ex-
pected to remain in Louisville as the CEO for 
Louisville Gas & Electric throughout the re-
mainder of his career, but was surprised when utility companies began recruiting him. He subsequently accepted a job with Sierra Pa-
cific Power Co. in 1995. He then moved to At-
lanta to head a natural gas company, only to return to Reno in 2000 as CEO of Sierra Pa-
cific Resources.

Mr. Speaker, I am proud to honor my good friend Walter M. Higgins III. I applaud his pro-
fessional success and efforts on behalf of the community; he has greatly enriched countless lives with his activism. I wish him the best in his future endeavors.

IN RECOGNITION OF RUDY F. DE LEON

HON. JANE HARMAN
OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES
Wednesday, September 27, 2006

Ms. HARMAN. Mr. Speaker, I rise today to pay tribute to Rudy F. de Leon, whom I have
The University of Arkansas at Pine Bluff is an anchor for the town of more than 55,000 people as it provides jobs, resources, opportunities and education to the entire region. Growing up in rural Arkansas, I had the unfortunate opportunity to see how segregation affected Southern towns. The division that was once so prevalent was placed so far and wide. Prior to 1964, it was almost impossible for an African American student to enroll in a public institution of higher education. Thankfully, these students had the opportunity to continue learning and pursuing their dream because of Historically Black Colleges and Universities. When doors were shut to African American students, those students refused to take no for an answer and created institutions of higher education where education was the focus, not a distraction.

Historically Black Colleges and Universities are vital to the education of our nation's youth. They enroll 14 percent of all African American students in higher education, yet the 102 recognized Historically Black Colleges and Universities only constitute three percent of America's 4,084 institutions of higher education. Twenty-four percent of all baccalaureate degrees earned by African Americans nationwide are earned in our Historically Black Colleges and Universities.

I wish that those brave Americans who formed the first black college could be here today to see the lasting impact they have had on the thousands of Americans who have benefited from an education at such an institution. Just think, without these colleges, we might have never known or heard from American icons such as Martin Luther King, Langston Hughes, Thurgood Marshall, Walter Payton or Oprah Winfrey. There is no doubt in my mind or my heart, that these great people were the product of an invaluable institution which motivated them to be leaders they became.

I am proud to have joined with my friend and colleague Ms. EDDIE BERINCE JOHNSON in passing legislation honoring our nation's Historically Black Colleges and Universities before the United States Congress for their outstanding contributions to the communities and lives they have educated and will continue to impact. Please join me in applauding the amazing work these institutions have done over the course of history.

PAYING TRIBUTE TO JUDY TUDOR

HON. JON C. PORTER
OF NEVADA
IN THE HOUSE OF REPRESENTATIVES
Wednesday, September 27, 2006

Mr. PORTER. Mr. Speaker, I rise today to honor Ms. Judy Tudor for her outstanding service as a social worker, helping the abused and neglected children in her community.

Judy understands the fear and turmoil associated with being removed from her parents' home and placed into foster care. When she was 15 years old, Judy was placed in Las Vegas' residential facility for abused and neglected children, Child Haven. Judy thanks the State's social welfare system for their intervention and maintains that their actions directly contributed to her personal and professional development. Her experiences within the social welfare system propelled her into a life of community service and inspired her to pursue a career as a social worker.

In addition to being a former ward of the state, Judy also served as a social worker. Shortly after entering Child Haven, Judy suddenly lost all feeling from the chest down. She was diagnosed with a type of transverse myelitis, a neurological syndrome caused by inflammation of the spinal cord.

Judy's difficulties have been avoided with preventive care. In response to this need for primary care services, a group of concerned health practitioners, community activists and students came together in 1971 to establish a multiservice clinic, in Oakland, California, based on the expressed needs of the community.

The mission of La Clinica de La Raza is to improve the quality of life of the diverse communities they serve by providing culturally appropriate, high quality, accessible health care for all.

Before La Clinica de La Raza was established, low-income residents in the East Bay of Northern California had few options available to them for affordable health care. As a result, many were forced to go to hospital emergency rooms for problems that could have been avoided with preventive care.

La Clinica de La Raza offers low cost quality health care services for multicultural and multicultural populations at 22 locations in three counties in Northern California. The majority of the clinic's patient population is low income and uninsured. To make sure that all patients receive care, La Clinica de La Raza has a sliding scale fee system that charges patients according to their ability to pay.

TRIBUTE TO LA CLINICA DE LA RAZA

HON. FORTNEY PETE STARK
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Wednesday, September 27, 2006

Mr. STARK. Mr. Speaker, I rise today with my esteemed colleague, BARBARA LEE, to pay tribute to La Clinica de La Raza on its 35th anniversary of providing exemplary health care to the East Bay communities of Alameda, Contra Costa and Solano counties in Northern California.

The mission of La Clinica de La Raza is to improve the quality of life of the diverse communities they serve by providing culturally appropriate, high quality, accessible health care for all.

Before La Clinica de La Raza was established, low-income residents in the East Bay of Northern California had few options available to them for affordable health care. As a result, many were forced to go to hospital emergency rooms for problems that could have been avoided with preventive care.
Clinica’s patients earn far below the federal poverty level and most lack private health insurance. La Clinica’s comprehensive services include pediatrics, chronic disease management, family medicine, health education, women’s health care, adolescent services, school-based clinics, mental health services, dental and vision care, and tattoo removal as well as pharmacy, laboratory and x-ray services. To most effectively serve the diverse community, La Clinica’s health practitioners come from the cultures and communities of the patients they serve. The practitioners speak a myriad of languages fluently including Spanish, English, Chinese, Hindi, Arabic and Amharic. More than 72 percent of La Clinica’s patients require services in their native languages.

Since its founding in 1971, La Clinica has served hundred of thousands of individuals with a variety of health care services. Infants, children, expectant mothers, teens, seniors and families have benefited from these multi-service clinics.

The number of people needing La Clinica’s services continues to grow. The organization saw a 1 percent increase in patients from 1998–2004. In 2005 alone, La Clinica provided more than 175,000 patient visits. More than half of these visits were for children and adolescents. Since 1990, La Clinica grew from 8 to 22 health care sites. One of these sites is scheduled for expansion in 2007 and is expected to double in operational capacity.

Congresswoman Lee and I salute La Clinica de la Raza’s remarkable past, accomplishments and vision for the future.

COMMEMORATING THE 15TH ANNIVERSARY OF ARMENIAN INDEPENDENCE

HON. JOE BACA
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Wednesday, September 27, 2006

Mr. BACA. Mr. Speaker, I rise today to commemorate the 15th anniversary of the Republic of Armenia’s independence.

Following the collapse of the Soviet Union, Armenia re-established its freedom in the South Caucasus region in 1991. Since then, Armenia has committed itself to becoming a modern and thriving nation-state. Despite many external threats, Armenia has fought to overcome trade obstacles and grow its economy. The Armenian Government has also maintained a close ally to the United States and remains a close ally.

Throughout its existence, the Armenian Genocide from 1915 to 1917 did not dampen the spirit of these persevering people. Armenia has thrived and its people carry on its rich culture and heritage all over the world. Today, one million Armenian-Americans reside in the United States, and of that, more than 500,000 Armenian-Americans make my home State of California their home.

We in the United States do not take our freedom for granted and are committed to spreading democracy across the globe. As we celebrate the independence of Armenia, let us remember that freedom is a universal right that should be afforded to anywhere, anywhere.

RECOGNIZING AMERICA’S HISTORICALLY BLACK COLLEGES AND UNIVERSITIES

HON. BETTY McCOLLUM
OF MINNESOTA
IN THE HOUSE OF REPRESENTATIVES
Wednesday, September 27, 2006

Ms. McCOLLUM of Minnesota. Mr. Speaker, today I rise to join with my colleagues in recognizing some of our Nation’s most distinguished institutions of higher learning: America’s Historically Black Colleges and Universities.

The critical role of HBCUs in preparing our Nation’s students for work and life is undeniable. Nearly 14 percent of our country’s African American college students are enrolled at HBCUs. These young men and women are preparing to be our future community and civic leaders, business owners, teachers, artists, scientists, and scholars.

This year’s HBCUs Week, which is themed “The Tradition Continues: New Successes and Challenges,” reminds us all of the important partnership between the Federal Government in ensuring access for all those who seek a higher education and the institutions that provide the opportunity to learn and prepare them for a competitive workforce.

HBCUs not only educate students, but they also conduct groundbreaking research and engage in community outreach—helping to ensure our Nation’s higher education system remains the best in the world. It is critical that Congress continues to support the unique role our HBCUs play in our Nation’s higher education system. I extend my sincere appreciation and regard for HBCUs and their faculty, staff, and students as we celebrate Historically Black Colleges and Universities Week.

JEWELERS OF AMERICA REACHES 100TH ANNIVERSARY

HON. CAROLYN B. MALONEY
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES
Wednesday, September 27, 2006

Mrs. MALONEY. Mr. Speaker, 2006 marks the 100th anniversary of Jewelers of America (JA), the oldest national association for retail jewelers. Founded in 1906 in Rochester, N.Y. and now headquartered in New York City, Jewelers of America is both a center of knowledge for the retail jeweler and an advocate for professionalism and high social, ethical and environmental standards in the jewelry trade.

In the past century, Jewelers of America has established itself as a leader in the educational, social and political support of retail jewelers. Today, the association represents 11,000 member stores and has 42 state and regional affiliates.

Throughout its existence, the association has provided meaningful and relevant educational programs that reflect the changing technologies available to jewelers. Jewelers of America believes that recognizing members’ knowledge and skills benefits consumers and the entire jewelry industry. To that end, JA has established certifications that evaluate jewelry sales and diamond associates and bench jewelers by a set of national skills standards. JA also provides educational scholarships for its members.

As a leader in the jewelry industry, Jewelers of America has worked with non-governmental organizations, fellow industry trade organizations and political leaders to establish responsible business practices for the national jewelry industry. JA was centrally involved in the 2002 adoption of the International Kimberley Process Certification Scheme, the landmark initiative aimed at stopping the trade of conflict diamonds.

Realizing that trust is a key component to the jewelry industry’s growth, Jewelers of America created a standardized code of ethics in 1997 to reinforce consumer confidence in the professional jeweler. According to the code, JA members must maintain the highest possible ethical standards in their business dealings.

As Jewelers of America enters its second century, it remains committed to serving jewelers and the tradition of honest and fair business practices they uphold. Conscious that it represents retailers who help their customers celebrate love and commitment, Jewelers of America rededicates itself to these noble aims.

I ask my colleagues to join me in celebrating the 100th anniversary of Jewelers of America.

INTRODUCTION OF THE BAY AREA REGIONAL WATER RECYCLING PROGRAM PROJECTS AUTHORIZATION ACT

HON. GEORGE MILLER
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES
Wednesday, September 27, 2006

Mr. GEORGE MILLER of California. Mr. Speaker, today I am introducing legislation that will help the San Francisco Bay Area to solve its water challenges. My bill, “The Bay Area Regional Water Recycling Program Projects Authorization Act of 2006,” will provide local agencies with the Federal partner that they need in order to implement an ambitious and forward-thinking regional water recycling program.

We put the tools for these Federal-local water recycling partnerships in place with the historic Reclamation Projects Authorization and Adjustment Act of 1992, which not only included my Central Valley Project Improvement Act but featured a provision now known simply as the “Title XVI” water recycling program.

Across the country—and especially throughout the West and California—people recognize the critical need for water recycling as a means of drought-proofing and increasing our reliable water supply. Accordingly, the Title XVI program has been embraced not only by policymakers, local agencies, and water managers but by many within the Bureau of Reclamation, from the staff level to regional direction.

Unfortunately, even though people on the ground understand the need for these recycling partnerships, the Bureau of Reclamation’s official position is to oppose nearly every project proposed under Title XVI. As recently as this week, the Administration testified against two water recycling projects in the House Water and Power subcommittee.

This opposition from the Administration has made it very difficult for local agencies to get...
the Federal support and funding that they desire. Instead of providing Federal cost sharing and technical support to local water recycling projects, the Bureau has effectively let proposals under the existing Title XVI program pile up.

This is a shame. These projects are the future of water supply, and it’s high time the Bureau joined that future. The best water recycling and reclamation projects are sustainable, scalable, reliable, and meet local needs with a local funding source. Unlike major dams and storage projects, water recycling projects do not have billions of dollars; they don’t destroy rivers—in fact, they can ease the pressure on natural waterways—and they don’t trigger decades of litigation.

In addition, traditional storage projects based on major dams and reservoirs have to spend the last dollar, pour the last ounce of concrete, and line the last canal before a single drop of water comes through the tap. But water recycling is modular and incremental, meaning that as each piece of the system is put in place, you can serve more people and more industries; you don’t have to wait years to see results, and you can build on your successes by easily expanding the infrastructure to meet new needs.

I hope that under the new Reclamation commissioner and the new Secretary of the Interior the first step of a new commitment to that Title XVI program and to these clean solutions to water conflicts. It is very clear to me and to most others who follow these issues that the Bureau has struggled to keep pace in the modern era of water policy. In future Congresses, I am hopeful that we will review the agency’s mission and its budget to determine that it is headed in the right direction.

There is increasing awareness in Congress regarding the importance of water recycling, and an increasing commitment to improving Title XVI so that it works for everyone. For instance, I am very glad that my colleagues, Representative NAPOLITANO, Senator MURKOWSKI, and Senator FEINSTEIN, have taken the lead in introducing legislation to reform the Title XVI program.

The bipartisan, bicameral proposal, entitled “Reclaiming the Nation’s Water Act,” is a wise one. First, their bill makes it perfectly clear that the Bureau of Reclamation’s role includes creating new water supplies by reclamation and recycling. Second, as Senator FEINSTEIN summarized it in her introductory statement, the legislation “establishes firm deadlines, a clear process, and very specific criteria by which project reviews are to be conducted.” This will help ensure that deserving projects don’t get left on the shelf.

Third, I hope to work with my colleagues to implement it. And with the Bay Area Regional Water Recycling Program Authority Act of 2006 that I am introducing today, I am applying the principles of the “Reclaiming the Nation’s Water Act” to the San Francisco Bay Area.

The Bay Area Regional Water Recycling Program is a collaboration of public utilities that helps to meet our region’s and state’s growing water needs through a set of recycling and reclamation projects. As the program agencies wrote in a letter to me this summer: “The project approach ensures that potential projects with the greatest regional and state-wide benefit receive the highest priority and support for implementation.”

The projects in this coalition have been repeatedly vetted, both internally at the local level and by the Bureau of Reclamation. The 2004 CALFED authorization directed the Department of the Interior to assess these projects’ feasibility under Title XVI. That report, released this year, stated that many of the Bay Area projects were very close to meeting the requirements,” but that none passed all the Federal tests. Unfortunately, like other deserving Title XVI proposals across the West, that could have been where these projects stalled.

We need to encourage communities that are trying to meet water demands with innovative technologies. The Bay Area Regional Water Recycling Program Projects Authorization Act of 2006, which is the result of a long process of deliberation and communication with those local agencies, authorizes the Bureau of Reclamation to participate in the six Bay Area Regional Water Recycling Program projects that are closest to completion. Each community with a project will be eligible to receive 20 percent of the project’s construction cost.

Constructing all six of these projects will bring online nearly 10,000 acre-feet per year of reliable dry-year water supply. To produce the same amount of water with a traditional dam and reservoir project, you would need a dedicated facility that stored 47,500 acre-feet of water.

Projects included in the Bay Area Regional Water Recycling Program Projects Authorization Act of 2006 are located in the City of Palo Alto; in the Cities of Pittsburg and Antioch through the Delta-Suisun Water Conservation District (DDSD); in the North Coast County Water District; in Redwood City in partnership with the South Bayside System Authority; and in the City of Gilroy in partnership with the Santa Clara Valley Water District.

Although these worthy projects have supplied local funding, and secured matching State funding, they still need the Federal partner to step up. That’s why my legislation authorizes the Secretary of the Interior to cooperate in these six projects.

I know for a fact that, in my district, has worked diligently, along with Delta Diablo, to move through each step of the existing Title XVI process. This legislation gives them the assurance that the Federal partner will be there for them at the end to help implement their viable, feasible, and laudable project.

There is a clear Federal interest in these projects, as there is in the other successful regional recycling programs like those of Southern California. A good water recycling program stretches the existing supplies and provides certainty to all of the water users in the area; conflict can be reduced even in a critically dry year. As we all know, a stable and reliable regional water supply makes good neighbors.

This very small Federal investment in the Bay Area Water Recycling Program will yield massive dividends to the Bay Area over time. Every gallon of recycled water that goes toward irrigating a golf course or highway median—or for commercial or industrial use—is a gallon of water that didn’t need to be pulled from the troubled Bay-Delta.

These projects are a local and environmental win-win, and encouraging them is sound federal policy. I’m glad to be able to help them with this new bill.

I urge my colleagues to support this legislation, and I again would like to commend Representative Napolitano and Senators Feinstein and Murkowski for their leadership.

RECOGNIZING COLONEL STANLEY T. HOSKIN, RETIRED U.S. ARMY RESERVE, FOR BEING AWARDED THE DEFENSE SUPERIOR SERVICE MEDAL

HON. J. RANDY FORBES OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 2006

Mr. FORBES. Mr. Speaker, I rise today to introduce COL Stanley T. Hoskin’s Defense Superior Service Medal order and citation into the RECORD. COL Hoskin recently retired on August 31, 2006, after 33 years of honorable service in the U.S. Army Reserve. I commend Colonel Hoskin’s loyalty and dedication to his country and the American people. Mr. Speaker, please join me in honoring Colonel Hoskin.

DEPARTMENT OF DEFENSE, COMMANDER, U.S. JOINT FORCES COMMAND.

NORFOLK, VA, JULY 18, 2006

USJFCOM PERMANENT ORDER 540-06

CITATION TO ACCOMPANY THE AWARD OF THE DEFENSE SUPERIOR SERVICE MEDAL, FIRST OAK LEAF CLUSTER, TO STANLEY T. HOSKIN, RETIRED U.S. ARMY RESERVE, FOR BEING AWARDED THE DEFENSE SUPERIOR SERVICE MEDAL.

Colonel Stanley T. Hoskin, United States Army Reserve, distinguished himself by exceptionally superior service while serving as the Chief, Strategic Engagement Division, and as the Assistant Deputy Chief of Staff for Integration, Office of the Deputy Chief of Staff, Headquarters, U.S. Joint Forces Command from June 2004 to August 2006. During this period, COL Hoskin was responsible for many key integrative missions including the Transformation Advisory Group, Command-wide Liaison Officer Exchange Program, and the first series of U.S. Joint Forces Command Chief of Staff to Comfrontant Command Chiefs of Staff video teleconferences. He was also responsible for the conceptualization and development of numerous process improvements including the vision for maintaining situational awareness and accomplishment of all new staff and production work coming into the command. He followed that with development and implementation of business processes and methods to inform the Chief of Staff, Deputy Commander, and Commander in making real time decisions concerning Command Levels of Support for Comfrontant Commanders, Services, Joint Chiefs of Staff, the Office of the Secretary of Defense, and Congress. These improvements resulted in savings of time and money, and the ability to accurately access all of the objectives about which customers were interested. Additionally, COL Hoskin instituted Command-wide training on Objective Leads and Product Leads with greatly improved processes and analysis.
tools. Finally, COL Hoskin developed and implemented new templates of standardized methods for Directors to prepare various required decision point briefings to the Command Leadership. Through his distinctive accomplishments, COL Hoskin culminated a long and distinguished career in the service of his country and reflected great credit upon himself, the United States Army, and the Department of Defense.

TRIBUTE TO THE MORRIS LAND CONSERVANCY

HON. RODNEY P. FREILINGHUYSEN
OF NEW JERSEY
IN THE HOUSE OF REPRESENTATIVES
Wednesday, September 27, 2006

Mr. FREILINGHUYSEN. Mr. Speaker, I rise today to honor the Morris Land Conservancy, located Morris County, New Jersey, a county I am proud to represent! On October 19, 2006, the Morris Land Conservancy will celebrate its 25th Anniversary with a reception to honor twenty-five years of land preservation within Morris County.

Incorporated on July 30, 1981, the Morris County Land Trust was created by Russell W. Myers, the first director of the Morris County Park Commission. A seven member Board of Trustees guided the original organization. Today the organization, now known as Morris Land Conservancy, is governed by a board of twenty-five outstanding civic and business leaders. The mission continues to be to preserve land and protect water resources, focusing on northern New Jersey; to conserve open space; to inspire and empower individuals and communities to preserve land and the environment.

During its history, the Conservancy has evolved from an all-volunteer organization to a state leader in open space preservation. Over 10,000 acres of open space land has been preserved in northern New Jersey. Programs developed to further the Conservancy’s mission include: the award-winning Partners for Greener Communities, which offers technical assistance on open space planning and land preservation to municipalities; a Geographic Information Systems (GIS) Resource Center that produces professional maps for use throughout the state to target critical open space lands for preservation; and the nationally recognized Partners for Parks Program which has organized over 5,200 volunteers from 65 corporations and civic groups to do one day community service projects in seventy-three different parks in the past ten years!

In the early 1990’s, the organization became actively involved in the movement to preserve the Highlands. The Conservancy helped organize the Narrows Highlands Coalition, a partnership of more than thirty towns and conservation groups dedicated to preserving the region known as “heart of the Highlands”.

The Conservancy has grown dramatically since it was established in 1981. The original 56 members now number more than 1400, all working to preserve important properties and add them to the network of local, county and state lands in the region.

Mr. Speaker, I urge you and my colleagues to join me in congratulating Morris Land Conservancy on its twenty-fifth Anniversary.

PATTERSON PARK COMMUNITY DEVELOPMENT CORPORATION 10TH ANNIVERSARY

HON. BENJAMIN L. CARDIN
OF MARYLAND
IN THE HOUSE OF REPRESENTATIVES
Wednesday, September 27, 2006

Mr. CARDIN. Mr. Speaker, I am pleased to bring to your attention the achievements of the Patterson Park Community Development Corporation (PPCDC), which is celebrating its 10th Anniversary.

The Patterson Park area was originally known as Hampstead Hill and played an important role in the defense of Baltimore during the War of 1812. The property was also home to the wealthy Patterson family whose beautiful daughter, Betsy, was the wife of Jerome Bonaparte. The surrounding rowhouse community offered housing for a diverse population, including immigrants from Eastern Europe. Following World War II, many families moved to the suburbs, leaving older residents behind. The community became ripe for absentee landlords and investors.

In 1996, the PPCDC was founded by residents to combat the neighborhood’s decline. PPCDC concentrated on an area of 3,000 rowhouses north of Patterson Park, and 2,500 houses on the park’s eastern periphery. Its goal was to recreate a stable, desirable, diverse community around Patterson Park.

PPCDC embarked on strategies to improve the neighborhood and Park image, strengthen the neighborhood’s social fabric and political structure, and dramatically improve property through control of the neighborhood’s real estate. Since 1996, PPCDC has spent more than $60 million in the community, attracting tens of millions of dollars in other investment. PPCDC also maintains more than 100 affordable rental units that provide decent housing to immigrants, refugees, and other families with modest incomes.

PPCDC has accomplished all this while maintaining the ethnic, racial and economic diversity of the Patterson Park community. In furthering this view of older residents to the south to gather momentum and become an engine for revitalization in all of Southeast Baltimore.

TRIBUTE TO DR. CHRIS FISHER AND DR. JAMES BASHKIN

HON. FRED UPTON
OF MICHIGAN
IN THE HOUSE OF REPRESENTATIVES
Wednesday, September 27, 2006

Mr. UPTON. Mr. Speaker, I rise today to recognize Dr. Chris Fisher and Dr. James Bashkin, cofounders of Nano Vir, a Kalamazoo, Michigan biotechnology company that received the 2006 Tibbetts Award for innovative work to develop a potential treatment to fight the virus that causes cervical cancer known as Human Papillomavirus (HPV). The Tibbetts Award is a prestigious national award presented annually by the Small Business Administration to small firms, organizations, and individuals judged to exemplify the very best in small business innovation research. This year, Nano Vir is among the select group of 55 firms from across the nation who will receive the award.

The Food and Drug Administration recently approved a vaccine that will prevent individuals from becoming infected with the virus. Nano Vir’s product would complement the vaccine by fighting HPV infections and preventing cervical cancer for those who already have the virus.

The importance of this research cannot be overstated. Nearly 20 million Americans have incurable HPV, and cervical cancer is the second leading killer of women by cancer worldwide. Nano Vir is at the cutting edge of DNA research, and I commend Dr. Fisher, Dr. Bashkin, and all the folks at Nano Vir for their commitment and dedication to the betterment of millions of women’s lives around the world. They may soon develop one of our most potent weapons yet in the war against cancer, and I wish them every success.

CONGRATULATING DR. MARILYN GASTON AND DR. GAYLE PORTER

HON. CHRIS VAN HOLLEN
OF MARYLAND
IN THE HOUSE OF REPRESENTATIVES
Wednesday, September 27, 2006

Mr. VAN HOLLEN. Mr. Speaker, I rise today to congratulate Dr. Marilyn Gaston and Dr. Gayle Porter, co-recipients of the 2006 Purpose Prize. Drs. Gaston and Porter have been recognized for innovation and success in using their lifetime of experience for the greater good.

After full careers in different health fields, Drs. Gaston and Porter teamed up to address the alarming early death and disability rates among middle aged African American women. They wrote Prime Time: The African American Woman’s Complete Guide to Midlife Health and Wellness and then created an innovative health course and support group model. “Prime Time Sister Circles” has become a popular and proven health initiative in Maryland and other states, with 68 percent of the participants maintaining their health improvements for more than a year. This outstanding model should be replicated throughout our country.

I want to recognize the role of The Purpose Prize itself in changing our society’s view of aging. The positive impact of the five Purpose Prize winners on thousands of people in need reveals that America’s growing older population is one of our greatest untapped resources. In 2005–06 over 1,200 adults age 60 and over competed for the $100,000 cash prizes and related rewards of publicity and support for their entrepreneurial Civic Ventures, the California-based non-profit organization that created the prize program, is dedicated to generating ideas and creating programs to help society achieve the greatest return on experience. I invite my colleagues to join me in furthering this important work as significant contributors to our communities and nation.

Mr. Speaker, I extend my heartfelt congratulations to Dr. Marilyn Gaston and Dr. Gayle Porter on receiving this prestigious Purpose Prize in its first year and I wish them continued success. I also commend Civic Ventures, along with Purpose Prize funders, The Atlantic Philanthropies and The John Templeton Foundation, for their vision and generosity in creating this important stimulus for expanding citizen initiative for public good.
Friends of Patterson Park was formed to revitalize the Park, restore the boat lake and the Pagoda, which serves as the centerpiece for summer concerts, and build a new playground for the growing number of children who live in the community. In 2002, the Patterson Park Charter School was formed by residents to entice young families to stay in the neighborhood.

I urge my colleagues in the U.S. House of Representatives to join me in saluting the accomplishments of the PPCDC and its partners and in commending them for their work in East Baltimore. Their efforts to revitalize Patterson Park have become a model for other communities around the Nation.

PROTECTING OUR NATION FROM TERRORISM

HON. DAVID E. PRICE
OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 2006

Mr. PRICE of North Carolina. Mr. Speaker, I rise today to confront a question of central importance to our Nation: are we doing everything we should to protect our Nation from terrorism?

This is not a threat we can afford to underestimate. The terrorists’ means of organization, communication, and attack challenge our intelligence community, our armed forces, and our domestic law enforcement agencies in fundamentally new ways.

We must take the fight to the terrorists, but that does not mean we must sacrifice our moral leadership in the international community. We must defend our homeland from attacks, but we must also avoid self-inflicted damage to the values we stand for and the liberties of our people. Our strategy cannot be merely aggressive; it must also be smart and efficient, and it must be true to the values that make us American.

We must not only kill and capture specific terrorists and dismantle their organizations. We must also reduce the number of new terrorists and organizations that might exist tomorrow. Ultimately, we will win this war not by denying the rights of detainees and not by law enforcement excesses, but by protecting the integrity of our free and democratic society, and by repairing our diplomacy and showing the world that there is a better way.

The Bush Administration has repeatedly implied that Americans must be prepared to set aside moral considerations, American values, and America’s image in the world if such concerns get in the way of the aggressive pursuit of terrorists. In reality, such a strategic blindness will hamper our ability to win the war on terrorism. An anti-terrorism strategy informed by moral considerations, American values, and our effort to lead the world by example is consistent with a smart anti-terrorism strategy that pursues terrorists smartly, effectively, and aggressively. What’s more, such a strategy augments our efforts because it unites the American people—and the world—behind us.

Following the 9–11 attacks, President Bush had two choices. The first option was to create and implement a bipartisan anti-terrorism strategy. Such a strategy would have been focused on devoting sufficient troops and resources to Afghanistan to bring down the Taliban, find and incapacitate Osama bin Laden and his lieutenants, and enable that nation’s successful reconstruction—not just in the capital but in the outlying areas that we have never fully secured.

The President could have capitalized on the tremendous outpouring of public support in the wake of the attacks but failed to bridge between our nation and the rest of the world, including the millions of moderate Muslims who hold no sympathy for the terrorists who are hijacking their religion. He would have proactively sought a resolution to the Israeli-Palestinian conflict, which has historically been the largest source of inspiration for new generations of terrorists. (The Iraq war can now lay claim to that ignoble reputation.) And he would have more significantly bolstered our defense and intelligence assets to prevent future attacks and dismantle terrorist networks.

Instead, the President chose a second option that has simply failed to meet the standard of an intelligent anti-terrorism strategy. He diverted resources from the hunt for bin Laden to prepare for and initiate a war of choice in Iraq—a war, incidentally, that has made the threat of terrorism worse, not better. The recent National Intelligence Estimate makes this quite clear.

In doing so, President Bush left Afghanistan vulnerable to the resilience of the Taliban we have seriously undermined, resulting in a deteriorating security environment in that country five years after we supposedly defeated them. He has undertaken policies that have seriously undermined public support for the U.S. in the Islamic world and beyond, policies that included the purging of moderate individuals in the military and the intelligence community that have tolerated and even encouraged the abuse of detainees—many of whom were later determined to be innocent bystanders. He has largely neglected the Israeli-Palestinian conflict, with disastrous results for Israel, Lebanon, and the entire Middle East region.

David Schanzner, one of my constituents and director of the Triangle Center on Terrorism, got it right in a recent op-ed. He wrote: “Unfortunately, we have made no progress, and in fact may have lost ground, in the ideological conflict that is fueling jihadist violence around the globe.”

So I ask today: are we doing everything we should to protect our nation against another terrorist attack? Is President Bush pursuing a smart, effective strategy to win the war on terrorism? The answer to these questions is clearly “no.”

This week in the House, we are debating two prominent components of the President’s strategy to fight terrorism: a bill to grant the President new powers to wiretap the phones of American citizens, and a bill to establish an extrajudicial system for trying detained terrorist suspects. These bills are both clear examples of how the President continues to make the wrong choices in the war on terrorism.

There is no doubt that we need a more extensive and sophisticated wiretapping program directed at those who mean us harm, both outside and inside the United States. That is not the question. The question is who should make decisions that balance civil liberties with surveillance needs. The Administration says “just trust us.” To that, we say a resounding no. This is not merely because the Attorney General and the Bush administration have proved unreliable stewards of our liberties. It also recognizes what our founding fathers knew quite well, that balancing power among institutions with different functional roles is the essential to our form of government. The executive branch is in the business of putting laws into effect. The judicial branch is in the business of interpreting the law and the Constitution, and protecting individual rights. Neither can effectively do the job of the other.

The 1978 FISA law established procedures governing how the Federal Government can constitutionally collect foreign intelligence, including the ability to gather intelligence immediately in urgent situations and to obtain a warrant post-facto. Unfortunately, this administration feels that protecting the constitutional rights of its citizens has become too cumbersome. Instead of abiding by current law, the administration has chosen to make up new ones. And now that we have called the administration on this violation of the law, it is asking Congress to formally authorize its practices.

In essence, the administration is telling us that we have to choose between being safe and being free. I, for one, am not willing to accept this overly simple analysis or the proposed wiretapping bill.

We do not yet know what provisions will be included in the House bill, but the President’s proposal would allow warrantless surveillance of international calls and e-mails of American citizens without any evidence that they are conspiring with terrorist organizations. The communications of Americans would only be protected if the National Security Administration “reasonably believes” all senders and recipients are in the U.S. Essentially this provision would allow anybody communicating with family or friends outside the U.S. to be monitored at any given time without any real justification or oversight.

In addition, the President’s proposal would pre-approve warrantless searches on all Americans following a terrorist attack in the United States for up to 45 days. I know the investigations that take place in the days and weeks following a terrorist attack are crucial in apprehending all of those involved, and I agree that we need to make sure the intelligence community has whatever resources it needs. However, providing pre-approval to the President to violate the 4th amendment of the Constitution after an attack is completely unnecessary. Current law already allows the President reasonable exemptions in these situations, and if extensions are needed, he simply needs to request judicial approval.

The second key terrorism bill under debate in the House this week is a system for bringing detained terrorist suspects to trial. Again, there is wide and bipartisan agreement that this issue must be addressed. But President Bush has once again failed to choose the smart and morally acceptable way to go.

Over the past 3 years, many of us have watched in horror as new details about the Bush administration’s treatment of detainees have been revealed. Torture, arbitrary arrest and detention, indefinite imprisonment—Americans used to think of these as charges off the pages of reports about other countries, not as sanctioned American policies. While some of us have spoken out against these practices since they became public, recent actions by
the Supreme Court and a handful of courageous Senators have forced the administration to revisit them. Yet, the legislation before the House—legislation supported by Republicans in the House, Senate, and White House—would do little to rein them in.

In the proposed legislation, the Administration could continue to arbitrarily arrest and detain foreign citizens. It could continue to imprison these detainees indefinitely, without standard judicial protections such as their right to challenge their detention in court and the right of the accused to know the charges against them. And, despite the leverage granted to the so-called compromise between the White House and Senate Republicans, the Administration would still be able to continue practices that violate the Geneva Conventions prohibition of torture.

Many have argued that we must prioritize winning the war on terrorism above considerations for the rights of detainees accused of having links to terrorism, as if the two were always mutually exclusive. It might be tempting to understand the issue in such simple terms, but we should resist that temptation.

It is certainly true that terrorism is such a grave threat to our nation that, in some circumstances, extraordinary actions may be necessary to protect American lives. The question we should be asking, however, is whether actions advance our fight against terrorism, both now and over the long term. In this case, the moral argument—that potentially innocent detainees do have rights that should be protected—is in line with the appropriate strategic argument.

In the Administration’s approach fails because, as current and former military and intelligence officers have repeatedly stated, torture does not reliably produce actionable intelligence. In addition to the statements of these experts, we have hard evidence: the New York Times has reported that, according to our military, interrogators were able to obtain up to 50 percent more actionable intelligence from detainees at Abu Ghraib prison in Iraq after coercive practices like hooding, stripping, and sleep deprivation were banned.

In the long-term, the Bush administration’s approach is even more detrimental to our progress in the war on terrorism. First, it is already having disastrous repercussions on our effort to win the hearts and minds of those at risk of being tempted by terrorist recruiters. Let us be clear: while stopping active terrorists is a critical challenge, disrupting the development of new generations of terrorists is the single most important task in winning the war on terrorism. Every person that we can prevent from becoming a terrorist is in the interest of our country.

There is no question that a system is needed for bringing terrorists to justice. But doing it the wrong way only increases their ability to stop terrorists in the future. And the Bush administration’s approach is, quite clearly, the wrong way. Victory in the war on terrorism demands, and the American people deserve, a smarter approach, consistent with the values that have made our country great.

Mr. Speaker, we can choose a smart, effective strategy for combating terrorism that makes our Nation safer, or we can opt for an irresponsible, shortsighted approach that undermines our progress. These bills represent the latter. I strongly urge my colleagues to oppose them.

COMMENDING THE MAGIC SCHOOL BUS ON ITS 20TH ANNIVERSARY

HON. VERNON J. EHLERS
OF MICHIGAN
IN THE HOUSE OF REPRESENTATIVES

Mr. EHLERS. Mr. Speaker, I congratulate and recognize The Magic School Bus on the occasion of its 20th anniversary.

As many of my colleagues know, The Magic School Bus is a unique series of books, television programs, and teaching materials for children that encourage a love of science and inspire positive attitudes toward math and science education.

What my colleagues may not know is that with 131 book titles and more than 58 million books in print, The Magic School Bus is one of the most successful children’s science series, and it continues to grow in popularity every day. This series has earned numerous prestigious national recognition awards.

I am proud to support The Magic School Bus and its partnership with the National Science Foundation in a television series and museum exhibit, and I commend the Magic School Bus for its tireless efforts.

Congratulations to The Magic School Bus on this occasion of its 20th anniversary. May these efforts continue to spark the curiosity of millions of children and help motivate children to further pursue their interests in math and science.

CHILD INTERSTATE ABORTION NOTIFICATION ACT

SPEECH OF
HON. JIM NUSSELS
OF IOWA
IN THE HOUSE OF REPRESENTATIVES

Mr. NUSSELS. Mr. Speaker, I rise today in support of the Child Custody Protection Act (S. 403). This important legislation protects our children by imposing stiff penalties on parents who evade State parental consent laws to transport a minor across State lines for the sole purpose of having an abortion.

I believe we must protect our children from being exploited or coerced into having an abortion and reaffirm the rights of parents to be involved in the important decisions of their lives. We currently require parental consent forms for field trips, sports and other activities. It’s only common-sense that these important laws are not circumvented for the purpose of performing an abortion.

With over 50 percent of States having parental consent laws on the books, I believe it is imperative the Child Custody Protection Act become law to protect those who may not be able to protect themselves from harm as well as to ensure that these important state laws are respected.
HUMAN RIGHTS ABUSES IN TURKMENISTAN

HON. CHRISTOPHER H. SMITH
OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES
Wednesday, September 27, 2006

Mr. SMITH of New Jersey. Mr. Speaker, as Co-Chairman of the U.S. Helsinki Commission and Vice Chairman of the House International Relations Committee, today I introduce this resolution on human rights violations in Turkmenistan. Freedom House recently ranked Turkmenistan as one of the most repressive countries in the world. Along with co-sponsors Representative JOSEPH R. PITTS and Representative Mike McIntyre, we seek to put the Government of Turkmenistan on notice that these policies must change and that the Congress expects improvements in human rights observance and democratization.

The human rights situation in Turkmenistan remains abysmal. According to the State Department’s Country Reports on Human Rights Practices, Turkmenistan is an authoritarian state dominated by president-for-life Saparmurat Niyazov. . . . The government continued to commit serious abuses and its human rights record remained extremely poor.

Turkmenistan is a one-party state with all three branches of government controlled by President Niyazov, who was made “president-for-life” by the rubber-stamp People’s Council in 2003. No opposition is allowed and the state promotes a cult of personality around President Niyazov. The self-proclaimed “Turkmenbash”—the father of all Turkmen. His likeness is on every public building and the currency. Authorities require that his self-styled spiritual guidebook, the Rukhnama, be taught in all schools and places of work.

There are consistent reports of security officials physically abusing, torturing and forcing confessions from individuals involved in political opposition or human rights advocacy. The regime also continues the dreadful Soviet practice of using psychiatric hospitals to jail dissidents.

In August, Radio Free Europe/Radio Liberty correspondent Ogulsapar Muradova and two Turkmenistan Helsinki Foundation members were sentenced to 6 and 7 years of imprisonment, respectively, for their involvement in a documentary about Turkmenistan. Sadly, Muradova died while in custody just three weeks later.

The resolution therefore urges President Niyazov to, among other things, conduct a thorough investigation into the death of Muradova, free all political/religious prisoners, provide ICRC access to all Turkmen prisons, and allow peaceful political opposition parties to operate freely. The resolution also lays out recommended steps for U.S. action, should the government not improve respect for democratization, freedom of movement, human rights and religious freedoms.

The abuses don’t end with repressive actions against dissidents and reporters. Niyazov is also reportedly diverting billions of dollars of state funds into his personal off-shore accounts. The “father of all Turkmen” is pillaging his country and jeopardizing the future of its citizens.

Consequently, the resolution urges the Government of Turkmenistan to “end the diversion of state funds into President Niyazov’s personal offshore accounts, and adopt international best practices as laid forth by the International Monetary Fund regarding the disclosure and management of oil and gas revenues.” In addition, the resolution urges the U.S. government to encourage companies dealing in Turkmenistan to increase transparency, and to encourage the European Union and other countries not to enter into trade agreements with Turkmenistan until the “government demonstrates a commitment to implementing basic norms of fiscal transparency.” To further demonstrate the level of Congressional concern regarding the misappropriation of state resources, the resolution recommends the U.S. government issue “a report on the personal assets and wealth of President Niyazov.”

In closing, Mr. Speaker, the purpose of this resolution is to bring to the attention of the Congress and the world the appalling human rights record of the Government of Turkmenistan. The resolution is timely, as the European Parliament will soon consider an enhanced trade relationship with Turkmenistan. I hope this resolution will be a catalyst for change and that President Niyazov will initiate serious and far-reaching reforms.
TRIBUTE TO STEPHEN ADAMINI

HON. BART STUPAK
OF MICHIGAN
IN THE HOUSE OF REPRESENTATIVES
Wednesday, September 27, 2006

Mr. STUPAK. If I could, I would like to pay tribute today to Stephen Adamini, a Representative in the Michigan House of Representatives from the 109th District. The 109th District is comprised of four Upper Peninsula counties: Alger, Luce, Marquette and Schoolcraft. First elected to the House in 2000, Stephen Adamini will be concluding his service in that body at the end of this year. The people of the 109th Representative District have been well represented by Stephen and he will be missed.

Whether the issue was timber or roads, Stephen was always ready to jump into the political and legislative arena, and he was a tireless worker for the “Yoopers,” those residents of Michigan that live in the state’s Upper Peninsula. As Steve has recognized, while there are many issues in communities across our state, each region also has unique needs and concerns of its own. Steve recognized the unique qualities of his district and he worked hard in our state capital to find creative solutions on both sides of the Mackinac Bridge.

Stephen was also known for his work in Lansing in the area of health care. He served as Minority Vice Chair of that Committee in addition to serving on the Judiciary and Transportation Committees. Among the bills, that he authored Steve’s legislative skills helped tackle thorny issues surrounding the privacy of medical records.

Even prior to going to Lansing, Stephen dedicated much of his life to public service and community involvement. Whether it was serving on the Executive Committee of the Gwinn Area Chamber of Commerce, Chairing the Marquette County Airport Board, serving on the Marquette County Re-Apportionment Commission or his work on the Michigan Transportation Commission, Steve has always strived to improve and serve his community and the entire Upper Peninsula.

In the Michigan State House of Representatives, Stephen has represented Marquette, the largest city in the Upper Peninsula. His distinguished record in Lansing has endeared him to his constituents in Michigan. Stephen and I have always enjoyed a special relationship personally and professionally. I look forward to his continued involvement in the communities in Alger, Luce, Marquette and Schoolcraft and I applaud him for his years of service to Michigan, to the Upper Peninsula and to the people of Michigan’s 109th legislative district.

It is leaders like Stephen Adamini who make our system of democracy great at all levels—State as well as Federal. On this occasion, I offer my best wishes to Stephen’s wife, Linda, and his two children Corrine and Stephen Jr., and his grandchildren; Alexandra, Marki, and Ryan. All of them have a great deal to be proud of in Stephen’s life and career. Mr. Speaker, I ask that you and our colleagues join me in saluting Stephen Adamini for his record of public service both in Lansing and at home in Michigan’s Upper Peninsula.

HONORING THE SERVICE AND CONTRIBUTIONS OF G. LUZ A. JAMES, ESQUIRE, TO THE COMMUNITY OF THE U.S. VIRGIN ISLANDS

HON. DONNA M. CHRISTENSEN
OF THE VIRGIN ISLANDS
IN THE HOUSE OF REPRESENTATIVES
Wednesday, September 27, 2006

Mrs. CHRISTENSEN. Mr. Speaker, I rise to pay tribute today to G. Luz A. James, affectionately known as “Luz James”, a Native Son of St. Croix, U.S. Virgin Islands and an individual who distinguished himself by living a life of service to the people and community of the U.S. Virgin Islands and to our Nation.

Luz James served the Virgin Islands community as an educator in the field of Mathematics and Science and was so effective that many of his students found ease in understanding the difficult subjects and some later became teachers because of exposure to his style. Among his numerous honors and recognitions was the rank of Honorary Policeman by one of our last appointed governors, Walter A. Gordon. He worked in the Virgin Islands Public Works Department; was a Vocational Rehabilitation Counselor; the Assistant Executive Director of the Virgin Islands Urban Renewal Program, which started developing and renovating depressed areas of the islands at the beginning of the economic boom in the 1960’s and the Special Assistant to Governor Ralph M. Paiewonsky in the Office of Public Relations. He was also elected as the first President of the Junior Chamber of Commerce for St. Croix.

Luz was also elected as a Senator in the 12th Legislature of the Virgin Islands, continuing a political tradition that began with his father, who served on the Municipal Council. His brother, Randall, served four terms as a Senator; his oldest son, Luz II served two terms in the Legislature before being elected LT. Governor for the first term of our present Governor’s Administration. One of his nieces ran for a seat in the Legislature and a nephew is presently seeking re-election for a second term.

Luz was also the first Scoutmaster and Founder of Boy Scout Troop 151, under the sponsorship of the Holy Cross Roman Catholic Church, the church in which he was baptized and had a long and involved relationship with throughout his life. He served the church in many positions and was the church’s Sacristan at the time of his death. His education began at St. Ignatius and the school he was to teach in the church, St. Mary’s, under the tutelage of the Sisters of the Immaculate Heart of Mary. The Sisters helped kindle his love of the church, and his deep spirituality. Luz was known for his generosity and kindness and he would visit some of the Sisters that had taught him during his school days, he was a member of the Holy Cross Church for more than a century.

Luz James also had a distinguished military career that began as a commissioned 2nd Lieutenant in the U.S. Army upon his graduation from Howard University in 1950 and served a tour of duty years later as an Artillery Officer at Fort Bliss, Texas. He was credited with the formation of the U.S. Army Reserve Units in the U.S. Virgin Islands and Governor Melvin H. Evans appointed him as the first Adjutant General of the U.S. Virgin Islands, which gained him the distinction of being the first African-American to serve as an Adjutant General in the in Army National Guard of the United States. At the time of his untimely passing, he and the National Guard were in the process of preparing a pinning ceremony for his promotion to the rank of Brigadier General, during a ceremony that was being planned for next month.

Luz James entered Law School in his mid forties, graduated, became a member of the Virgin Islands Bar Association and had one of the busiest practices on the island of St. Croix. He was also a member of the National and the American Bar Associations. This accomplishment, returning to get his Juris Doctorate degree, was one that inspired three other members of his family to enter the legal field and vividly impressed his youngest son, a medical doctor that an education and desire for self improvement can continue throughout a person’s lifetime. In addition to helping many members of his considerable extended family, Luz assisted many Virgin Islanders to pursue and continue their formal educations.

Luz James became a disc jockey during the 1950’s, which began his love affair with the broadcasting industry. He and one of his brothers, Randall, a medical doctor, had popular shows on one of the local stations. He later formed Family Broadcasting, Inc., when he acquired WSTX AM and FM, the fulfillment of a dream, which allowed him to revive the show, “Cruican Confusion”, a program he originally aired during his first days on the air. On his greatest wish was willingness to help any person in need, sometimes to his detriment and he would part with his last dollar, without any hesitation, if it would benefit someone else. He served on practically every civic group formed on St. Croix and has been recognized and cited for outstanding contributions to the community from such groups as the Hospital Auxiliary, Parent Teacher Association, the A.M.E. Church, the Zeta Phi Beta Sorority, Inc., the Crucian Forty Plus Baseball Club, the V.I. Midwives Association and the V.I. PAC, a New York-based group comprised of Virgin Islanders.

Born on the island of St. Croix, Luz James was the youngest of four brothers that all
CHILD INTERSTATE ABORTION NOTIFICATION ACT

SPEECH OF
HON. CHRISTOPHER SHAYS
OF CONNECTICUT
IN THE HOUSE OF REPRESENTATIVES
Wednesday, September 27, 2006

Mr. SHAYS. Mr. Speaker, I rise in opposition to S. 403, the Child Custody Protection Act.

I support encouraging—not requiring—parental notification for minors seeking contraceptive services. This legislation proposes a variety of new mandates on women, families, and doctors.

For example, the bill forces doctors to learn and enforce 49 other states’ laws, under the threat of fines and prison sentences. In many cases, it forces young women to comply with two states’ parental-involvement mandates. It also requires a doctor to notify a young woman’s parents in person, in another state, before abortion services can be provided.

Finally, in some cases, even if a parent travels with his or her daughter to obtain abortion care, the doctor must still give “notice” to the parent and wait 24 hours before providing the care. In such cases, this requirement acts as a built-in mandatory delay—which makes it more difficult, more expensive, and more burdensome all around for the family. It may even endanger the young woman’s health.

Not only does S. 403 include these negative provisions, it also could be found unconstitutional for three reasons. First, it contains no health exception.

Second, in some cases, it offers young women no judicial bypass. Judicial bypass is required by the Supreme Court and allows another responsible adult to consent instead of a parent.

Finally, it forces states to enforce other states’ laws by forcing individuals to carry their home state laws with them when they travel. Every parent hopes that a child confronting a crisis will seek their advice and counsel of those who care for her most and know her best. In fact, even in the absence of laws mandating parental involvement, many young women do turn to their parents when they are considering an abortion. One study found that 61 percent of parents in states without mandatory parental involvement would have open, clear communication with their parents.

Unfortunately, this is not the case in every family. I believe this legislation would dissuade young women from turning to other trusted adults, such as an aunt or older sibling, in a time of need.

While this bill might be well intentioned, it is a deeply flawed attempt to curb young women’s access to private, confidential health services under the guise of protecting parental rights.

I would like to see abortion remain safe and legal, yet rare. What ever one’s views on abortion, I believe we all can recognize the importance of preventing unintended pregnancies. When women are unable to control the number and timing of births, they will increasingly rely on abortion. Making criminals of advisors, however, is simply not the way to accomplish this goal.

I urge my colleagues to oppose this legislation.

TRIBUTE TO RICH BROWN

HON. BART STUPAK
OF MICHIGAN
IN THE HOUSE OF REPRESENTATIVES
Wednesday, September 27, 2006

Mr. STUPAK. Mr. Speaker, I rise today to honor Rich Brown, a Representative in the Michigan House of Representatives from the 110th District. The 110th District includes the counties of Gogebic, Ontonagon, Houghton, Keewenaw, Baraga, Iron and part of Marquette County.

Elected to the Michigan House of Representatives in 2000, Rich Brown has been term limited and his service in the Michigan House will therefore end this year. In this case, I believe the term limits law in my home state has deprived the people of Michigan continued service from an exemplary state Representative.

Even prior to going to Lansing, Rich dedicated much of his life to public service and to serving the Upper Peninsula (U.P.) community. Beginning as a broadcaster at WUUN Radio in Marquette before becoming news director at WUPM Radio in Ironwood, Michigan, Rich covered the local issues that matter to the local communities of the U.P. Later, he worked as a reporter for the Ironwood Daily Globe, before beginning public service as Gogebic County Clerk. It was in 1984, that Rich was elected Gogebic County Clerk and Register of Deeds. During his tenure as a County Clerk he received widespread acclaim for his public service efforts. He was named Michigan County Clerk of the year in 1992. Rich served as Gogebic County Clerk for 16 years until his election to the Michigan House of Representatives.

In Lansing, Rich has been a tireless champion of “Yoopers,” residents of Michigan that live in the state’s Upper Peninsula. Rich served on the powerful Appropriations Committee. From that powerful committee, he ensured that the unique transportation needs of northern Michigan were met by bringing state money above the bridge.

Rich’s district encompasses much of the “Copper Country,” an area rich in history and natural beauty. Rich has been a worthy emissary from this area, representing the area’s unique culture and values in Lansing with distinguished pride. The Upper Peninsula faces different issues than issues faced by downstate residents. Rich has recognized those differences and exhibited hard work in our state capital to find creative solutions on both sides of the Mackinac Bridge.

In the Michigan State House of Representatives, Rich has been a stalwart advocate for his constituents. I look forward to his continued involvement in the communities in the Upper Peninsula western end of the Copper Country. I applaud him for his years of service to Michigan, to the Upper Peninsula and to the people of Michigan’s 110th legislative district.

While known for his political prowess, Rich was well known throughout the Upper Peninsula as the energetic, entertaining and talented director of Marty’s Goldeneriales Senior Drum and Bugle Corps from Bessemer. Rich’s band has delighted crowds in Michigan and Wisconsin and always draws the loudest, most sincere appreciation of all the drum and bugle corps that are participating in a parade, concert or festival. Under Rich’s direction, Marty’s Goldeneriales are simply “The Best!”

Finally, let me offer my best wishes to Rich’s wife, Ann Marie, his two children, Ryan and Emily. All of them have a great deal to be proud of in Rich’s life and career. Mr. Speaker, I ask that the U.S. House of Representatives join me in saluting Rich Brown for his dedicated service to the state of Michigan, the people of the Copper Country and Michigan’s 110th House District.

TRIBUTE TO PRIVATE CHARLES “BUDDY” SIZEMORE

HON. MIKE PENCE
OF INDIANA
IN THE HOUSE OF REPRESENTATIVES
Wednesday, September 27, 2006

Mr. PENCE. Mr. Speaker, it is not every day that a fallen soldier is laid to rest 56 years after he was killed in action. But such is the case of Private Charles “Buddy” Sizemore.

As a young graduate of Rushville High School in Rushville, Indiana in 1948, Buddy was drafted into the U.S. Army where he was assigned to Headquarters Company, 2nd Battalion, 8th Regiment, 1st Cavalry Division.

Mr. Speaker, it was on October 19, 1950 that the men of the 1st Cavalry Division rode with the 70th Tank Division, took the North Korean capital of Pyongyang at great cost. But the advance of the 8th Army resumed despite a shortage of supplies, including winter clothing. Some riflemen had as few as 16 rounds of ammunition.

On November 1, about seventy miles north of Pyongyang, two Chinese divisions attacked and almost completely destroyed the U.S. 8th Cavalry Regiment and the 1st Cavalry Division. Soon thereafter, six Soviet-supplied air-rafts from Manchuria attacked on all fronts.

On November 2, 1950, just six weeks after he had left his Rushville home for Korea, Private Buddy Sizemore and his entire battalion were lost.

Fifty-six years later, after much negotiating between the United States and North Korea, forensic teams from the United Nations and the Pentagon have identified his remains, and on October 14th, there will be a full military funeral at the First Baptist Church in Rushville, Indiana for Private Charles “Buddy” Sizemore.

Mr. Speaker, the Bible tells us if you owe debts, pay debts; if honor, then honor; if respect, then respect. I rise humbly today to pay
a debt of honor and respect to Buddy Sizemore.

Buddy is a hero whose service and sacrifice will forever be emblazoned on the hearts of a grateful Nation. I offer my deepest condolences to all of those friends and family members who loved and admired this young man.

TRIBUTE TO THE LATE DON DENNEY OF THE UNIFIED GOVERNMENT OF WYANDOTTE COUNTY

HON. DENNIS MOORE
OF KANSAS
IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 2006

Mr. MOORE of Kansas. Mr. Speaker, I rise to pay tribute to Don Denney, the long-time media relations specialist for the Unified Government of Wyandotte County, and Kansas City, KS, who died unexpectedly of a heart attack on September 15.

I wholeheartedly echo the sentiments that Kansas City, KS, Mayor/CEO Joe Reardon shared with the Kansas City Kansan upon learning of Don Denney’s death, “Don Denney was a wonderful and talented individual who gave 100 percent of himself to the community with his job at the Unified Government. We shall always remember Don Denney as a man who gave unselfishly as a public servant and citizen to a community that he deeply loved.”

A graduate of Kansas City’s Ward High School in 1970, Denney had owned a Dairy Queen restaurant and worked previously at the Kansas City Kansan, before beginning his tenure with the city of Kansas City in 1994. He worked his tail off for the paper and its readers, just as he was dedicated to the Unified Government and represented it to the metropolitan news media with so much honesty and enthusiasm for our community was infectious.

A Kansas City, Kan., native and graduate of Bishop Ward High School in 1970, Denney also was a longtime public address announcer at athletic games. Known to many as “the voice of the Cyclones,” he devoted much of his free time to the school.

United Government Commissioner Tom Cooley was with Denney during a meeting Friday morning. He said Denney appeared to be in good spirits. “We were laughing and joking, cutting up,” he said. “There was no indication that he was even uncomfortable.”

But earlier this week, Denney, a diabetic who suffered a heart attack several years ago and complained of dizziness and said he had experienced a brief blackout, Wyandotte County Coroner Alan Hancock said Denney died of cardiac arrhythmia.

As news spread about Denney’s death, reporters were quick to sing his praises. Steve Nicely, a former Kansas City Star reporter, recalled Denney as an honest reporter and spokesman.

“He was a conscientious guy, and I think really had a dedication to the truth,” Nicely said. “Sometimes he’d get into trouble because he’d say something that was a little too true. I always thought that was a virtue.”

Bob Werly, a former reporter for KMBC-TV, called him one of the best public information officials he’d ever worked with. His deep ties to the community didn’t hurt.

“I would stand out in the street with him talking,” Werly said. “It just seemed like every other car that came by either honked or waved.”

Denney is survived by a brother, Fred Denney, and a sister, Mary Anne Denney. The funeral will be at 10 a.m. Wednesday at Cathedral of St. Peter, 431 N. 15th St.

JOHANNA’S LAW: THE GYNECOLOGIC CANCER EDUCATION AND AWARENESS ACT

HON. BILL PASCRELL, JR.
OF NEW JERSEY
IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 2006

Mr. PASCRELL. Mr. Speaker, I rise today to urge the House to take up and pass H.R. 1245, Johanna’s Law: The Gynecologic Cancer Education and Awareness Act. This legislation has been cosponsored by 256 Members of the House of Representatives and 40 Senators.

H.R. 1245, through an educational and awareness campaign, will help women understand the symptoms of uterine and other gynecological cancers, the importance of having an annual exam, and the need for open communication with their doctors in an attempt to save women from preventable deaths.

Johanna’s Law has the potential to help more than 80,000 women who will be diagnosed with some type of gynecological cancer this year. Beneficial to all women of various ethnicities and socioeconomic backgrounds, the legislation will inform them of preventative measures and help them understand the symptoms which can lead to early detection and subsequently, save lives.

Of the women who will be diagnosed with gynecological cancer this year, 28,000 will die, primarily because they did not recognize their symptoms and the cancer detection came too late to treat the disease effectively.

The 5-year survival rates for the most common gynecological cancers are 90 percent when diagnosed early. Survival drops to 50 percent or less for cancers diagnosed later.

Gynecologic cancers such as ovarian and endometrial cancer do not yet have a reliable screening test that can be used for the general population. The Pap smear reliably detects only cervical cancer. That’s why knowing the symptoms of these cancers is key to early diagnosis.

Sadly, recent surveys confirm most women are unaware of the risk factors and do not recognize the early symptoms of gynecological cancers. This lack of information and understanding is deadly.

September has been declared Ovarian Cancer Awareness Month by President Bush, and governors of all 50 States have also declared September Gynecologic Cancer Awareness Month. However, over one-third of the women diagnosed this year with a gynecologic cancer will die from the gynecologic cancer primarily due to a lack of early education and prevention, as well as effective screening.

Data suggests that with even a modest improvement in outreach and education, we can save lives and precious healthcare resources, and improve the health of our Nation’s women. This legislation will accomplish that—through education of both women and their healthcare providers.

Mr. Speaker, there is clearly a need for Johanna’s Law and the time is now. The women of this country and their families deserve no less.

HONORING THE LIFE OF BARBARA C. McENROE

HON. JOHN B. LARSON
OF CONNECTICUT
IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 2006

Mr. LARSON of Connecticut. Mr. Speaker, I wish to submit for the RECORD the following tribute that appeared in NE Magazine on September 17, 2006. For most, words never quite convey the poignancy of the moment. For Colin McEnroe, his craft and the life of his mother, Johanna’s Law: The Gynecologic Cancer Education and Awareness Act. This legislation has been cosponsored by 256 Members of the House of Representatives and 40 Senators.

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Mr. Speaker, there is clearly a need for Johanna’s Law and the time is now. The women of this country and their families deserve no less.

She was a tiny person born into a big world.
She was the fourth daughter of the songless Howard and Alma Cotton. I was told that my grandmother, knowing she would be expected to try again, was too angry to think of a name, so the Cottons owned a general store in Dana, Mass. Ruth, the oldest sister, finally looked at some kind of candy display that offered a list of names. (It was a sour gumball machine, and the gumball you found out which would be your sweetheart, I believe.) She picked the name Barbara for her baby sister. At least, that’s one version, Ruth told it to me one night after making me promise never to tell my mother.

The next baby was a boy, Gaylord. I don’t think my mother ever completely forgave him for being the wrong gender.

She was not the right answer, but she decided to know the right answers. She asked me again and again from hospital beds what three words? And that was the beginning of the end. Barbara chair sunset.

A couple of years went by. She fell. She got sick.

On Monday evening, her hands and feet grew cold.

The light appeared. You know, the light? The soothing, captivating, all-loving light? She asked the nursing home staff to turn it off. It was bothering her. Things were not quite right. This room was not quite home. I picture a worried angel, conferring with his peers. She wanted the light turned off.

Has this ever come up before? Don’t people always like the light? —a few us of us in a room, in chairs, watching the sunset spread across the bricks of a courtyard outside the window. We talked so that she could hear our voices. And she fell asleep and was gone.

I am surprised to find my heart is broken. My son’s heart is broken, too. Barbara chair sunset.

May be there’s a place you go where finally, finally, everything is just right.

—

Hello, this is me. And I want you to remember them because I think the Joint Committee is right—and that what they say about the Establishment Clause is just as true about the rest of the Bill of Rights.

For example of where this might lead, consider the 2003 lawsuit against the school district in Ann Arbor, Michigan. In that case, the plaintiffs complained that a former student’s right to free speech was abridged when school officials denied the student an opportunity to give her opinion of homosexuality at a school forum on diversity. The judge ruled they were right, and ordered the school district to pay damages, attorneys’ fees and costs to the Thomas More Law Center, an Ann Arbor-based law firm organized to argue on behalf of Christians in religious freedom cases.

I have no reason to think that was an anomaly. I am glad that the law provides judges with the discretion to award attorneys’ fees when people successfully defend their constitutional rights. This bill would limit that discretion unnecessarily, and so I cannot support it.

MILITARY COMMISSIONS LEGISLATION ACT OF 2006

SPEECH OF
HON. MARK UDALL
OF COLORADO
IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 27, 2006

Mr. UDALL of Colorado. Mr. Speaker, I regret that I cannot support this bill in its present form.

After 5 years of negligence by both the House Republican leadership and the president, today they are insisting the House vote rapidly on a long-overdue bill to establish military commissions to try “unlawful enemy combatants.”

This should have been done sooner and the legislation definitely should be better.

If President Bush had come to Congress sooner with his request for legislation establishing military commissions, we could have avoided prolonged legal battles and delay in getting a system in place. But despite his stated interest in bringing the terrorists to justice, this president has seemed to be more interested in enhancing executive branch powers than in actually prosecuting those who would harm Americans.

Five years ago, when President Bush first issued his executive order to set up military commissions, legal experts warned that the commissions lacked essential judicial guarantees, such as the right to attend all trial proceedings and challenge any prosecution evidence. I took those views very seriously because those experts made what I thought was a compelling case that the proposed system
would depart too far from America’s fundamental legal traditions to be immune from serious legal challenges.

So, beginning 3 years ago, I have cosponsored bills that would establish clear statutory authority for detaining enemy combatants and using special tribunals to try them. Unfortunately, neither the president nor the Republican leadership thought there was a need for Congress to act—the president preferred to insist on unilateral assertions of executive authority, and the leadership was content with an indolent abdication of Congressional authority and responsibility.

Then, earlier this year, the Supreme Court put an end to that approach.

In the case of Hamdan v. Rumsfeld, the Court ruled that the military commissions set up by the Administration to try enemy combatants lacked constitutional authority in part because their procedures violated basic tenets of military and international law, including that a defendant must be permitted to see and hear evidence against him. Although the Court did not rule that the president is prohibited from establishing military commissions, it did determine that the current system isn’t a “regularly constituted court” and doesn’t provide judicial guarantees.

We are voting on this bill—on any bill, in fact—only because that Hamdan decision forced the Administration to come to Congress, not because President Bush has been in any hurry to try the more than 400 detainees at Guantanamo under sound procedures based on specific legislation.

And we are being forced to vote today—not later, and only on this specific bill, with no opportunity to even consider any changes—because, above all, the Republicans have decided they need to claim a legislative victory when they go home to campaign, to help take voters’ minds off the Administration’s missteps and their own failure to pass legislation to address the voters’ concerns.

In other words, for the Bush Administration and the Republican leadership it’s business as usual—ignore a problem as long as possible, then come up with a last-minute proposal developed without any input from Democrats, allow only a “_take it or leave it” vote, and then smear anyone who doesn’t support it as failing to support our country.

That’s been their approach to almost everything of importance, so while it’s disappointing it’s not surprising that the Administration and the Republican leadership have not approached this important topic more thoughtfully.

The goal, of course, should be to have legislation to help make America safer that can withstand the proper scrutiny of the courts while meeting the needs of the American people and not undermine our ability to have the support of our allies.

The bill originally proposed by the president fell short of meeting those standards. I opposed it because I thought it risked irrevocably harming the war on terror by tying up the prosecution of terrorists with new untested legal norms that did not meet the requirement of the Hamdan decision; endangering our service members by attempting to rewrite and limit our compliance with Common Article Three of the Geneva Conventions; undermining basic standards of U.S. law; and departing from a body of law well understood by our troops.

I was not alone in rejecting the bill the president originally proposed. As we all know, several members of the other body, including Senator John Warner, had been working in a bipartisan Armed Services Committee, and other members of that committee, including Senators McCain and Graham, had also shown obvious objections to that legislation and, joined by Senator Levin, the ranking Democrat on the Committee, had struck the important balance between military necessity and basic due process.

When the House Armed Services Committee took up the president’s bill, I joined in voting for an alternative, offered by our colleagues, Representative Skelton, the Committee’s senior Democratic member, that was identical to that bipartisan Senate legislation.

That alternative would have established tough but fair rules, based on the Uniform Code of Military Justice and its associated regulations, for trying terrorists. This would have fully responded to what the Supreme Court identified as the shortcomings in the previous system. But the Republican leadership insisted on moving forward with the president’s bill, rather than working in a bipartisan manner, and so that alternative was rejected.

As a result, I voted against sending the president’s bill to the House floor.

But the bill now before the House is neither the president’s bill nor the bipartisan bill approved by the Senate Armed Services Committee. Instead, it is a new measure, just introduced, that differs in many respects and reflects the result of further negotiations involving the White House, several Republican Senators, and the House Republican leadership.

And while this new bill includes some improvements over the president’s original bill, it still does not meet the test of deserving enactment, and I cannot support it.

Some of my concerns involve the bill’s specific provisions. But just as serious are my concerns about what the bill does not say.

For example, the bill includes provisions intended to bar detainees from challenging their detentions in federal courts by denying those courts jurisdiction to hear an application for a writ of habeas corpus “or any other action against the United States or its agents relating to any aspect of the detention, transfer, treatment, trial, or conditions of confinement” by or on behalf of an alien that the government—that is, the Executive Branch—has determined “to have been properly detained as an enemy combatant or is awaiting such determination.”

These provisions, which the bill says are to apply to cases now before the courts, evidently allow indefinite detention, or detention at least until the war on terrorism is “over.”

And while the reference to “aliens” seems to mean that this is not to apply to American citizens—who are not immune from being considered “enemy combatants”—some legal experts say it is not completely clear that citizens would really have the ability to challenge their detention.

I could not support any legislation intended to give the President—any president, of any party—authority to throw an American citizen into prison without what the Supreme Court has described as “a meaningful opportunity to contest the factual basis for that detention before a neutral decisionmaker,” and I prefer to err on the side of caution before voting for a measure that is not more clear than the bill before us on this point.

Also, these sweeping jurisdiction-stripping provisions, as well as other parts of the bill, raise enough legal questions that military lawyers say there is a good chance the Supreme Court will rule it unconstitutional. I do not know if they are right about that, but their views deserve to be taken seriously—not only because we in Congress have sworn to uphold the Constitution but also because if our goal truly is to avoid unnecessary delays in bringing terrorists to justice, we need to take care to craft legislation that can and will operate soon, not only after prolonged legal challenges.

In addition, I am concerned that the bill gives the President the authority to “interpret the meaning and application” of U.S. obligations under the Geneva Conventions. Instead of clearly banning abuse and torture, the bill leaves in question whether or not we are authorizing the Executive Branch to carry out some of the very things the Geneva Conventions seek to ban.

I cannot forget or discount the words of Rear Adm. Bruce MacDonald, the Navy’s Judge Advocate General, who told the Armed Services Committee “I go back to the reciprocity issue that we raised earlier, that I would be very concerned about other nations looking in on the United States and making a determination that, if it’s good enough for the United States, it’s good enough for us, and that the impact of that is potentially a lot of damage and harm internationally if one of our servicemen or women were taken and held as a detainee.”

I share that concern, and could not in good conscience support legislation that could put our men and women in uniform at risk.

Mr. Speaker, establishing a system of military tribunals to bring to trial some of the worst terrorists in the world shouldn’t be a partisan matter. I think we can all agree that there is a need for a system that can deliver swift and certain justice to terrorists without risking exposing Americans to improper treatment by those who are our adversaries now or who may become adversaries in the future.

Unfortunately, I think there is too much risk that the bill before the House today will not accomplish that goal and has too many flaws to deserve enactment as it stands. So, I cannot support it.
HIGHLIGHTS

Senate passed S. 3930, Military Commissions Act.


Senate

Chamber Action

Routine Proceedings, pages S10349–S10495

Measures Introduced: Thirty-one bills and two resolutions were introduced, as follows: S. 3963–3993, and S. Res. 589–590. Page S10457–58

Measures Reported:

H.R. 1463, to designate a portion of the Federal building located at 2100 Jamieson Avenue, in Alexandria, Virginia, as the “Justin W. Williams United States Attorney’s Building”. Pages S10456

Measures Passed:

Military Commissions Act: By 65 yeas to 34 nays (Vote No. 259), Senate passed S. 3930, to authorize trial by military commission for violations of the law of war, after taking action on the following amendments proposed thereto:

Rejected: By 48 yeas to 51 nays (Vote No. 255), Specter Amendment No. 5087, to strike the provision regarding habeas review. Pages S10354–69

By 46 yeas to 53 nays (Vote No. 256), Rockefeller Amendment No. 5095, to provide for congressional oversight of certain Central Intelligence Agency programs. Pages S10369–78, S10396–97

By 47 yeas to 52 nays (Vote No. 257), Byrd Amendment No. 5104, to prohibit the establishment of new military commissions after December 31, 2011. Pages S10385–90, S10397–98

By 46 yeas to 53 nays (Vote No. 258), Kennedy Amendment No. 5088, to provide for the protection of United States persons in the implementation of treaty obligations. Pages S10378–85, S10390–96, S10398

Secure Fence Act: Senate continued consideration of H.R. 6061, to establish operational control over the international land and maritime borders of the United States, taking action on the following amendments proposed thereto: Page S10431–33

Pending:

Frist Amendment No. 5036, to establish military commissions. Page S10432

Frist Amendment No. 5037 (to Amendment No. 5036), to establish the effective date. Page S10432

Motion to commit the bill to the Committee on the Judiciary, with instructions to report back forthwith, with an amendment. Page S10432

Frist Amendment No. 5038 (to the instructions of the motion to commit H.R. 6061 to the Committee on the Judiciary), to establish military commissions. Page S10432

Frist Amendment No. 5039 (to the instructions of the motion to commit H.R. 6061 to the Committee on the Judiciary), to establish the effective date. Page S10432

Frist Amendment No. 5040 (to Amendment No. 5039), to amend the effective date. Page S10432

During consideration of this measure today, Senate also took the following action:

By 71 yeas to 28 nays (Vote No. 260), three-fifths of those Senators duly chosen and sworn, having voted in the affirmative, Senate agreed to the motion to close further debate on the bill. Pages S10431–32

Senate expects to continue consideration of the bill on Friday, September 29, 2006.


A unanimous-consent agreement was reached providing for further consideration of the conference report on Friday, September 29, 2006, with a vote on adoption thereon, to occur at 10 a.m. Page S10433
China Currency—Agreement: A unanimous-consent agreement was reached providing that the orders of July 1, 2005 and March 29, 2006, with respect to S. 295, to authorize appropriate action in the negotiations with the People’s Republic of China regarding China’s undervalued currency are not successful, be vitiated.  

Removal of Injunction of Secrecy: The injunction of secrecy was removed from the following treaties:  
  Mutual Legal Assistance Agreement with the European Union (Treaty Doc. No. 109–13); and  
  The treaties were transmitted to the Senate today, considered as having been read for the first time, and referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed.

Nominations Received: Senate received the following nominations:  
  Michele A. Davis, of Virginia, to be an Assistant Secretary of the Treasury.  
  Eric D. Eberhard, of Washington, 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 October 6, 2012.  
  Dana Gioia, of California, to be Chairperson of the National Endowment for the Arts for a term of four years.  
  1 Coast Guard nomination in the rank of admiral.  
  Routine lists in the Air Force, Foreign Service.

Messages From the House: Pages S10494–95

Measures Placed on Calendar: Pages S10454–56

Measures Read First Time: Page S10456

Enrolled Bills Presented: Page S10456

Executive Reports of Committees: Page S10456

Additional Cosponsors: Pages S10458–59

Statements on Introduced Bills/Resolutions: Pages S10459–90

Additional Statements: Pages S10450–54

Amendments Submitted: Pages S10490–92

Authorities for Committees to Meet: Page S10492

Record Votes: Six record votes were taken today. (Total—260) Pages S10369, S10397, S10397–98, S10398, S10420, S10432

Adjournment: Senate convened at 9:30 a.m., and adjourned at 9:42 p.m., until 9:30 a.m., on Friday, September 29, 2006. (For Senate’s program, see the remarks of the Majority Leader in today’s Record on page S10494.)

Committee Meetings

(Committees not listed did not meet)

FEDERAL VOTING ASSISTANCE PROGRAM
Committee on Armed Services: Committee concluded a hearing to examine issues relating to military voting, focusing on the Federal Voting Assistance Program, which allows absentee voting by members of the military and civilians living overseas, after receiving testimony from David S.C. Chu, Under Secretary of Defense for Personnel and Readiness; Paul DeGregorio, Chairman, U.S. Election Assistance Commission; Derek B. Stewart, Director, Defense Capabilities and Management, Government Accountability Office; and Deborah L. Markowitz, National Association of Secretaries of State, Washington, D.C.

NOMINATIONS
Committee on Armed Services: Committee ordered favorably reported the nominations of General Bantz J. Craddock, USA, for reappointment to the grade of general and to be Commander, U.S. European Command, Vice Admiral James G. Stavridis, USN, for appointment to the grade of admiral and to be Commander, U.S. Southern Command, Nelson M. Ford, of Virginia, to be Assistant Secretary of the Army for Financial Management and Comptroller, Ronald J. James, of Ohio, to be Assistant Secretary of the Army for Manpower and Reserve Affairs, Major General Todd I. Stewart, USAF, (Ret.), of Ohio, to be a Member of the National Security Education Board, John Edward Mansfield, of Virginia, Larry W. Brown, of Virginia, and Peter Stanley Winokur, of Maryland, each to be a Member of the Defense Nuclear Facilities Safety Board, and 7,735 routine military nominations in the Army, Navy, Air Force, and Marine Corps.

ECONOMY
Committee on the Budget: Committee concluded a hearing to examine the state of the economy and budget, after receiving testimony from Edward P. Lazear, Chairman, Council of Economic Advisors; and Kevin A. Hassett, American Enterprise Institute, Chris Edwards, Cato Institute, and Peter R. Orszag, Brookings Institution, all of Washington, D.C.

NATIONAL AIRSPACE SYSTEM
Committee on Commerce, Science, and Transportation: Subcommittee on Aviation concluded a hearing to examine new aircraft in the National Airspace System (NAS), focusing on developing safety standards and operating procedures to ensure their safe integration
into the NAS, after receiving testimony from Michael A. Cirillo, Vice President, Systems Operations Services, Air Traffic Organization, and Nicholas A. Sabatini, Associate Administrator, Aviation Safety, both of the Federal Aviation Administration, Department of Transportation; Vern Raburn, Eclipse Aviation Corporation, Albuquerque, New Mexico; Edward E. Iacobucci, DayJet Corporation, Delray Beach, Florida; Jack J. Pelton, Cessna Aircraft Company, Wichita, Kansas, on behalf of General Aviation Manufacturers Association; and Matthew G. Andersson, CRA International, Chicago, Illinois.

HAZARDOUS WASTE
Committee on Environment and Public Works: Subcommittee on Superfund and Waste Management concluded a hearing to examine S. 3871, to amend the Solid Waste Disposal Act to direct the Administrator of the Environmental Protection Agency to establish a hazardous waste electronic manifest system, after receiving testimony from Susan P. Bodine, Assistant Administrator, Office of Solid Waste and Emergency Response, Environmental Protection Agency; Cheryl T. Coleman, South Carolina Department of Health and Environmental Control, Columbia; Frederick J. Florjancic, Jr., Safety-Kleen Systems, Inc., Plano, Texas; and Phillip J. Bond, Information Technology Association of America, Arlington, Virginia.

PUBLIC DEBT
Committee on Finance: Subcommittee on Long-term Growth and Debt Reduction concluded a hearing to examine America’s public debt, focusing on the national savings rate and federal budget deficits, after receiving testimony from former Representative Charles W. Stenholm, Peter R. Orszag, Brookings Institution, and Chris Edwards, Cato Institute, all of Washington, D.C.; and Robert L. Bixby, Concord Coalition, Arlington, Virginia.

SECURING THE NATIONAL CAPITAL REGION
Committee on Homeland Security and Governmental Affairs: Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia concluded hearings to examine the National Capital Region’s strategic security plan, focusing on the ability of the responsible Federal, state and local government agencies of the National Capital Region to respond to a terrorist attack or natural disaster, including coordination efforts within the region, after receiving testimony from Thomas Lockwood, Director, Office of National Capital Region Coordination, Department of Homeland Security; William O. Jenkins, Jr., Director, Homeland Security and Justice Issues, Government Accountability Office; Deputy Mayor Edward D. Reiskin, District of Columbia Public Safety and Justice; Robert P. Crouch, Jr., Assistant to the Virginia Governor, Richmond; Dennis R. Schrader, Maryland Governor’s Office of Homeland Security, Annapolis, Maryland; and Fairfax County Executive Anthony H. Griffin, Fairfax, Virginia.

EMERGENCY MEDICAL CARE
Committee on Health, Education, Labor, and Pensions: On Wednesday, September 27, Subcommittee on Bioterrorism and Public Health Preparedness concluded a hearing to examine measures to improve emergency medical care, focusing on the need for change to continue providing quality emergency medical care when and where it is expected, after receiving testimony from Frederick C. Blum, West Virginia University School of Medicine, Morgantown, on behalf of American College of Emergency Physicians; Margaret VanAmringe, Joint Commission on Accreditation of Healthcare Organizations, Washington, D.C.; Nancy Bonalumi, Children’s Hospital of Philadelphia, Philadelphia, Pennsylvania, on behalf of Emergency Nurses Association; Leon L. Haley, Jr., Grady Health System, Atlanta, Georgia; and Robert R. Bass, Maryland Institute of Emergency Medical Services Systems, Baltimore, on behalf of Institute of Medicine’s Committee on the Future of Emergency Care in the U.S. Health System.

INTELLIGENCE
Select Committee on Intelligence: Committee held closed hearings on intelligence matters, receiving testimony from officials of the intelligence community. Committee recessed subject to the call.
House of Representatives

Chamber Action


(See next issue.)

Additional Cosponsors:

(See next issue.)

Reports Filed: Reports were filed today as follows:

H. R. 4857, to better inform consumers regarding costs associated with compliance for protecting endangered and threatened species under the Endangered Species Act of 1973 (H. Rept. 109–693);

H. R. 512, to require the prompt review by the Secretary of the Interior of the longstanding petitions for Federal recognition of certain Indian tribes (H. Rept. 109–694);

H. R. 6143, to amend title XXVI of the Public Health Service Act to revise and extend the program for providing life-saving care for those with HIV/AIDS (H. Rept. 109–695);

H. Res. 1052, providing for consideration of H.R. 5825, to update the Foreign Intelligence Surveillance Act of 1978 (H. Rept. 109–696);

H. R. 5851, to reauthorize the programs of the Department of Housing and Urban Development for housing assistance for Native Hawaiians (H. Rept. 109–697);

H. R. 1674, to authorize and strengthen the tsunami detection, forecast, warning, and mitigation program of the National Oceanic and Atmospheric Administration, to be carried out by the National Weather Service, with an amendment (H. Rept. 109–698);

Conference report on H.R. 5441, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2007 (H. Rept. 109–699);

H. Res. 1053, waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules (H. Rept. 109–700); and

H. Res. 1054, waiving points of order against the conference report to accompany H.R. 5441, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2007 and providing for consideration of S. 3930, to authorize trial by military commission for violations of the law of war and consideration of H.R. 4772, to simplify and expedite access to the Federal courts for injured parties whose rights and privileges under the United States Constitution have been deprived by final actions of Federal agencies or other government officials or entities acting under color of State law (H. Rept. 109–701).

Pages H7784–H7848, (continued next issue)

Discharge Petition: Representative Kennedy of Rhode Island moved to discharge the Committees on Education and the Workforce and Energy and Commerce from the consideration of H.R. 1402, to provide for equal coverage of mental health benefits with respect to health insurance coverage unless comparable limitations are imposed on medical and surgical benefits (Discharge Petition No. 18).

(See next issue.)

Rule for consideration of suspensions: The House agreed to H. Res. 1045, providing for consideration of motions to suspend the rules, by voice vote, after agreeing to order the previous question by a yeas-and-nay vote of 223 yeas to 196 nays, Roll No. 495.

Pages H7680–85, H7693–94

Suspensions: The House agreed to suspend the rules and pass the following measures:

Holding the current regime in Iran accountable for its threatening behavior and to support a transition to democracy in Iran: H.R. 6198, amended, to hold the current regime in Iran accountable for its threatening behavior and to support a transition to democracy in Iran;

Pages H7695–H7706


Pages H7706–10

Children’s Hospital GME Support Reauthorization Act of 2006: H.R. 5574, to amend the Public Health Service Act to reauthorize support for graduate medical education programs in children's hospitals. The House concurred in Senate amendment—clearing the measure for the President;

Pages H7710–12

Ryan White HIV/AIDS Treatment Modernization Act of 2006: H.R. 6143, amended, to amend title XXVI of the Public Health Service Act to revise and extend the program for providing lifesaving care for those with HIV/AIDS, by a 2/3 yeas-and-nay vote of 325 yeas to 98 nays, Roll No. 503;

Pages H7712–35,

Fort McDowell Indian Community Water Rights Settlement Revision Act of 2006: 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
Designating the facility of the United States Postal Service located at 1213 East Houston Street in Cleveland, Texas, as the “Lance Corporal Robert A. Martinez Post Office Building”; H.R. 5108, to designate the facility of the United States Postal Service located at 1213 East Houston Street in Cleveland, Texas, as the “Lance Corporal Robert A. Martinez Post Office Building”; Pages H7745–46

Amending the Older American Act of 1965 to authorize appropriations for fiscal years 2007 through 2011: H.R. 6197, to amend the Older American Act of 1965 to authorize appropriations for fiscal years 2007 through 2011; Pages H7746–70

Establishing a pilot program in certain United States district courts to encourage enhancement of expertise in patent cases among district judges: H.R. 5418, amended, to establish a pilot program in certain United States district courts to encourage enhancement of expertise in patent cases among district judges;

(See next issue.)

Coast Guard Authorization Act of 2006: H.R. 5681, amended, to authorize appropriations for the Coast Guard for fiscal year 2007;

(See next issue.)

Designating the facility of the United States Postal Service located at 101 East Gay Street in West Chester, Pennsylvania, as the “Robert J. Thompson Post Office Building”: H.R. 6075, to designate the facility of the United States Postal Service located at 101 East Gay Street in West Chester, Pennsylvania, as the “Robert J. Thompson Post Office Building”;

(See next issue.)

Designating the facility of the United States Postal Service located at 307 West Wheat Street in Woodville, Texas, as the “Chuck Fortenberry Post Office Building”: H.R. 6078, to designate the facility of the United States Postal Service located at 307 West Wheat Street in Woodville, Texas, as the “Chuck Fortenberry Post Office Building”;

(See next issue.)

Designating the facility of the United States Postal Service located at 200 Gateway Drive in Lincoln, California, as the “Beverly J. Wilson Post Office Building”: H.R. 4720, to designate the facility of the United States Postal Service located at 200 Gateway Drive in Lincoln, California, as the “Beverly J. Wilson Post Office Building”;

(See next issue.)

Designating the facility of the United States Postal Service located at 216 Oak Street in Farmington, Minnesota, as the “Hamilton H. Judson Post Office”: H.R. 6151, to designate the facility of the United States Postal Service located at 216 Oak Street in Farmington, Minnesota, as the “Hamilton H. Judson Post Office”;
Designating the facility of the United States Postal Service located at 101 Palafox Place in Pensacola, Florida, as the “Vincent J. Whibbs, Sr. Post Office Building”; 5736, to designate the facility of the United States Postal Service located at 101 Palafox Place in Pensacola, Florida, as the “Vincent J. Whibbs, Sr. Post Office Building”; (See next issue.)

Designating the facility of the United States Postal Service located at 950 Missouri Avenue in East St. Louis, Illinois, as the “Katherine Dunham Post Office Building”; H.R. 5929, to designate the facility of the United States Postal Service located at 950 Missouri Avenue in East St. Louis, Illinois, as the “Katherine Dunham Post Office Building”; (See next issue.)

Designating the facility of the United States Postal Service located at 167 East 124th Street in New York, New York, as the “Tito Puente Post Office Building”; H.R. 1472, to designate the facility of the United States Postal Service located at 167 East 124th Street in New York, New York, as the “Tito Puente Post Office Building”; (See next issue.)

Recognizing Financial Planning Week, recognizing the significant impact of sound financial planning on achievement of life’s goals, and honoring families and the financial planning profession for their adherence and dedication to the financial planning process: H. Res. 973, amended, to recognize Financial Planning Week, recognizing the significant impact of sound financial planning on achieving life’s goals, and honoring families and the financial planning profession for their adherence and dedication to the financial planning process;

(See next issue.)

Designating the facility of the United States Postal Service located at 10240 Roosevelt Road in Westchester, Illinois, as the “John J. Sinde Post Office Building”; H.R. 5989, to designate the facility of the United States Postal Service located at 10240 Roosevelt Road in Westchester, Illinois, as the “John J. Sinde Post Office Building”; (See next issue.)

Designating the facility of the United States Postal Service located at 415 South 5th Avenue in Maywood, Illinois, as the “Wallace W. Sykes Post Office Building”; H.R. 5990, to designate the facility of the United States Postal Service located at 415 South 5th Avenue in Maywood, Illinois, as the “Wallace W. Sykes Post Office Building”; (See next issue.)

Designating the facility of the United States Postal Service located at 2951 New York Highway 43 in Averill Park, New York, as the “Major George Quamo Post Office Building”; S. 3613, to designate the facility of the United States Postal Service located at 2951 New York Highway 43 in Averill Park, New York, as the “Major George Quamo Post Office Building”—clearing the measure for the President; and

(See next issue.)

Designating the Post Office located at 5755 Post Road, East Greenwich, Rhode Island, as the “Richard L. Cevoli Post Office”; S. 3187, to designate the Post Office located at 5755 Post Road, East Greenwich, Rhode Island, as the “Richard L. Cevoli Post Office”—clearing the measure for the President.

(See next issue.)

Security and Accountability for Every Port Act or the SAFE Port Act—Motion To Go to Conference: The House disagreed to the Senate amendment and agreed to a conference on H.R. 4954, to improve maritime and cargo security through enhanced layered defenses.

Pages H7770–84, (continued next issue)

Agreed to the Thompson of Mississippi motion to instruct conferees by a yea-and-nay vote of 281 yeas to 140 nays, Roll No. 500.

Pages H7771–75, (continued next issue)

Appointed as conferees: From the Committee on Homeland Security, for consideration of the House bill and the Senate amendment, and modifications committed to conference: Messrs. King of New York, Young of Alaska, Daniel E. Lungren of California, Linder, Simmons, McCaul of Texas, Reichert, Thompson of Mississippi, Ms. Loretta Sanchez of California, Mr. Markey, Ms. Harman, and Mr. Pascrell; (See next issue.)

From the Committee on Energy and Commerce, for consideration of Titles VI and X and sec. 1104 of the Senate amendment, and modifications committed to conference: Messrs. Barton of Texas, Upton, and Dingell; (See next issue.)

From the Committee on Science, for consideration of secs. 201 and 401 of the House bill, and secs. 111, 121, 302, 303, 305, 513, 607, 608, 706, 801, 802, and 1107 of the Senate amendment, and modifications committed to conference: Messrs. Boehlert, Sodrel, and Melancon; (See next issue.)

From the Committee on Transportation and Infrastructure, for consideration of secs. 101–104, 107–109, and 204 of the House bill, and secs. 101–104, 106–108, 111, 202, 232, 234, 235, 503, 507–512, 514, 517–519, Title VI, secs. 703, 902, 905, 906, 1103, 1104, 1107–1110, 1114, and 1115 of the Senate amendment, and modifications committed to conference: Messrs. LoBiondo, Shuster, and Oberstar; and

(See next issue.)

From the Committee on Ways and Means, for consideration of secs. 102, 121, 201, 203 and 301 of the House bill, and secs. 201, 203, 304, 401–404, 407, and 1105 of the Senate amendment,
Committee Meetings

EPA PESTICIDE PROGRAM REVIEW
Committee on Agriculture: Subcommittee on Conservation, Credit, Rural Development, and Research held a hearing to review the EPA pesticide program. Testimony was heard from James B. Gulliford, Assistant Administrator, Office of Prevention, Pesticides and Toxic Substances, EPA; and public witnesses.

SECURITY GUARD UNIONIZATION AND NATIONAL SECURITY
Committee on Education and the Workforce: Subcommittee on Employer-Employee Relations held a hearing entitled “Examining Whether Combining Guards and Other Employees in Bargaining Units Would Weaken National Security.” Testimony was heard from public witnesses.

MEDICARE PHYSICIAN PAYMENTS
Committee on Energy and Commerce: Subcommittee on Health held a hearing entitled “Medicare Physician Payments: 2007 and Beyond.” Testimony was heard from public witnesses.

HEWLETT-PACKARD PRETEXTING SCANDAL
Committee on Energy and Commerce: Subcommittee on Oversight and Investigations held a hearing entitled “Hewlett-Packard’s Pretexting Scandal.” Testimony was heard from the following officials of the Hewlett-Packard Company: Mark Hurd, President, Chief Executive Officer, and Chairman of the Board; and Fred Adler, IT Security Investigations; Patricia Dunn, former Chairman of the Board, Hewlett-Packard Company; Larry W. Sonsini, Chairman, Wilson Sonsini Goodrich and Rosati.

In refusing to give testimony at this hearing, the following individuals: Ann Baskins; Kevin T. Hunsaker; Anthony Gentilucci, Ronald DeLia; Joe Depante, Cassandra Selvage; Darren Brost, Valerie Preston, Bryan Wagner and Charles Kelly, invoked Fifth Amendment privileges.

IMPROVING FINANCIAL LITERACY/PRIVATE SECTOR COORDINATION
Committee on Financial Services: Subcommittee on Financial Institutions and Consumer Credit held a hearing entitled “Improving Financial Literacy: Working Together To Develop Private Sector Coordination and Solutions.” Testimony was heard from public witnesses.

IRAQ RECONSTRUCTION CONTRACTING
Committee on Government Reform: Held a hearing entitled “Acquisition Under Duress: Reconstruction Contracting in Iraq.” Testimony was heard from
Katherine Schinasi, Managing Director, Acquisition and Sourcing Management, GAO; Stuart W. Bowen, Jr., Inspector General, Special Inspector General for Iraq Reconstruction; the following officials of the Department of State: Ambassador David Satterfield, Senior Advisor to the Secretary for Iraq; and James Bever, Deputy Assistant Administrator for Iraq, Bureau for Asia and the Near East, U.S. Agency for International Development; the following officials of the Department of the Army: Tina Ballard, Deputy Assistant Secretary, Policy and Procurement; and Joseph Tyler, Chief, Programs Integration Division, Military Programs Directorate, Corps of Engineers; and public witnesses.

**TRANSIT SECURITY TRAINING**

**Committee on Homeland Security:** Subcommittee on Economic Security, Infrastructure Protection and Cybersecurity held a hearing entitled “Front-Line Defense: Security Training for Mass Transit and Rail Employees.” Testimony was heard from John Sammon, Assistant Administrator, Transportation Sector Network Management, Transportation Security Administration, Department of Homeland Security; the following officials of the Department of Transportation: Terry Rosapep, Deputy Associate Administrator, Office of Program Management, Federal Transit Administration; and William Fagan, Director of Security, Federal Railroad Administration; Chief Polly Hanson, Metro Transit Police Department, Washington Metro Area Transit Authority; and public witnesses.

**ELECTRONIC VOTING MACHINES**

**Committee on House Administration:** Held a hearing on Electronic Voting Machines: Verification, Security, and Paper Trails. Testimony was heard from public witnesses.

**U.S. FAITH-BASED ORGANIZATION PROGRAMS IN AFRICA**

**Committee on International Relations:** Subcommittee on Africa, Global Human Rights and International Operations held a hearing on The Role of Faith-Based Organizations in United States Programming in Africa. Testimony was heard from Terri Hasdorff, Director, Faith-Based and Community Initiatives Office, U.S. Agency for International Development, Department of State; and public witnesses.

**HEZBOLLAH’S GLOBAL REACH**

**Committee on International Relations:** Subcommittee on International Terrorism and Nonproliferation and the Subcommittee on Middle East and Central Asia held a joint hearing on Hezbollah’s Global Reach. Testimony was heard from Frank C. Urbancic, Jr., Principal Deputy Coordinator, Office of the Coordinator for Counterterrorism, Department of State; John Kavanagh, Section Chief, International Terrorism Operations Section II, Counterterrorism Division, FBI, Department of Justice; and public witnesses.

**INTERNATIONAL ASSISTANCE FOR HAITI**

**Committee on International Relations:** Subcommittee on Western Hemisphere held a hearing on Moving Forward in Haiti: How the U.S. and the International Community Can Help. Testimony was heard from the following officials of the Department of State: Patrick D. Duddy, Deputy Assistant Secretary, Bureau of Western Hemisphere Affairs; and Adolfo A. Franco, Assistant Administrator, Bureau for Latin America and the Caribbean, U.S. Agency for International Development; and a public witness.

**MISCELLANEOUS MEASURES**

**Committee on Resources:** Subcommittee on National Parks held a hearing on the following bills: H.R. 1344, Lower Farmington River and Salmon Brook Wild and Scenic River Study Act; H.R. 4529, Kalaupapa Memorial Act of 2005; H.R. 5195, Journey Through Hollowed Ground National Heritage Area Designation Act of 2006; H.R. 5466, Captain John Smith Chesapeake National Historic Designation Act; H.R. 5665, American Falls Reservoir District Number 2 Conveyance Act; and H.R. 5817, Bainbridge Island Japanese American Monument Act of 2006. Testimony was heard from Representatives Case, Wolf, Bartlett of Maryland; Jo Ann Davis of Virginia; and Simpson; Dan Wenk, Acting Associate Director, Park Planning, Facilities, and Land, National Park Service, Department of the Interior; and public witnesses.

**ELECTRONIC SURVEILLANCE MODERNIZATION ACT**

**Committee on Rules:** Granted a closed rule providing 90 minutes of debate in the House on H.R. 5825, Electronic Surveillance Modernization Act, with 60 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary, and 30 minutes equally divided and controlled by the chairman and ranking minority member of the Permanent Select Committee on Intelligence. The rule waives all points of order against consideration of the bill. The rule provides that in lieu of the amendments in the nature of a substitute as reported by the Committee on the Judiciary and the Permanent Select Committee on Intelligence, the amendment in the nature of a substitute printed in the report of the Committee on Rules accompanying the resolution shall be considered as adopted. The rule provides one motion to recommit with or without instructions. Finally, the rule provides that, notwithstanding the operation of
the previous question, the Chair may postpone further consideration of the bill to a time designated by the Speaker. Testimony was heard from Representatives Lungren of California, Flake, Franks of Arizona, Gohmert, Hoekstra, Wilson of New Mexico, Schiff and Ruppersberger.

HOMELAND SECURITY APPROPRIATIONS ACT, 2007—CONFERENCE REPORT

MILITARY COMMISSIONS ACT OF 2006

PRIVATE PROPERTY RIGHTS IMPLEMENTATION ACT OF 2006

Committee on Rules: Granted, by voice vote, a rule waiving all points of order against the conference report to accompany H.R. 5441, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2007, and for other purposes, and against its consideration. The rule provides that the conference report shall be considered as read. Testimony was heard from Chairman Rogers of Kentucky and Representative Sabo.

The rule provides for consideration of S. 3930 to authorize trial by military commission for violations of the law of war, and for other purposes, under a closed rule. The rule provides 1 hour of debate in the House, with 40 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Armed Services, and 20 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary. The rule waives all points of order against consideration of the bill. The rule provides one motion to recommit S. 3930.

The rule provides for consideration of H.R. 4772 to simplify and expedite access to the Federal courts for injured parties whose rights and privileges under the United States Constitution have been deprived by final actions of Federal agencies or other government officials or entities acting under color of State law, and for other purposes, under a closed rule. The rule provides 1 hour of debate in the House equally divided and controlled by the chairman and ranking minority member of the Committee on Armed Services, and 20 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary. The rule waives all points of order against consideration of the bill. The rule provides one motion to recommit H.R. 4772 with or without instructions.

WAIVING A REQUIREMENT OF CLAUSE 6(a) OF RULE XIII WITH RESPECT TO THE SAME DAY CONSIDERATION OF CERTAIN RESOLUTIONS REPORTED BY THE RULES COMMITTEE

Committee on Rules: Granted, by voice vote, a rule waiving clause 6(a) of rule XIII (requiring a two-thirds vote to consider a rule on the same day it is reported from the Rules Committee) against certain resolutions reported from the Rules Committee. The rule applies the waiver to any special rule reported on the legislative day of September 29, 2006.

CREW EXPLORATION VEHICLE DEVELOPMENT

Committee on Science: Held a hearing on Implementing the Vision for Space Exploration: Development of the Crew Exploration Vehicle. Testimony was heard from Scott J. Horowitz, Associate Administrator, Exploration Systems Mission Directorate, NASA and Allen Li, Director, Acquisition and Sourcing Management, GAO.

OVERSIGHT—AMTRAK PLANS AND MANAGEMENT

Committee on Transportation and Infrastructure: Subcommittee on Railroads held an oversight hearing on New Hands on the Amtrak Throttle. Testimony was heard from Alexander Kummant, President and Chief Executive Officer, AMTRAK.

OVERSIGHT—FORCE AND VETERAN HEALTH EMERGING TRENDS

Committee on Veterans’ Affairs: Subcommittee on Health held an oversight hearing on Post Traumatic Stress Disorder (PTSD) and Traumatic Brain Injury (TBI): Emerging trends in force and veteran health. Testimony was heard from Gerald Cross, M.D., Acting Principal Deputy Under Secretary, Health, Department of Veterans Affairs; and the following officials of the Department of the Army: COL Elspeth Cameron Ritchie, M.D., USA, Psychiatry Consultant to the U.S. Army Surgeon General; and COL Charles W. Hoge, M.D., USA, Chief of Psychiatry and Behavior Sciences, Division of Neurosciences, Walter Reed Army Institute of Research; and representatives of veterans organizations.

BRIEFING—GLOBAL UPDATES/HOTSPOTS

Permanent Select Committee on Intelligence: Met in executive session to receive a briefing on Global Updates/Hotspots. The Committee was briefed by departmental witnesses.
Joint Meetings

COMBATING CHILD SEXUAL EXPLOITATION


NEW PUBLIC LAWS

(For last listing of Public Laws, see DAILY DIGEST, p. D1052)


S. 1773, to resolve certain Native American claims in New Mexico. Signed on September 27, 2006. (Public Law 109–286).

S. 2784, to award a congressional gold medal to Tenzin Gyatso, the Fourteenth Dalai Lama, in recognition of his many enduring and outstanding contributions to peace, non-violence, human rights, and religious understanding. Signed on September 27, 2006. (Public Law 109–287).

COMMITTEE MEETINGS FOR FRIDAY, SEPTEMBER 29, 2006

(Committee meetings are open unless otherwise indicated)

Senate

Committee on the Judiciary: business meeting to consider the nominations of Terrence W. Boyle, of North Carolina, and William James Haynes II, of Virginia, each to be United States Circuit Judge for the Fourth Circuit, Peter D. Keisler, of Maryland, to be United States Circuit Judge for the District of Columbia Circuit, William Garry Myers III, of Idaho, to be United States Circuit Judge for the Ninth Circuit, Nora Barry Fischer, to be United States District Judge for the Western District of Pennsylvania, Gregory Kent Frizzell, to be United States District Judge for the Northern District of Oklahoma, Marcia Morales Howard, to be United States District Judge for the Middle District of Florida, Robert James Jonker, Paul Lewis Maloney, and Janet T. Neff, each to be a United States District Judge for the Western District of Michigan, Leslie Southwick, to be United States District Judge for the Southern District of Mississippi, Lisa Godbey Wood, to be United States District Judge for the Southern District of Georgia, S. 2831, to guarantee the free flow of information to the public through a free and active press while protecting the right of the public to effective law enforcement and the fair administration of justice, S. 155, to increase and enhance law enforcement resources committed to investigation and prosecution of violent gangs, to deter and punish violent gang crime, to protect law-abiding citizens and communities from violent criminals, to revise and enhance criminal penalties for violent crimes, to reform and facilitate prosecution of juvenile gang members who commit violent crimes, to expand and improve gang prevention programs, S. 1845, to amend title 28, United States Code, to provide for the appointment of additional Federal circuit judges, to divide the Ninth Judicial Circuit of the United States into 2 circuits, S. 3880, to provide the Department of Justice the necessary authority to apprehend, prosecute, and convict individuals committing animal enterprise terror, S. 2644, to harmonize rate setting standards for copyright licenses under sections 112 and 114 of title 17, United States Code, and S. 3818, to amend title 35, United States Code, to provide for patent reform, 9:30 a.m., SD–226.

House


Committee on International Relations, Subcommittee on Oversight and Investigations, hearing on Falun Gong: Organ Harvesting and China’s Ongoing War on Human Rights, 10:30 a.m., 2172 Rayburn.

Committee on Science, hearing on GAO Report on NOAA’s Weather Satellite Program, 10 a.m., 2318 Rayburn.
Program for Friday: After the transaction of any morning business (not to extend beyond 10 a.m.), Senate will continue consideration of the conference report to accompany H.R. 5631, Department of Defense Appropriations, with a vote on its adoption to occur immediately thereon. Also, Senate expects to continue consideration of H.R. 6061, Secure Fence Act, and will vote on the motion to invoke cloture on the motion to concur in the amendment of the House of Representatives to S. 403, Child Custody Protection Act. Additionally, Senate will consider any other cleared legislative and executive business.

Program for Friday: Consideration of H.R. 4772—Private Property Rights Implementation Act of 2006 (Subject to a Rule).

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